

FINAL

**CONSERVATION COMMISSION
REGULAR MEETING MINUTES**

Remote Via Microsoft Teams

LebanonNH.gov/Live

March 10, 2022

6:30 PM

MEMBERS PRESENT: Sarah Riley (Chair), Bruce James (Vice Chair), Erling Heistad, Ernst Oidtmann, Barbara Hirai (Alt.), Chris Johnson, Susan Almy [6:39 PM], Darla Bruno (Alt.)

MEMBERS ABSENT: Megan Smith (Alt.), Donald Lacey

STAFF PRESENT: Mark Goodwin (GIS Coordinator), David Brooks (Planning Director)

1. CALL TO ORDER – Chair Riley called the meeting to order at 6:30 PM

Chair Riley promoted Ms. Hirai to sit for Mr. Lacey. She also appointed Ms. Bruno to sit for Ms. Almy until her later arrival.

2. APPROVAL OF MINUTES: February 10, 2022

Amendments:

- Page 5, line 13: to read “Chair Riley stated that the first Wild About Lebanon event, led by Mr. Heistad and Kim Rylander, has occurred. The second, led by Mr. Oidtmann will occur...”
- Page 5, line 24: change “Ms. Almy” to “Chair Riley”
- Page 5, line 24: add Two Rivers Conservation Area, and Star Hill to the property list
- Page 6, line 18: add a sentence, “Ms. Hirai asked if the Conservation Commission was interested in considering a land acknowledge statement at the beginning of each meeting.”
- Page 3, lines 1-3: check for clarity on the word “motor” versus “wheeled”

Mr. Heistad MOVED to approve the February 10, 2022 minutes, as amended.

Seconded by Mr. Oidtmann.

**** The Vote on the MOTION was approved by roll call Sarah Riley – aye; Bruce James – aye; Erling Heistad – aye; Ernst Oidtmann – aye; Barbara Hirai – aye; Chris Johnson – aye; Darla Bruno (remote) – aye; (7-0-0).***

Ms. Almy entered the meeting at 6:39 PM and took her seat.

3. PERMIT REVIEW

A. Chaloux Properties, LLC - Review and Comment on NHDES Wetland Expedited Review (minimum impact only) application to construct a climbing gym facility with parking lot and utilities along the west side of Labombard Road. The utilities will run underground to the site. The underground alignment will require 545 square feet of

temporary wetland impact for the installation. The emergent wetland will be reestablished once the utility conduits have been installed. CC2022-01

Audra Klumb, A&E Klumb Environmental, explained that this proposal is for an expedited wetland application for a temporary 545 s.f. wetland impact. Utilities are proposed be run through a wetland to access the climbing gym facility. Some alternative options were reviewed. The wetland comes out of a culvert just north of the proposed crossing location. She looked at reaching the utilities around the culvert, but this would cause them to run through a City right-of-way area, which the City is not in favor of. A second option was to cross the utilities below the culvert, with two 45° bends. This would reduce the wetland impact, but still require crossing the City's right-of-way. The current proposal is the least impactful alternative, with 545 s.f. of a temporary impact. Once utilities are installed, the emergent wetland will be restored to its existing condition. If the Commission approves the expedited permit, it will allow for the State to review the project within 30 days, instead of the normal 75.

Chair Riley noted that, if the Commission does not approve the expedited permit, the project will default to the standard application and review process by DES. She explained that the Commission should only agree to sign this if it has no questions/concerns about the project and is ready to relinquish its rights.

Mr. Goodwin noted that the Commission's review of this project should also be expedited, if it believes the project is appropriate for an expedited permit.

Ms. Klumb explained that this wetland comes downstream from the north side of the road as an intermittent stream. It then crosses under Labombard Road, hit a section of riprap, and becomes an emergent wetland. There are no stream channels or defined beds associated with this wetland. The wetland leaves this site by flowing to the south and then to the west.

Mr. James asked how the wetland will be restored. Ms. Klumb explained that erosion control measures will be used to stabilize the site, prior to installation. Soil will be removed from the work area and stockpiled on the property. Once conduits are installed, the existing soil from the site will be replaced back into the same footprint. The area will then be replanted with wetland seed mix. Erosion controls will be kept in place until the area restabilizes. Conduit installations generally take approximately 1-2 weeks.

