FINAL

LEBANON CONSERVATION COMMISSION
CITY COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
6:30PM THURSDAY MAY 09, 2024

MEMBERS PRESENT: Sarah Riley (Chair), Bruce James (Vice Chair), Barbara Hirai, Erling Heistad (City Council Rep.), Ernst Oidtmann, Donald Lacey, Brandon Hill (Alt), Susan Almy (Alt.)

MEMBERS ABSENT: Sean Dittrich (Alt.), Chris Johnson

STAFF PRESENT: Mark Goodwin (GIS Coordinator), Rod Finley (City Engineer)

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1. CALL TO ORDER

Chair Riley called the meeting to order at 6:35pm. Mr. Goodwin reviewed the City's meeting in-person and REMOTE attendance policies and procedures.

Recording Secretary Paula Roux noted that Ms. Tina Jarvis will be taking over as Recording Secretary for the Conservation Commission meetings going forward.

2. APPROVAL OF MINUTES April 11, 2024

Amendments:
Page 3, Line 21: Change "Wider Dam" to "Wilder Dam"
Page 5, Line 40: Change "Pike Consultants" to "Pike Industries and their consultants"
Page 5, Line 41: Edit to: "…wetland mitigation for the scaled back version of their impacts."
Page 5, Line 6: Edit to: "Chair Riley announced there will be a Route 120 Corridor study…"

At 6:35pm, Chair Riley approved the appointment of Mr. Hill to sit in for Chris Johnson.

A MOTION was made Erling Heistad by to approve the April 11, 2024 Meeting Minutes as amended. The Motion was seconded by Don Lacey.

****The MOTION was approved (7-0).***

3. OPEN TO THE PUBLIC

No one from the public spoke.

Chair Riley moved **Study Item 5B** to the top of the meeting, which is out of the order on the meeting agenda.

5. STUDY ITEM

B. Eagle Scout Bat House Project

Mr. Aiden Rafter (and his grandfather, Mr. William Rafter) gave an overview of his proposed bat house project.

He said he plans to add bat houses in different city parks because he said there has been a decrease in the bat population due to loss of habitat. He said he will install 9 bat houses in the following locations:

- Baker's Crossing
- Ticknor property
- Chambers Memorial Reserve
- LeBrun Meadow
- Goodwin Conservation Area
- Signal Hill

He said he would be replacing the four bat houses already in Baker's Crossing but would reuse the poles already installed.

Dr. Oidtmann suggested a bat house could be installed at Farnum Hill Reserve. Ms. Hirai suggested 2 Rivers Conservation Area may be another location to consider. Mr. William Rafter said he'd also heard that Boston Lot could be another location for a bat house.

Mr. Aiden Rafter said the project will be completed by the end of July. The group thanked Mr. Rafter for his work on this project.

4. PERMIT REVIEW

A. The City of Lebanon, 0 Barros St, Tax Map 77, Lot 106 - Review and Comment on NHDES Wetland Expedited Minimum Impact Application to fill, regrade and stabilize approx. 945 sq ft of wetlands. (permanent impact) that exist within an isolated depression on the subject property. CC2024-02 (NH DES # 2024-00988)

City Engineer Rod Finley and Mr. Scott Williams (Pathways Consultants) gave an overview of the project, which involves a request to fill a 945-square-foot wetland area of a two-lot area owned by the City which is going to be developed to include 3-5 small houses.

Chair Riley said it does not appear that enough efforts have been made not to impact the wetland area. Mr. Finley noted that the wetland area has already been partially filled and serves a minimal function and value as it is. He said it retains run-off water on the lot. He said it will not be improved if nothing is done to it. Mr. Lacey asked if there is likely to be a washout after the fill is added because of the fairly steep drop off. Mr. Williams said the fill will be compacted and should not wash out.

Ms. Hirai asked about the quality of the water being released into the wetlands. Mr. Finley explained how the water will be discharged and said the full stormwater treatment design will be

included in the site plan. Ms. Hirai noted that the area would be filled before the site plan is provided.

