



# TOWN OF WARE

## Conservation Commission

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Meeting Minutes from  
**Wednesday, February 8, 2017**  
Board of Selectmen's Meeting Room

Commission members present: Dennis Cote, David P. Kopacz, Sr., Kristin Rosenbeck, Mark Swett (Chairman)

Conservation Staff present: Anna S. Marques

Commission members absent: none

Public: As taken from observations and sign-in sheet: Lucas Wright, Celeste Fay, Tom Clough, Stuart Beckley, Cynthia Henshaw and Jim Russell

Chairman Mark Swett called the meeting to order at 6:30 p.m.

### 1. Applications

- a. *NOI 317-432 Upgrade of a trashrack structure on dam; requires lowering water level temporarily*

Luke Wright and Celeste Fay presented on behalf of Pioneer Hydro.

Luke W. began with an overview on the history of the business. He purchased it in 1995 as a bankrupt business and turned it around. They are in the middle of a 2-year long process for a Massachusetts grant for the upgrade to the lower dam. Their FERC (Federal Energy Regulatory Commission) license requires them to obtain an NOI to do work in the pond/river.

Work involved includes taking the old machine out, replacing it with two turbines (propeller and smaller unit) to capture and maintain flow better. Some civil work will be required and cannot be done in the water. Sandbags should suffice in diverting the pond flow – it would take 3-4 weeks' time for the required work to be completed. This portion of the work requires an NOI.

Communications with Mass. Fish and Wildlife and NHESP (National Heritage & Endangered Species Program) have been conducted. Mark S. asked if response was received from NHESP. Lucas W. replied they did and he will provide Commission with a copy of the letter. Mark S. also stated that he is an abutter and will recuse himself from voting on the submitted NOI. Dave K. asked Celeste F. for her summary.

Celeste F. explained that in order to swap out the trashracks, it wouldn't involve the interaction with water. Most of the impact will be at the 40' length of trashrack. It would be a short-term impact as a result of the lowered water level.

Mapping showed no mussels in the area of the work but there could be some down river. NHESP did ask to have people monitor the process. No Wetlands would be impacted, just the land that is underwater.

Proposed deck would be a long-term impact. Stone wall area would be altered with pockets to accommodate the I-beams. The new deck would be expanded over a portion of the water. Another long-term impact would be the hydrology – by reducing the velocity it will enhance fishery. During the drawdown, people will be present to monitor.

Lucas W. added that flashboards have been lost before. He has a good idea of what the area looks like for sediment/bedrock – and feels confident that it can be handled with shovels and sandbags. Specifics were given to NHESP regarding sandbags.

David K. stated he would like to add to the Order of Conditions that NHESP commit time to the lower end of the river to locate mussels. Mark S. asked if a request could be sent to NHESP on behalf of the Ware Conservation Commission to request this work. Lucas W. replied that the water affected is mostly up above, not down below – it would be the same as before. In Orange, a similar thing happened, and it was costly, to find 6 mussels. Dave K. replied that he would just like NHESP to verify if that area should be known (verified) for mussels or not. The commission discussed whether it would be fair to the applicant. David K. stated he does not want to burden the project. Mark S. offered for Commission to send a letter to NHESP regarding the near location as new business in the future. Lucas W. replied that the Federal Energy Regulatory Commission is a stakeholder and NHESP has to reply. Celeste F. added that the drawdown will happen quickly if no mussels are found. If some are found, then the drawdown will be slowed in order to catch the mussels. Lucas W. also added that the indication is the mussels are present across upstream but stop at the dam. The commission stated they will require the letter from NHESP to be submitted.<sup>1</sup>

**Motion** by David Kopacz to approve the project. Seconded by Kristin Rosenbeck. So voted 3 /0 /0. (1 abstained)

## 2. New Business

- a. *Cynthia Henshaw, Executive Director for East Quabbin Land Trust to present update on Frohloff Farm with stewardship ideas and plans for 2017*

Cynthia Henshaw and Tom Clough presented on behalf of EQLT (East Quabbin Land Trust). Cynthia H. started with introductions and the submittal of a map<sup>2</sup> showing the location of the proposed project, which was an inspiration from Tom C. to convert a ½ mile of rail trail for an accessible trail.

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<sup>1</sup> Letter dated January 12, 2017 from NHESP and addressed to the Ware Conservation Commission and Lucas Wright of Pioneer Hydro Electric Co. RE: Lower Canal Dam FERC Hydroelectric at the Ware River Lower Canal Dam received via email on the evening of Feb. 8, 2017 from Lucas Wright to Anna Marques (Town of Ware Conservation Commission)

<sup>2</sup> EQLT's Frohloff Farm Accessible Trail layout off the Mass Central Rail Trail in Ware, MA

Tom C. continued with the description of the trail as being accessible by all, not just handicapped individuals. It could be utilized by the aging population, families with children on bikes and veterans. In the event that funding would be available, signage would be provided – the trail could be utilized by school groups.