Ms. Hirai asked how invasives on the property will be contained. Ms. Klumb stated that the intention is to go out before work begins on the site to cut the seed heads from the phragmites, and bag and remove them.

Ms. Hirai explained that when this project was presented to the Planning Board, it was stated that there would be no wetland impacts. Now it appears that there will be wetland impacts. As the Commission is advisory to the Planning Board, she believes the Commission should have been consulted first.

In response to a question from Ms. Almy, Ms. Klumb explained that this project area does not contain an intermittent stream; that is located on an adjacent property.

Ms. Hirai expressed concern that this project could end up discouraging native species and encouraging additional invasives on the property. Ms. Klumb stated that she would look into how to improve on this concern.

Chair Riley explained that applicants are primarily supposed to look to avoid all wetland impacts. While she is glad this proposal minimizes impacts, she questioned why the wetland on site is seen as a better option than crossing the City's right-of-way sidewalk. Ms. Klumb stated that the City is not in favor of this project crossing the right-of-way.

In response to a question from Mr. Heistad, Mr. Brooks explained that the Planning Board took action on this item at its February 23, 2022, meeting. It is within the 30-day window if the Commission would like for the Planning Board to revisit its decision. Mr. Brooks noted that, if a project is determined to have a minimum impact, it does not trigger the local permitting process, leading to the Planning Board taking jurisdiction of the process.

Chair Riley asked how the site was delineated. Ms. Klumb stated that she did not review a 30-year history of the site but used what she could visually see at this time.

Mr. James asked if the Commission's comments and vote will go to DES. Chair Riley stated that, if the Commission agrees, the expedited permit will go directly to DES and not allow for further comment by the Commission. She does not believe the Commission has the ability to make comments to DES on this item at this time. Mr. James stated that he is comfortable with the wetland delineation that will be temporarily impacted and then restored. Chair Riley stated that the Commission's job is to determine if there is a way for this project to move forward without any wetland impacts.

Ms. Hirai asked if the Commission could place a condition on this item. Chair Riley stated that this is not possible if the Commission agrees to move forward with the expedited permit. Ms. Hirai expressed concern regarding possible invasives in the soil being moved around on site. She explained that she would like a condition that the site will be monitored for a couple of years to remove invasives.

Ms. Klumb explained that, generally, the State places conditions in the permit regarding there not being additional invasives on site for a number of years. The wetland must be reestablished using the State's conditions. Ms. Klumb noted that the Commission can submit its comments to DES.

Chair Riley stated that signing this expedited permit means that the Commission surrenders all of its rights to comment on this application. If the Commission would like to comment on this, it should not sign the expedited permit.

Ms. Almy noted that there are two contradictory concerns, one regarding placing this project in the right-of-way instead, and the other regarding monitoring for invasives on site.

Chair Riley stated that she believes the project could drill, instead of dig, under the right-of-way. She is also concerned about invasives and sediment from the site washing into the wetland. Ms. Klumb noted that erosion control will be in place on site.

Mr. James stated that this project is for a small wetland disturbance. The wetland will then be restored at the end of the project. This area is part of a larger wetland, which he believes will help protect against potential sediment loss. Other options were reviewed, and this proposal minimizes the area of disturbance. He is comfortable with the proposal as presented.

Mr. Heistad stated that this area was a golden wetland until Route 120 was built. He is uncomfortable with projects that could further endanger the wetland in this area and would prefer for the State to look at this project more in-depth.

Mr. Oidtmann stated that this proposal is for a small, temporary disturbance. The area will be restored as much as possible, with additional invasive species removal. He is in favor of approving the expedited permit.

Chair Riley echoed the comments that the true impacts of this project were not properly presented to the Planning Board. She believes impacting the wetlands instead of the City's right-of-way also sets a bad precedent. She would prefer this to receive DES' full attention.

Noah Lynd, owner of the property, stated that he reviewed the Planning Board meeting and potential impacts to the site did come up in the conversation. At that time, Kevin Worden, Engineering Ventures, did state that there would be no wetland impacts as part of this project, however, Mr. Lynd explained that he believes Mr. Worden was referring to there being no permanent impacts.