Chair Riley said she is uncomfortable with the proposal because she said it seems like the plan is trying to separate the impacts of the development of the site from the impacts of filling the wetlands. She said it does not seem like the applicant has shown they have done as much as they can to avoid impacted wetlands. She said perhaps the project should involve three houses instead of five, thereby avoiding wetland impacts.

The group discussed the condition and age of the water main pipe that exists under Barros Street. They also discussed the slopes and water flow in the area at length.

Chair Riley asked if the past wetland fill should be included in the total impacts for the area. Mr. Finley said there is no evidence that there have been wetlands that have been previously filled in this area.

A MOTION was made by Don Lacey that the Lebanon Conservation Commission recommends approval of the City of Lebanon's application at 2 Barros St, Tax Map 77 Lot 106 for a minimum impact wetlands application to fill, regrade and stabilize approximately 945 square feet of wetlands (permanent impact) that exist within an isolated depression on the subject property CC-2024-02 (NH DES 2024-00988) with the following additional conditions:

- ***That DES consider the stability and quantity of the fill proposed to minimize the risk of washout relative to possible upcoming major weather events.***
- ***That DES consider whether possible prior wetland impacts from previous activity on this property should be taken into account.***
- ***That DES consider the quality and rate of flow of water being discharged from this project into the existing wetlands outside the property to the northwest.***

The motion was seconded by Ernst Oidtmann.

****The MOTION was approved (6-1).***

At 7:37pm, Chair Riley called for a five-minute break.
The meeting resumed at 7:43pm.

5. STUDY ITEM

A. Review and Comment on Proposal to Amend Section 214 of the Zoning Ordinance Re: Regulation of Governmental Uses

Mr. Goodwin gave an overview of the proposed amendment, which he noted has been discussed by the Planning Board at a recent meeting. He said the current zoning ordinance provides that government projects are subject to local regulations by default. He confirmed that the City Council can exempt municipal projects from local regulations. He said the Planning Board had discussed how the additional level of regulation added extra costs and delays to municipal projects. He said the proposed amendment would exempt municipal projects from local regulation. He noted these projects would still be subject to state regulations.

Mr. Hill confirmed that the Planning Board had recommended that the Council accept the zoning ordinance with a review after two years to ascertain the impact of the amendment.

Chair Riley noted that the draft minutes from the Planning Board meeting when this amendment was discussed included two inaccuracies:

- One of the justifications for amendment was that additional review and approval process creates delays and additional costs particularly when Public Works employees are not aware that the review is needed and must get the wetlands permit after work has started.

She said that means City employees need to be better informed and collaborate with other departments and boards before starting projects. She said this has been a goal of the Conservation Commission.

- It was stated that the City requires a 150-foot buffer to be maintained for all wetlands, and that the state does not.

Chair Riley said the City of Lebanon has a 100-foot buffer for our high and very high value wetlands.

The group discussed the environmental protections that have been put in place by the City for more than 15 years, and how supportive Lebanon residents have been of them. They also discussed how removing the local regulation of municipal projects could be detrimental to the protection of wetlands in the City. Mr. Hill noted that, by removing local regulation, there will be no record of any objection that committees such as the Conservation Commission might have to a project.

Chair Riley read the following letter, which she said she drafted as the Conservation Commission's comments to the City Council regarding the proposed amendment:

2024_05_09
Lebanon Conservation Commission Comments on Proposed Change to Section 214 of the Zoning Ordinance

With respect to the proposed change to Section 214 of the Zoning Ordinance, the Lebanon Conservation Commission respectfully recommends that the Lebanon City Council vote NO on this proposed zoning amendment, and submits the following comments for consideration by the Lebanon City Council.

