

Minutes of the Ashburnham Conservation Commission
December 14, 2009

Present: MD: Marshall Dennis, Chairman CP: Christopher Picone
 LC: Lori Capone, Conservation Agent

Absent: LD: Lorraine DeSouza

7:30 PM MD opened the meeting of the Ashburnham Conservation Commission under the Wetlands Protection Act, M.G.L. Ch. 131 Sect. 40, and in accordance with the Ashburnham Wetlands Protection Bylaw.

7:31 PM As explained at the previous Hearing, MD reiterated that LD was recusing herself from the proceedings because she is an abutter to Sunset Lake and has a pending legal matter associated with said property relative to the Lake Association. MD explained the need to institute the Rule of Necessity in order for the Commission to act on the request.

CP: Motion to proceed under the Rule of Necessity

MD: Seconded the Motion

Motion carried unanimously 2-0

Seeing no objections, MD opened the Hearing for a five year Extension request to their Orders of Conditions for chemical treatment for Billy Ward Pond, Little Watatic, Lower Naukeag, Sunset Lake, and Lake Watatic. MD asked if there were any abutters present to speak for or against the application. Representatives from all lakes were present. Attendees include: Hunter Gelinis, 8 Bass Cove Road; Stephen P. Coswell, 17 Watatic Pond Road; Mark Dymek, 57 Pitcherville Road, Hubbardston; Maureen and Gary Roy, 78 Lakeshore Drive; Peggy and Harry Bellabarba, 80 Lakeshore Drive; John Elliot, 52 Page Avenue; Tom Smolinsky, 176 Sherbert Road; Natalie and Kevin Learned, 142 Sherbert Road; Heather McDonough, 9 Heather Dunn Road; Joseph Land, 87 West Shore Drive; Stanley Herriott, 11 Houde Avenue; Jason Drew, 56 Lakeshore Drive; Frank Fiorentino, 66 Lakeshore Drive; Lee Lyman and Will Stevenson of Lycott Environmental; Donald Bastarache, 39 Lower Lake Road; Steven Slocum, 162 Sherbert Road; and, Bruce and Judie Marble, 45R Old Ashby Road. MD explained that the Commission has reviewed all the original Notices, Orders and year end reports and have contacted DEP for an opinion as to whether it was justifiable to extend the Orders or not. DEP was of the opinion that is not unreasonable for the Commission to require a new Notice. Based on review of all documents, MD was not personally inclined to extend Orders that were between 11 and 20 years old due to the fact that documentation and regulations have changed, as well as the fact that the project did not fall under the local Wetlands Protection Bylaw. CP noted that some of the information in the Notice and/or Orders were no longer relevant, such as the use of 2,4-D. Lee Lyman of Lycott Environmental stated that the Commission could require additional information in conjunction with the issuance of the Extensions. MD explained that was why we

needed a new NOI because relevant information was missing and an Order could not be amended under an Extension Request. Mr. Lyman said the regulations and herbicides have not changed in 20 years. MD explained that lakes are not static systems and things must have changed in 20 years. Additionally, MD thought a new NOI was warranted to bring all the projects into compliance with the regulations and Bylaw, as well as, to allow people to file an appeal, a process that has been circumvented for years by the issuance of Extensions. Mr. Marble stated that no one has objected to the chemical treatments in 20 years except for the Conservation Commission. Hunter Gelinis of 8 Bass Cove Road expressed concern with the financial burden refiling would pose to the lake association and inquired as to whether the Commission had the ability to waive the fees associated with a new filing. MD explained that the Commission had the ability but was not inclined to set a precedent in this regard. CP stated that he would consider revisiting the fee schedule but fees were necessary to regulate activities. Lee Lyman suggested having the Town sponsor the Notices so that the fees would be waived. Mark Dymek stated that a new Notice would cost \$1,000-5,000 and they don't have time to file a complete application prior to summer, including a wildlife habitat evaluation. There were additional discussions regarding the impact on the lake if they were not able to treat this coming year.

CP: Motion to issue a two year Extension at which time a new Notice of Intent would be required

There was no second

MD: Motion not to extend the Orders for all lakes and require a new Notice of Intent for chemical application

There was no second

Lee Lyman stated that if the Commission can not come to a decision, his understanding was that the Commission should seek input from the Board of Selectmen. CP stated that he would like to continue the Hearing in order to talk to the Town Administrator.

CP: Motion to continue the Hearing to December 28, 2009 at 7:30 PM

MD: Seconded the Motion

Motion carried unanimously 2-0

7:45(8:20)PM MD reopened the Notice of Intent Hearing for the Naukeag Lake Club located at 172 Packard Hill Road last continued from November 9, 2009 for a proposed seasonal drawdown, placement of beach sand on the beaches and minor dam repairs, as needed. CP stated for the record that both he and MD are members of the Lake Club but that would not affect their ability to make an impartial decision. There were no objections. LC informed the Commission that they could not act under the Rule of Necessity because LD, though absent tonight, was available to sit on the Commission for this matter. Mr. Cornwall submitted his response to DEP's comments.

CP: Motion to continue the Hearing to December 28, 2009 at 7:45 PM

MD: Seconded the Motion

Motion carried unanimously 2-0

Other Business:

- Alana Archangelo introduced herself to the Commission with interest in becoming an Associate member. The Commission requested she send a letter of interest to the Town Administrator.
- LC informed the Commission that they have to complete Ethics Training and disseminated the required paperwork.
- The Commission discussed recent activity at 4 Liberty Lane, specifically the loaming and seeding of the lawn. The Commission discussed issuing a violation letter or turning this matter over to DEP. The Commission decided to wait to discuss this matter with LD prior to taking action.
- LC informed the Commission that the Town Administrator would no longer allow meeting packets to be sent to the members.
- LC informed the Commission that there was a violation of the OOC at 5Ashe Road, specifically the project has proceeded without an erosion control inspection. The owner has been notified and has rectified the situation.
- LC presented a Determination of Negligible Impact for 70 Heather Dunn Road to place a 10 x 10 shed on cinder blocks over the proposed well to house the well pump.

MD: Motion to issue a Determination of Negligible Impact for 70 Heather Dunn Road

CP: Seconded the Motion

Motion carried unanimously 2-0

MD: Motion to adjourn

CP: Seconded the Motion

Motion carried unanimously 2-0

Meeting adjourned at 9:10 PM

Respectfully submitted by Lori Capone, Conservation Agent