***Mr. James MOVED to direct the Chair to sign the Wetland Expedited Review (minimum impact only) application.
Seconded by Mr. Oidtmann.***

**** The Vote on the MOTION failed by roll call Sarah Riley – nay; Bruce James – aye; Erling Heistad – nay; Ernst Oidtmann – aye; Barbara Hirai – nay; Chris Johnson – nay; Sue Almy – aye; (3-4-0).***

Mr. Goodwin stated that the applicant will now need to contact the Planning Office and come back to the Commission at a different date.

Mr. Goodwin explained that there was nothing taken out of order, in terms of the Commission reviewing this item after the Planning Board, due to the small significance of the project. While he appreciates the Commission's due diligence, he noted the finite resources of the City and DES staff. The time spent by those parties reviewing something such as a minimum temporary impact in an industrial zone, takes away from time that could be spent on more significant issues. There is a reason that certain items are candidates for the expedited review process.

Chair Riley stated that she would like for the process to include review by the Commission prior to being at the end of the line. She would also like for the Planning Board to ask for the Commission's comment more often. She noted that she would prefer the City to place more emphasis on avoiding impacts to wetlands, instead of avoiding the rights-of-way.

Ms. Hirai asked when the Commission is allowed to place conditions on this type of a permit. Mr. Goodwin explained that the Commission could have asked DES to place certain conditions, such as invasive species monitoring on this item. The Commission also should review the 7-8 standard conditions that DES places on all of these permits that generally address most of the basic issues.

Chair Riley stated signing the expedited permit indicates that the Commission has no concerns and that the project can move forward with minimum oversight. If the Commission has concerns, it should not sign. Mr. Brooks explained that the permit is still reviewed by the State, even in an expedited process. The nature of the Commission is in an advisory role, while the State is the permitting agency. Signing an expedited permit does not mean there is no review of the project; it simply means the process is more cursory. He noted that trainings on the permitting process are likely available if the Commission chooses.

4. STUDY ITEMS

A. Continued Review of Chapter 52 – Conservation Land Regulations

This item was tabled to later in the meeting.

B. Continued Review of the Con Com's Rules of Procedure

This item was tabled to a later date.

C. Master Plan Update

The Commission took up this item at this time.

Mr. Brooks reviewed the Master Plan process in Lebanon. He explained that the Planning and Development Department is initiating a new approach to reviewing and updating the Master Plan on a chapter-by-chapter basis over the next 3-4 years. The proposal is to start with Chapter 5 - Natural Resources. The Planning Department envisions working directly with the Conservation Commission to review and update the Natural Resources chapter. The first step in the process is for the Commission to review the Natural Resource chapter's *Vision & Purpose Statement*. The Commission will then review and update the body of the Natural Resources chapter, including the *Issues & Priorities, Existing Conditions & Trends, and Future Challenges & Opportunities* sections. Next, the Commission will review and update the Outcomes, Actions, and Strategies of the Natural Resources chapter, and finally request that the Planning Board formally adopt the updated chapter. There will be extra steps taken to publicize that the Commission is working on the Master Plan update. He explained that this will likely be a 5–7-month process.

Ms. Hirai asked if the Commission would have the chance to consult with members of other boards/commissions throughout the process for their input. Mr. Brooks stated that this is a possibility, but the Commission should be the champion of working on this chapter.

Ms. Almy suggested including information into the *Vision & Purpose Statement* regarding global warming/climate change and its effect on wildlife, the biome, and people. Mr. Brooks stated that this could be included in the Energy chapter, but possibly also in other chapters. Mr. Goodwin explained that this could also be included in the *Issues & Priorities* section of the chapter.

Mr. James stated that there are three key points regarding natural environments/quality of life and economics, functions of natural systems and respecting property owners, and accessibility to City residents. These capture where the City should be going in the next 10 years and appear to be in line with where the Commission is heading as well.

Mr. Goodwin suggested adding “active climate change mitigation and adaptation measures” into the second sentence of the second paragraph of the *Vision & Purpose Statement*.

Ms. Almy noted a concern with dwindling wildlife corridors in Lebanon.

Ms. Hirai stated that she might like to be able to tweak the balance of certain items within the *Statement* as the process moves forward. Mr. Brooks explained that he would like a sense that the Commission is comfortable with the basic gist of the *Statement* as a way to move ahead. Mr. Johnson explained that he would like to focus effort on the implementation sections of this chapter.