While NH DES has the ultimate say with respect to wetland impacts, the City of Lebanon has wisely chosen to enact additional environmental protections in its Zoning Ordinance (ZO). Among other environmental protections included in the ZO is a 100-foot protective buffer around wetlands designated as high- or very-high-value (HVW). DES has no jurisdiction over these protective buffers, even though it is well known that wetland functions and values are impacted by the surrounding landscape, not only by the jurisdictionally delineated wetland itself. For example, many of the City's wetlands function as seasonal habitat for wildlife that also

depend on the adjacent upland landscape, or depend on the adjacent upland trees to shade and cool the aquatic habitat for certain species.

These protections of HVW and their buffers were implemented by the City as an alternative to the State-level designation of Prime wetlands. If Lebanon had gone the route of designating its HVWs as Prime, then the State would indeed have jurisdiction over these buffers. The residents of Lebanon have entrusted City Staff (including Public Works) and Boards (including the Zoning Board) with protecting these important natural resources and we hope the City will continue to do so.

The city attorney states:

> *The reason we have local government is to provide services and structure that society needs. When a government needs to build a road, replace a bridge, operate a wastewater treatment facility, build a fire station, expand or renovate City offices, develop a park, etc., such projects are all intended to directly or indirectly benefit the public. The legislature recognized that government can't be subjected to all of the same regulations as private developers because, if it is, government can't function in the way that we all need it to.*

We would argue that the public good includes the proper adherence to natural resource protections built into the City regulations.

The Conservation Commission is not and should not be the sole body striving to protect Natural Lebanon. Ideally, city staff, boards, contractors, and consultants should familiarize themselves with the City's rules and resources and protections from the outset. Exempting public infrastructure from these protections will only lead to a further disconnect from the residents of the City who have said time and time again that they value wildlife and wetlands and open space.

Rather than pursuing this zoning change, the Lebanon Conservation Commission instead respectfully requests that it be consulted earlier on in the process of project development in order to provide meaningful comment and avoid costly confusion and delays. Furthermore, we request more opportunities to collaborate with the various city departments on the numerous natural resource priorities and initiatives spelled out in the Master Plan.

The Lebanon Conservation Commission respectfully recommends that the Lebanon City Council vote NO on this proposed zoning amendment.

A MOTION was made by Brandon Hill that, with respect to the proposed change to Section 214 of the Zoning Ordinance, the Lebanon Conservation Commission respectfully recommends that the Lebanon City Council vote no on this proposed zoning amendment and submits the letter dated May 09, 2024 written and read by Chair Sarah Riley, as the reasons why. The motion was seconded by Don Lacey.

****The MOTION was approved (7-0).***

Chair Riley said **Study Item 5D** would be discussed next, which is out of the order on the meeting agenda.

D. FERC Wilder Dam Relicensing Response Letter

Chair Riley read a draft letter which included comments and suggestions from the Commission related to the reissuance of Wilder Dam application, which had been discussed at the last meeting. The group discussed the letter, made additions, and finalized the draft as follows:

May 9, 2024

Debbie-Anne Reese, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Room 1A
Washington, D.C. 20426 Via E-Filing

Re: FERC No. 1892, Wilder Dam, Great River Hydro LLC

Lebanon NH Conservation Commission's comments on Great River Hydro LLC's Application for a New License

Dear Secretary Reese:

The Lebanon NH Conservation Commission is submitting comments in response to FERC's issuance of a "Ready for Environmental Assessment" and accompanying comment period for the Amended Final License Application (AFLA) for Wilder Dam (FERC No. 1892), submitted in December 2020 and revised in June 2023. As one of the stewards of Lebanon's natural resources, including the Connecticut River and its eastern shorelands immediately north and south of the Wilder Dam, our comments are relevant to this project's relicensing process.

I. Description
The City of Lebanon NH is home to the Wilder Dam, and the City's entire 7.3 mile western border is defined by the Connecticut River. Lebanon includes roughly two miles of river frontage upstream of the Wilder Dam and about five miles of river frontage downstream of the dam. The City is lucky to have so many amazing natural resources located along the banks and in the waters of the Connecticut River in West Lebanon. Our Natural Resource Inventory identifies many rare plants and animals as well as plant communities on river islands and shores.

