

Conservation Commission Meeting Minutes

Wednesday, March 22, 2023

Town of Kingston

26 Evergreen Street, Room 200

Kingston, MA 02364

Present: Vittorio 'Buz' Artiano, Glen Duffy, Dorothy 'Dot' MacFarlane, Natalie Wiegman, Jim Franklin (Vice-Chair)

Absent: Megan Hickey, Kalina Vendetti (Chairperson)

Staff: Matt Penella

Location: Town Hall Offices, Room 200

Commission Meeting Opened: 6:33 p.m.

Vice-Chair Jim Franklin opened the meeting at 6:33 p.m. The date was March 22, 2023.
Chairperson Kalina Vendetti and Megan Hickey were absent.

VOTE TO OPEN: PASSED 5-0-0

BUSINESS:

I. Signing Documents

The Commission signed bills from Environmental Partners for MS4 Support and a bill from P.A. Landers for Camp Nekon trail maintenance.

II. Action Items

Continued discussion of Conservation-sponsored warrant articles for Town Meeting.

Agent Penella said that he has been working on the final language for the Wetland Protection bylaw revision and the tree-clearing bylaw. He worked with Town Counsel on the wetland bylaw update and has submitted that proposed language for the warrant to the Commission via OneDrive. The Commission will need to vote to approve the final language before Town Meeting. Matt also did a presentation on the tree-clearing bylaw to the Planning Board. The Planning Board voted in support of the general concept of the bylaw. Matt and Town Planner, Valerie Massard, worked on the final revision together. They have composed a plan that has a three-tiered permitting system, i.e. it's either administrative review, site plan review by the Planning Board, or special permit. This bylaw will be co-sponsored by the Planning Board, and the Commission will also need to vote on the final language. The Commission agreed that they would hold a separate meeting via Zoom to have a discussion about the final language on the bylaw proposals before voting.

III. Public Forum

Member of the public, Bill Arrowsmith of 141 Monk's Hill Road, addressed the Commission to ask the reason for the closure of part of Monk's Hill Road, since to his knowledge it is a town road and he also inquired why there is heavy equipment traffic going up the road. As an abutter he had the following concerns: what studies had been conducted to learn the impact on wetland areas as a result of this construction project, why weren't abutters notified prior to the road closure, and lastly, what in fact is the project. Agent Penella said that although Monk's Hill Road is indicated on some maps, he does not think it is a town road. The location of the gate that is there now had the same gate over 50 years ago when the Town purchased the land. As for the project at Camp Nekon, The Commission put gates up over the last two years in order to curb off-road vehicle use, including trucks and Jeeps, which have done a lot of damage on the site over the last decades. That section of trail between Monk's Hill Road gate and the Raboth Road gate has massive puddles in it making it an impediment to people using the road for passive recreation. After rain, the puddles make the road impassable. So, people are forced to turn around and go back. There was public benefit to getting that done so the majority of the larger vehicles were out of there, so the damage and threat to passive recreation wouldn't continue. As far as wetland impacts, it is beneficial to get the puddles filled as soon as possible since those puddles become pools that pool-breeding amphibians will use to breed, instead of going to the vernal pools where they typically would breed. The puddles then become population sinks. The amphibians will lay their eggs in there and then the next vehicle that passes through will stir up the silt, the silt then covers the eggs, and the eggs cannot hatch. Technically the Commission is maintaining this not just as a trail, but as a trail *and* a fire road. Matt stated that he has worked closely with the Kingston Fire Department through the whole