Cynthia H. explained that the Frohloff Farm location is ideal because of its backbone of having part of the rail trail. The accessible trail would consist of S-curves to get down to the lower area, maybe to a platform in the banking – which some trees and bushes could be trimmed to provide views of the river.

There would also be the potential to allow the fixing of the river crossing between “old” Church Street (currently not used) and “new” Church Street (currently used).

Cynthia H. offered to schedule a site visit with the Commission. She stated that most of the funding for this project would be through a Recreational Trails Grant. A submitted status of going through permitting is the current stage. With regards to impact, soil would be disturbed but would be kept under control to keep it from going into the river. Tom added that from what he’s seen in the past from experience, the work would consist of digging 6”-12” down, using landscaping fabric with 3/8” stone and stone dust, and compaction.

David K. asked if the original intention of Frohloff Farm was preserving a farm. Cynthia H. replied that recreation was one of the points of the preservation originally. David K. stated that the water would be affected with trimming of the trees and bushes. Mark S. stated that a site visit would be helpful. Dennis C. recommended springtime for the site visit. Mark S. recommended a presentation of a proposed plan with an application of an NOI – the timing of it to be in conjunction with the site visit. David K. also added that this site visit could be tied into the scheduling of the annual walkthrough/benchmarks currently required on this property; Dennis C., Kristin R. and Mark S. were all in agreement.

- b. *Request from William A. Moryl for an Extension on the Order of Conditions for 315 Palmer Road, DEP File No. 317-316*

David K. stated he was not opposed to issuing an extension because some of the work had been done.

**Motion** by Dennis C. to grant the extension for another 3 years. Kristin R. seconded. So voted 4/0/0.

- c. *Annual Maintenance letter per Order of Conditions for DEP File No. 317-361 from Beaver Lake Club Corp.*

David K. stated that he had a problem with the submitted annual update that was asked for. The letter submitted reinstated what will be done. What was required, was a report to summarize from last year along with locations of

benchmarks. David K. does not accept the letter due to not getting a report of what was done last year.

Mark S. suggested the Commission to authorize David K. to send out a letter to the Beaver Lake Club Corp. in reference to their email/letter sent on 1/30/2017 requesting that for the next Conservation Commission Meeting (3/8/2017), a "2016 Report" be submitted with the past year's activities along with a "2017 Projection" plan for the future.

**Motion** by David K. to grant the authorization as suggested by Mark S. Kristin R. seconded. So voted 4/0/0.

d. *Concern regarding 24 East Main St., storage of hazardous materials in flood zone*

David K. stated that the site is turning into a junkyard with cars. In the past, there was an issue with wood chips (past tenant, owner had it trucked away). David K. continued that he needs to look into what is allowed on the site and have a conversation with the owner/tenant. With regards to unlicensed vehicles, which department should be handling it? Mark S. recalled that in the past, the building inspector at that time handled unlicensed vehicles. It was also mentioned that it could be a Board of Health issue. It was felt by the Commission that the Building Department had a lot of power.

David K. requested permission to continue working on it if Building Department can work on the issue with unlicensed vehicles. All members of Commission agreed grant permission.

e. *Request regarding Order of Conditions for DEP File No. 317-429, from Dick Kilhart, DPW*

An emailed request by Dick Kilhart to the Commission suggesting not filing the Order of Conditions with Registry of Deeds due to the fact that it is a Town right-of-way was reviewed by the Commission.

**Motion** by David K. to agree with the assessment of Counsel and therefore the filing of the Order of Conditions with the Registry of Deeds be not required. Kristin R. seconded. So voted 4/0/0.

f. *Conflict of Interest Summary and Training for Commission Members*

Paperwork and requirements handed out to Commission members. Signed copies of the Acknowledgment of Receipt were collected. Completed certificates of Ethics Test online training to be submitted to the Town Clerk by February 21, 2017.

3. Old Business

- a. *Approve and sign meeting minutes from December 14.*

**Motion** by Mark S. to accept the meeting minutes. K. Rosenbeck seconded. So voted 4/0/0.

- b. *Approve proposed schedule of 2017 Notice of Public Meetings for Conservation Commission meetings this year, to be posted on town website.*

Schedule was approved by all to post. Dates and times may change, however, due to agendas and availability.

- c. *MACC Annual Conference, Saturday, March 4, 2017*

Due to Commission members' availabilities, Anna M. offered to attend the annual conference.

**Motion** by Dennis C. to approve annual conference attendance by Anna M. Mark S. seconded. So voted 4/0/0.

4. Adjournment

**Motion** by D. Kopacz to adjourn at 7:32 p.m.  
Seconded by Mark S.

*Respectfully submitted by Anna S. Marques*

Approved on 3/8/17  
Date

Members:

Mark Swett

David P. Kopacz, Sr.

Dennis Cote

Kristin Rosenbeck

  
  