It is our understanding that FERC must give equal consideration to recreational opportunities, protection of habitat and water quality, and cultural and historic resources as well as power generation when issuing operating licenses. We do not feel that the Amended Final License Application adequately addresses all these areas. The City of Lebanon has separately submitted comments that more directly address recreational opportunities not addressed in the Application. Here we will highlight a few areas where habitat and water quality issues and improvements could be better addressed.

II. Comments

A. Erosion, Bank Stability, and Sediment and Nutrient Runoff

The shores of the Connecticut River in West Lebanon have experienced bank erosion, as evidenced by the undercutting of the banks along the shores of Alana Cole Conservation Area and Chambers Memorial Reserve, in the northwest corner of the City upstream of the Wilder Dam, as well as behind some of the plazas along 12A downstream of the Wilder Dam. This erosion limits safe access to the river, erodes riparian habitat, and degrades water quality.

We would like to amplify the chorus of local voices, including those of the Connecticut River Conservancy and CRJC, contesting the assertion made by Great River Hydro (GRH) that project operations are not contributing to erosion. While we support the proposed operational change to run-of-the-river, we do not simply assume that this operational change will address all erosion issues. We request that FERC require GRH to ensure that it does. Thus, we hope that FERC will require monitoring of bank erosion and sediment transport changes. We hope that GRH will be required to hire a third party to independently study erosion, bank stability, and the impacts of sediment and nutrient runoff on water quality. These study results should be made publicly available, and GRH should be required to act to implement any recommended modifications based on potential findings.

B. Implementation of Wildlife Crossing Improvements

The Wilder Dam area of Route 10 is a significant wildlife crossing. The road is a barrier to wildlife movement in and out of the large unfragmented block to the east, known locally as Boston Lot and the Landmark Lands. The City of Lebanon's 2016 Wildlife Crossing Study recommended increased wildlife crossing signage especially at the end of the old byway at the southwest corner of the 33-acre Great River Hydro property (identified as W2B in Exhibit G, sheet 1 of 25) on the east side of Route 10, near the dam. The same study recommends that the road down to the canoe portage be maintained as a usable 'ramp' to and from the river for wildlife.

We request that Great River Hydro coordinate with the City and NH DOT to make this section of Route 10 a safer wildlife crossing, with speed control measures and wildlife crossing signs, and by providing for safe wildlife passage across the GRH lands on both sides of Route 10.

C. Invasive Species Management Plans

We agree with the CRC/AMC recommendation from 2019 that Great River Hydro develop invasive species management plans to survey and control invasive aquatic, wetland, and upland species in and along the river in the Wilder Dam project area. This has already happened at the Holyoke facility, in 1999 (amended in 2001), and a similar model could work here for the Wilder Dam. Emphasis should be made towards managing the species that either pose a risk to state-listed species or native vegetation along the riverbank and to recreational use.

The 2010 City of Lebanon Natural Resource Inventory identified numerous Significant Ecological Areas in or along the banks of the Connecticut River. These SEAs include areas with rare plants, silver maple forests, tiger beetle habitat, mussel beds, riparian habitat, migratory bird habitat, riverine shoreline, bluffs & shoals, and mussel beds. Many of these areas, the river islands in particular, are being impacted by invasive knotweed, purple loosestrife, multiflora rose, and other invasive plant species.

We respectfully request that GRH finance invasive plant management to actively control invasive species with an annual amount sufficient to support this effort, increasing with the rate of inflation through the life of the license.

While not yet in the Wilder Dam area to our knowledge, water chestnut is found in the vicinity of both the Vernon and Bellows Falls facilities. The movement of hydrilla is also a huge concern. Our CRC river steward reports that it is currently found from the Massachusetts border south but has been spreading outside of the Connecticut River into some lakes in Connecticut, so it is clearly being transported by boats. Monitoring and education on prevention in NH/VT is needed. We request that GRH fund a river equivalent of the Lake Hosts to monitor boats at popular launch sites to prevent the further spread of aquatic species.