process to ensure that they have access to the roads and trails in case of a fire. The purpose of the project is to make it a property that the public can enjoy in the way of walking trails, and also to make the property more accessible to the Kingston Fire Department. There is no detriment to wetlands from the work that is being done on the puddles. Mr. Arrowsmith asked if permits had been pulled for the work being done. Matt said no, because permits are not necessary. It is not a major project and it meets exemptions under Wetlands Protection Act and Kingston Wetlands Protection Regulations (KWPR). The project is simply the filling of puddles inside the trail network and will only have a positive impact to the wetlands there, and to the species that inhabit those wetlands. This is a beneficial project for the public good and the wetlands on site. Mr. Arrowsmith said that he uses the road to drive to his neighbors house on Raboth Road and suddenly the road is closed. He said that according to Google Maps, Monk's Hill Road is a road, not a trail. Commissioner Franklin stated that if the concern is that there are restrictions to using motorized vehicles on conservation property, then that is a different subject. However, if the concern is about wetlands, then the Conservation Agent had made comments as to the overall objective of the project and its benefit to the wetlands. As far as the road closure, Jim said the it was voted through in 2014 when the land was put under conservation. Mr. Arrowsmith asked what happens to the amphibians and other creatures when the puddles would dry up normally. Matt replied the puddles do indeed dry out faster than a vernal pool thus leading to population sinks, and the creatures do not have time to complete their life cycle in the puddles. Then Mr. Arrowsmith asked how much the project costs and who is paying for it. Matt said that the Conservation Department is paying for it. At Town Meeting in 2022, \$9,000 was transferred from a special article that had been intended for Cranberry Watershed Preserve. This was for a project that was through a federal grant that could no longer be completed around the year 2008. Therefore, at Town Meeting the money was transferred for use at Camp Nekon. Essentially, it was left open-ended that the money could be used for some sort of maintenance work at Camp Nekon. Jim said that as a board, they had voted to grant Agent Penella a certain level of authority for trail maintenance on conservation properties. So, Matt is within his rights to act on something that he determines is a betterment for public interest. Member of the public, Jenna Carroll, of 44 Raboth Road spoke via Zoom and stated her concern that with the promotion of Camp Nekon trails as a recreational area, private property would be trespassed upon by those visiting the area, and asked if the Town would take any measures to prevent this. Agent Penella replied that some signs have been ordered to indicate Town vs. Private or residential property. He was not aware of any areas in Camp Nekon where people could easily get onto private residential property, but would take a closer look at the area she indicated near her home. Jim said that the Commission can work with Matt to deter the public accessing residential properties. Member of the public, Kelsey Kite, sent a chat message stating that she is a new resident of Monk's Hill Road and would like a link to a copy of the plan under discussion or the Camp Nekon plan. Matt

said that there is the map that was made up for Town Meeting, and he has the Commission discussion notes about transfer of parcels around the area. He said that they also have recently created a trail map for Camp Nekon, although trails have yet to be color-coded. Some local veterans doing tax abatement work will be working on color-coding the trailheads at Camp Nekon. For the time being, there is a pdf map on the Conservation Commission website at: <https://www.kingstonma.gov/600/Conservation-Properties> which shows the area and some of the trails. The pdf file can be imported into a smart phone using an app such as Avenza Maps. He further said that as far as a plan, there isn't one per se, and that the Commission is working on rehabbing the property and making it more available for passive use. Member of the public, Paul Costa, of 117 Monk's Hill Road said that as an abutter he is concerned as to why he was not notified about the project and road closure. He said that for 50 years he has used the trails and now he cannot do so (in his vehicle). He presented some pictures of wetlands that he felt were impacted. He wanted to know why the puddles need to be filled when there are ways around the puddles. He said that he had been assured by the Fire Chief that there were no issues with the 6-wheel emergency vehicles getting down the road to address fires. He wanted to know if there would be construction on the property down the line and if that was the reason why the road was being repaired and the puddles were being filled in. Matt said that legally it would be very difficult for any development to take place on the property and that the Conservation Commission is certainly not going to ever develop anything there. Matt stressed that the plan for Camp Nekon was *protection*, and that is why they are taking the actions that they are taking. Matt apologized for the lack of abutter notifications or general notifications. He would like to get more of the local community involved. He also said it is a conservation property which means that motorized vehicles are not allowed. So, the gates were the first step to keep motorized vehicles from tearing up the property. The idea being to improve the habitat by ridding the area of motorized vehicles and the unnecessary trails that are all over the interior of the property. The result is to just have a few trails that would make it a usable property for the enjoyment of the people of Kingston and surrounding areas, to be able to walk in the woods on trails and enjoy the property. Matt said he has a lot of pictures of vernal pools on the property that are not near the main road yet they are being impacted by off-road vehicle use. for example, there is only an inch or two of topsoil, the rest is sand; and so once the top soil washes off, the sand washes down the hills. Several of the vernal pools are filling in with sand. The reproductive period of vernal pool species need a certain number of growing days before they can metamorph and become adults. If the pools fill with sand, then there is less room for water and so on. It is in the best interest of the property from a conservation standpoint to minimize or eradicate as much off-road vehicle activity as possible. The plan is simply to benefit the habitat and the species that live there and to make it better for people to enjoy the property for passive recreation. Fixing this main section of the trail, makes it more inviting to the average citizen who would want to go out and walk the trails. Matt said that abutter