Chair Riley noted that this *Vision & Purpose Statement* is for the City of Lebanon’s Master Plan and not for the Commission itself.

Mr. James explained that, as this chapter is about the City’s natural resources, it needs to have some focus on human/environment interactions.

D. Conservation Ranger

This item was tabled to later in next meeting.

E. Discussion re: NHMA Legislative Policy Proposals

Mr. Brooks explained that the City Council has recently taken a more active role in participating in the legislative policy process. The Commission received the 2021 policy positions that were previously adopted. The City Council is working on the policy positions for 2023-2024 and is asking other boards/committees to weigh in on these positions. NHMA has a spring conference to discuss items from all included towns and will finalize positions in the fall.

Mr. Goodwin noted that there is nothing that mentions greenhouse gases or climate change in the draft policy positions document.

The Commission agreed to do more research on this process in order to better comment in the future.

A. Continued Review of Chapter 52 – Conservation Land Regulations

The Commission took up this item at this time.

Mr. Goodwin explained that amending Chapter 52 requires a public hearing at the City Council level. The Commission reviewed the amendments made during the last meeting. The Commission noted that it would like a definition of “low-impact recreation.”

Ms. Hirai stated that she would also still like more information on e-bikes.

Mr. Oidtmann stated that he would like to add into 52-7 C “including boundary markers.” He would also like to have added, “No person on any conservation land shall develop new trails or shortcuts.”

Ms. Bruno suggested in 52-7 F spelling out a definition of “direct control” for dogs. She also suggested not allowing lead fishing sinkers or lead bullets for hunting.

Ms. Almy stated that she would like to see a better definition of living plant material in 52-7 C.

***Ms. Hirai MOVED to extend the meeting for 15 minutes.
Seconded by Mr. Johnson.***

**** The Vote on the MOTION was approved (7-0-0).***

F. Farnum Hill Preserve – Property Overview & Discussion
This item was tabled to the next meeting.

D. Conservation Ranger
The Commission suggested being able to review the Ranger’s job description before hiring. Mr. Goodwin noted that the City Manager’s Office has stated that it is not the Commission’s job to review any job description.

Mr. Heistad suggested coming up with abilities and skills that could be considered for the description.

Mr. Bruce stated that, if this is not in the Commission’s purview to review job descriptions, this should be accepted. This Commission is not included in the Human Resources Department.

Chair Riley stated that she would have a meeting with the City Manager’s Office on this item.

This item was tabled to the next meeting.

5. COMMITTEE REPORTS

A. Reports from other committees:
--Conservation Lands Monitors (Various Members)
This item was not discussed at this time.

--Lebanon Biodiversity Group (D. Lacey)

Chair Riley stated that Mr. Lacey had a productive outing at Baker's treating glossy buckthorn and is considering planting some fresh stake cuttings of native species to augment bank stabilization as invasives are cut.

--Workshops & Educational Opportunities (Various Members)

Mr. James and Ms. Hirai recently attended a webinar for Funding for Trails sponsored by NH Association for Conservation Commissions. There was a presentation on the Recreation for Trails Program which funds projects through the Gas Tax. This pays for \$8,000-\$80,000 of projects with a 20% match. The application period for proposals is from April – June, with a grant being awarded in June 2023 needing to be spent to December 2023. Mr. James stated that he is open to writing the application proposal.

Chair Riley stated that there will be a workshop on vernal pools on April 30, 2022. Mr. Hirai recently led a successful Wild About Lebanon walk at Two Rivers Conservation Area. The next Wild About Lebanon will likely occur in early April.

6. OTHER BUSINESS

Mr. Oidtmann stated that he is still working to receive information regarding LUCT and Current Use funds.

Chair Riley stated that there is an FYI to the Commission from DES regarding a shoreland enforcement on the Connecticut River near Stateline Sports. Cutting occurred without a shoreland permit. There was also a memo of concern from the public regarding the pipeline project.

Mr. Goodwin explained that the Cemetery Sexton is proposing some plantings near the Rail Trail. The Cemetery Board suggested asking the Commission for insight regarding appropriate species.

7. FUTURE AGENDA ITEMS

8. OPEN TO THE PUBLIC

9. ADJOURNMENT:

The meeting was adjourned at 9:18 PM.

Respectfully submitted,
Kristan Patenaude
Recording Secretary