D. Land Stewardship and Conservation
Land owned by GRH, just east of the Wilder Dam in West Lebanon, is contiguous with a larger, mostly unfragmented block of open space.

We request that this parcel be placed under a permanent conservation easement. This request is in line with that made by CRC and AMC in 2019, that all lands not associated with facilities be protected with conservation easements.
There are invasive species impacting that parcel, as well as GRH lands on the west side of Route 10. We request that GRH invest in the proper stewardship of its Lebanon holdings, to include invasive species management.

E. Education and Outreach
We echo the recommendations of CRC/AMC and request that GRH develop an educational visitor center at Wilder Dam to educate the public about local history and the natural, cultural, and recreational resources of the river.

There is currently no web-based information on the status and trends of migratory fish species despite extensive data being collected at fishways at these facilities. Given the operational and facility improvements that will be required with this license, passage numbers will improve, so a well-designed and engaging website that hosts and interprets migratory and passage data for the entire watershed would be a significant public engagement tool.

As mentioned by CRC/AW/ATC, VT and NH lack river cruise opportunities. Great River Hydro should operate or fund the establishment and operation of a boat service to provide educational eco-cruises within their project areas. These educational experiences should be provided to local schools and the general public to increase community knowledge of the river, riverine species and habitat considerations, function of the hydro-electric facilities, and the impacts of dams on river systems.

F. Mitigation Fund
This relicensing will give GRH four decades of control over this important natural and cultural resource. It is hard to predict what will happen during this tenure. It is important that funds are available to study and act on emerging issues and to address them in real time, and not wait

until the next relicensing process. Furthermore, public engagement and education about riparian and riverine habitats, river hydrology, and the role of hydro-power is greatly needed in this area and not well funded.

We would like to see FERC require that Great River Hydro create a Mitigation Fund to support research, water quality and wildlife habitat improvements, and additional educational programs. This fund should be proportional to GRH's revenue, and not a fixed sum.

III. Conclusion
The Lebanon Conservation Commission respectfully requests that FERC require the following of GRH as conditions of the relicensing of the Wilder Dam:

- *Hire a third party to independently study the impacts of the operational change on erosion, bank stability, and the impacts of sediment and nutrient runoff on water quality; that these study results be made publicly available; and that GRH be required to act on any recommended modifications based on potential findings.*
- *Actively work with the City of Lebanon and NH DOT to make the section of Route 10 at the Wilder Dam a safer wildlife crossing, with speed control measures and wildlife crossing signs, and by providing for safe wildlife passage across the GRH-owned lands on both sides of Route 10.*
- *Finance invasive plant management to actively control invasive species with an annual amount sufficient to support this effort, increasing with the rate of inflation through the life of the license.*
- *Fund a river equivalent of the Lake Hosts to monitor boats at popular launch sites to prevent the further spread of aquatic species.*
- *Place their land east of Route 10 in West Lebanon under a permanent conservation easement.*
- *Invest in environmental stewardship of its West Lebanon holdings, to include invasive species management.*
- *Develop an educational visitor center at Wilder Dam.*
- *Develop a well-designed and engaging website that hosts and interprets fish migration and passage data for the entire watershed to serve as a public engagement tool.*
- *Operate or fund the establishment and operation of a boat service to provide educational eco-cruises within their project areas, for local schools and the general public to increase community knowledge of the river, riverine species and habitat considerations, function of the hydro-electric facilities, and the impacts of dams on river systems.*
- *Create a Mitigation Fund to support additional educational programs, research, and water quality and wildlife habitat improvements. This fund should be proportional to GRH's revenue, and not a fixed sum.*

We hope that FERC will incorporate our comments and requests into the final relicensing agreement, and that these changes help to protect and improve the integrity of this section of the Connecticut River now and in the future.