notifications are done when the Commission is doing the filing process on a project. But because they were not filing on this particular project, abutter notifications were not necessary. This project was time-sensitive and could not be done over the winter, but had to be done before the species bred in the puddles. Matt said that a local company had the time to work on the project in a timely manner and the money was already there, so he made the decision to get the work done as quickly as possible. He said he had tried to get the word out to the public through social media and signage at the trail heads. He also said that in regards to the fire vehicles; while the brush-breakers can get through the puddles easily, but there is a Type 6 Engine, that is essentially a F-350 with a giant engine on the back with a water tank, and it is *those* fire vehicles that would not be able to get through the road with the giant puddles there. Filling in the puddles improved the ability of the Fire Department to react to fires on the property. Jim said that there had been a forest fire last year and the Commission put up the gates so that they could limit the vehicles going in with pallets to make bonfires. Mr. Costa said that he understood all of those factors. However, after 50 years of living in the area, he can no longer drive his truck into the woods to walk his dogs, and that is his main issue. Mr. Costa also said that some of his neighbors would have attended the meeting to share their concerns and have questions answered, but were not able to do so. Buz suggested that 15-minutes be slated at the next meeting so that one spokesperson from the neighborhood could attend and have the opportunity to speak, or at the end of the meeting currently in progress, the residents could have more time to speak.

IV. Public Hearings

a) 8 Silver Lake Drive- Notice of Intent (NOI) for replacement of retaining wall within 100' of a wetland resource area, with temporary impacts within a wetland resource area. The applicants are Brian and Laura Riordan and the representative is Rick Grady of Grady Consulting, LLC. The representative was not notified of the Public Hearing Notice (PHN) being published and an official date being given and therefore had not submitted abutter notifications. This hearing will be continued to April 12, 2023, Section C. Buz made the motion to continue the hearing to April 12th, Section C. Glen seconded the motion. VOTE: Passed 5-0-0

b) 8 Smelt Pond Road- Notice of Intent for proposed addition to single-family house within jurisdiction, adjacent to Smelt Pond, within 100' of a wetland resource area. (Map 89, Lot 18) The applicant is Dan Pepe and the representative is Dylan Brady of Grady Consulting, LLC.

Representative Dylan Brady presented revisions to the plan since the last meeting:

- The installation of a Jet J-800 wastewater treatment unit to further mitigate adverse effects that the increased flow might have.

- A planting list including: 4 Red Sprite Winter Berries, 4 Low Bush Blueberries, and 1,052 square feet of New England Conservation Wildlife Mix Seeding. This mitigation area is 2-to-1 from the proposed construction of the addition.
- A section on the plan now shows the setbacks from any storm water from the dry well, showing that there's only about 24 square feet of a usable area on the side of the hill near the old cranberry bog.
- The post stockpile area is now outlined on the plan.
- A formal variance request was submitted to the Conservation Agent for the proposed work within 50' of a flood zone.
- A perc test was performed on March 21, 2023, the data shows 90% is medium sand and there was not any water in the models.

Commissioner Franklin asked that some clarification be made to the revised site plan regarding the model number of the treatment unit, i.e. Jet J-800 PLT. Agent Penella commented that in past permits, the Commission had requested the perpetual condition saying that "the septic system shall remain as the specified Jet J-RAD or similar treatment system as approved by Conservation Commission and be properly maintained by a qualified vendor. The applicant must keep records of maintenance and repairs to the system and provide them to the Commission upon request." He also said that there should be language such as "there should be no chemical use in the restoration area, including overspray from lawn or mosquito treatments. The homeowner shall limit outdoor chemical use throughout the entire property to organic products and slow-release low phosphorous fertilizers due to the amount of the property within jurisdiction and the sensitivity of the site and surrounding wetland resource areas." The applicant had no issue with those parameters. Agent Penella requested that no cultivars be used in the planting plan, just straight species. In regards to the seed mix, he requested that seeds specific for Southeastern Massachusetts be used and recommended going through New England Wetland Plants, Inc. for the SE MA Upland Restoration mix they created with the Town of Kingston Conservation Department. The representative and applicant agreed to said requests. Buz made a motion to close the hearing. Seconded by Dot. PASSED 5-0-0. Buz made a motion to approve the plan with revisions made dated March 14, 2023 with the stipulation that the detail for the Jet J-800 PLT- RAD change to reflect the actual system that's being installed, and that the Agent's notes as written and read be applied, along with the standard conditions. Glen seconded. PASSED 5-0-0

V. Enforcement

The Conservation Agent gave an informal update on pending potential enforcement issues. On Elm Street there has been some clearing in a wetland area, where there is a historic blueberry patch that had become overgrown over the years. The area is in priority habitat. Matt met with the homeowner, and told him that he would confirm under Wetland Regulations whether or

not this area, and the work being done, would fall under an exemption. For the time being the work has stopped. There is another situation on Elm Street where work has been occurring within a short distance of a possible vernal pool. Matt is still waiting for clarification from Natural Heritage on that pool, which is scheduled for April 12th, but in the meantime the work has stopped. There is also a situation off of Main Street on two commercial properties that are dumping a significant amount of storm water directly into a stream. On Royson Drive there is an open Order of Conditions related to storm water, and Matt has a site visit planned for March 23rd.