Sincerely,
Sarah Riley Chair, Lebanon Conservation Commission

On behalf of the Lebanon Conservation Commission

A MOTION was made by Barbara Hirai that the Lebanon Conservation Commission authorizes Chair Sarah Riley submit this letter on behalf of the Conservation Commission. The motion was seconded by Brandon Hill.

****The MOTION was approved (7-0).***

Ms. Hirai asked if the group could discuss 2 Rivers trail maintenance at this point in the meeting, even though it is not next on the agenda.

Ms. Hirai said volunteers from Hypertherm cleared the trail out to the bridge and that Mr. Lacey has mowed around the elm mitigation area and out to the meadow. She said the trail between the two mitigation areas has not been cleared and asked if the Commission members wanted to maintain that trail. She said the clearing work would include clearing, chainsaw work, tree removal. She also noted that mugwort is growing in the area.

She also noted that Bird Chirp Meadow was mentioned by Jason Berard in an Upper Valley Land Trust presentation. She said comments were made that the trail between the two mitigation areas was not clear.

The group discussed how to approach trail maintenance and how many trails they want to commit to keeping cleared. Mr. Hill asked if they want to maintain the trail map as it is represented on the kiosk.

The group agreed that the trail between the two mitigation areas should be cleared.

C. Boston Lot Trail Use Discussion

Mr. Hill gave an overview of the Boston Lot Trail evaluation he and Mr. James compiled:

- 18 tree falls have been cleared; 3 are left in Boston Lot (more help is needed to remove these)
- All trails are now passable
- A Map of all existing signs have been created

Mr. Hill suggested adopting a consistent, uniform design for all signs. He also suggested the old signs be preserved and gifted to volunteers. Mr. James said they are planning to install signs at trail intersections, and to include what types of activities area allowed on the trails. Mr. Hill said there are three signs that mark where trails cross over the border of Boston Lot, but signs at every entry point are going to be installed.

- Mud areas have been identified; Mr. Hill said a few key areas have been identified as having the most damage because of mud:
    - Lakeside:

        - South end is very muddy and has a steep slope, which is causing people to slide down and cause more damage. He suggested the trail be moved to an old logging road that is higher up to mitigate the damage.
        - Northeast side has creek that overflows and stays muddy. Mr. Hill said tree roots are exposed and something is needed to keep people above the roots.
        - A blowdown in the northwest corner and there is a huge mud pit. Mr. Hill said it is difficult to pass through.
    - Burnt Mountain Trail
        - There is a vernal pool and trees are growing up in it. Mr. Hill suggested moving the trail up to the Ridge above.
        - Northernmost bridge on Burnt Mountain Trail – very steep slope right before the bridge that is precarious

- Vernal Pools – located at the top of Burnt Mountain Trail and junction of Burnt Mountain Trail and Oak Trail.

A MOTION was made by Barbara Hirai to extend the meeting to 9:15pm. The Motion was seconded by Brandon Hill.

****The MOTION was approved (7-0).***

Mr. James said there are two zones of trails: around the lake and away from the lake. He suggested the group prioritize the planned repairs and signage for one of the zones, perhaps the Lakeside trails, because those are more popular and get more use.

Mr. James suggested some volunteers could help install bog bridges to deal with mud and treadway issues. Mr. Hill said he can use existing tree falls to make bog bridges. The group discussed how to manage and organize appropriate projects for volunteers.

The group enthusiastically approved the work that Mr. James and Mr. Hill have done on the Boston Lot trail evaluation.

6. COMMITTEE REPORTS

A. Biodiversity Group (Invasives)

No update

B. Stewardship

No update

C. Wild About Lebanon

No update

D. Amphibian Crossings

No update

E. LUCT/Current Use
No update

F. Other Subcommittees
No update

7. OTHER BUSINESS

A. FYIs
None

B. Follow Ups
None

C. Workshops and Educational Opportunities
None

8. FUTURE AGENDA ITEMS

9. ADJOURNMENT
The meeting adjourned at 9:15pm.

Respectfully submitted,
Paula Roux
Recording Secretary