VI. Meeting Minutes

The minutes from February 8, 2023, February 22, 2023 and March 1, 2023 were reviewed by the Commission prior to the meeting.

VOTE: Buz made a motion to approve the minutes for February 8, 2023 as drafted. Glen seconded, Jim recused. Passed 4-0-0

VOTE: Buz made a motion to approve the minutes for February 22, 2023 with one edit. Dot seconded. PASSED 5-0-0

VOTE: Buz made a motion to approve the minutes for March 1, 2023. Glen seconded. PASSED 5-0-0

VII. Updates

Agent Penella gave an update on an Administrative Review request for 70 Elm Street for tree removal. A tree company will be cutting some regenerating Pine trees, and removing one of the invasive trees on the property. Matt updated the Commission that an Assistant Conservation Agent has been hired, her name is Julianna Denum and she will be starting April 13, 2023.

VII. Public Forum Re-opened

Member of the public, Katelyn Gavin spoke via Zoom. She expressed appreciation for the work being done at Camp Nekon. She also voiced concern about the Town's overall plan for development. Agent Penella commented that one way for residents to help would be to attend Town Meeting and show support for what the Conservation Commission is proposing; which is to transfer the remainder of a few parcels from municipal to conservation. This would tie the whole area together and solidify conservation protection of that area, allowing it to remain in perpetuity for residents who live there in the face of future development in the Town. Buz stated that Camp Nekon is public space under the Conservation Commission's jurisdiction, open to all people not just the residents of Kingston. He further said that while private residential properties should be respected, Camp Nekon itself is *public* space. Member of the public, Bill Moore of 10 Raboth Road, asked how making the trails better would deter dirt bike and ATV use of the trail. Jim said that there are cameras at the location and Environmental Police

should be called when recreational vehicle use is noticed. Mr. Moore expressed concern that the work being done was the first step towards something else in the way of development. Buz stressed that the land in question is under the Conservation Commission's jurisdiction and the Commission is trying to add parcels to that protected land, and that as a board they do not develop land, they protect it. Matt said that there may be a development at the O'Donnell dirt pit, which runs along Raboth Road, however that is not conservation land. This potential development adds to the importance of the Conservation Commission's work of adding parcels to Camp Nekon and preserving and protecting the area. Jim said the work the Commission does is all about *conservation*, not to set the stage for development. Matt apologized for the lack of communication to area residents regarding the work on Raboth Road and Camp Nekon and said when the work is done and the puddles are filled, it will essentially look as it had before but without the puddles. Dot stated that there are logs showing that the Conservation Commission tried to keep trucks out without a gate, but to no avail. Dot also talked about vernal pools, their importance, and the fragile species that use them as habitat. Matt said that in the way of future communication, he would like to create an email list for the residents in the Camp Nekon area. Jenna Carroll from 44 Raboth Road volunteered to collect email addresses from the area residents. She asked for clarification on the parking area by the entranceways to the gates. Matt replied that there are no plans to put a parking near one of the Raboth Road gates. Near the other gate on Raboth Road, there will be a very small parking area on the side of the road for one or two vehicles. Ms. Carroll also asked if there would be any consideration given to residents to operate ATV's, snowmobiles or other motorized vehicles in the Camp Nekon area. Matt was not sure of the legality of driving such vehicles on Raboth Road itself, but they are prohibited within the boundaries of conservation areas. Selectperson Sheila Vaughn via Zoom spoke to say that the 2022 bylaws stress the importance of maintenance to roads and the work going on at Raboth Road was part of maintenance and therefore did not need to go through the process of filing. Ms. Vaughn encouraged the public to attend the upcoming Town Meeting. Member of the public, Paul Costa, asked if the Fire Department has keys to the gates. Matt confirmed that they do.

CLOSING REMARKS

Vice Chair Jim Franklin started closing remarks at 8:21 p.m. The next meeting will be held on April 12, 2023 at 6:30 p.m. in Room 200.

VOTE: Buz made the motion to adjourn, seconded by Glen; PASSED 5-0-0