

RECEIVED

By City Clerk at 11:50 am, Nov 25, 2024

CONSERVATION COMMISSION MEETING MINUTES

September 3, 2024, at 6:30 p.m.

Virtual Meeting – 6:30 p.m.

This meeting will be conducted under S. 2475, *An act relative to extending certain COVID-19 measures adopted during the state of emergency*, signed June 16, 2021, which was extended by legislation enacted on July 16, 2022, and was extended by legislation enacted on March 24, 2023. The public can view this meeting on ACTV Channel 12, the ACTV website or their Facebook Page: www.facebook.com/AmesburyCommunityTelevision

Vice Chairman Ebert called the September 3, 2024, Virtual Conservation Commission meeting to order at 6:30pm.

Pursuant to Governor Baker's March 12, 2020, Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020, Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Conservation Commission on August 1, 2022, is being conducted via remote participation.

No in-person attendance of members of the public will be permitted, but every effort is being made to ensure that the public can adequately access the proceedings as provided for in the Order.

A reminder that persons who would like to like to watch this meeting can do so on ACTV Channel 12, the ACTV website or the City of Amesbury Facebook Page:
www.facebook.com/amesburyma

To submit a public comment, you may do so on the Facebook Live feed by beginning your comment with PUBLIC COMMENT. It will be read aloud at the appropriate time. Viewers may also email conservation@amesburyma.gov to submit a public comment.

Members of the public may dial into Microsoft Teams at: +1 323-457-5649,,964958300#

Access Code: 964 958 300#

Acting Chair Ebert notes that tonight's Conservation Commission meeting is being recorded by Amesbury Public Access Television; this legal step has been taken but does not act as the official record. The written meeting minutes by the Recording Secretary is the official record.

Attendance: Michael Ebert, Jaime McCarthy, Fred Zackon, Amanda Jones and Bob Manseau

Also in attendance: Recording Secretary Lynn Viselli, and Alison McKay, Conservation Agent

Transcription by: Lynn Viselli

Vice Chairman Ebert takes attendance for the record:

Michael Ebert	YES
Fred Zackon	YES
Jaime McCarthy	YES
Amanda Jones	YES
Bob Manseau	YES

Continued Business

NOI 002-1330 2 and 13 Merrimac Street

Agent McKay reviewed the history of the application. The third peer review by Stantech has been completed with a few administrative issues outstanding.

Mary Rimmer advised that 2 waivers are being requested, one for work (landscaping) within the 25' no disturb zone and one for an elevated building being 35' from the water.

A motion was made to approve the waiver request for landscaping within the 25' no disturb zone by F. Zackon. The motion was seconded by A. Jones and approved by Rollcall vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Amanda Jones	YES
Jaime McCarthy	ABSTAIN
Bob Manseau	ABSTAIN

A motion was made to approve the waiver request for an elevated building within 35' of the water was made by A. Jones. The motion was seconded by F. Zackon and approved by Rollcall vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Amanda Jones	YES
Jaime McCarthy	ABSTAIN
Bob Manseau	ABSTAIN

Public Comment was closed. Acting Chair Ebert read the Special Conditions into the record.

1) An updated and expanded Stormwater System Inspection Report form in the Long-Term Pollution Prevention and Operations and Maintenance Plan (O&M plan) to identify each stormwater facility labeled on the accompanying O&M plan and include street sweeping and lawn care consistent with

the items associated with the O&M plan description. This is to ensure and document that each of the Best Management Practices will be inspected.

2) A Stormwater Pollution Prevention Plan (SWPPP), which shall include the names of persons or entity responsible for the Plan Compliance with the erosion and sediment control plan, shall be submitted prior to the start of land disturbance.

3) The Amesbury Conservation Commission agrees that the use of the permanent stormwater basin as a temporary sediment basin is inappropriate since it is located adjacent to the Merrimac River. The design must be revised accordingly for review and approval by the Amesbury Conservation Commission or its Agent. The construction of the proposed rain garden must occur prior to directing stormwater from upstream stabilized areas to it. This revision must be included in the SWPPP.

4) The construction sequence as cited on sheet C-9 shall be updated to include and identify when the proposed building foundation/piers will be constructed.

5) The Amesbury Conservation Commission acknowledges that the applicant has submitted an application for a new MA DEP Waterways Regulation Program license (MGL ch. 91) on 5.16.24 and that the application is under review. The applicant shall submit a copy of the license once issued to the Commission for entry into the projects permeant file.

6) The Amesbury Conservation Commission determines that the improvements to the site are acceptable and meet the performance standards under §20(d) of the Amesbury Wetland Regulations.

7) The Amesbury Conservation Commission determines that the improvements to the site are acceptable and meet the performance standards under §18(1)(d) of the Amesbury Wetlands Regulations.

8) The Amesbury Conservation Commission has reviewed the letter submitted from Massachusetts Division of Fisheries and Wildlife, Natural Heritage Program and agrees that the project as amended “will not adversely affect the actual Resource Area Habitat of state-protected wildlife species” and “will not result in a prohibited take of state-listed rare species.”

9) The Amesbury Conservation Commission notes that the information submitted does not include support documentation from the City of Amesbury acknowledging the work in Merrimac Street or support documentation to clarify how the noted net decrease of impervious area was determined. While this information is not critical to the conditionally approved project, final details as described shall be submitted to the Commission prior to the start of construction.

10) The Applicant has confirmed the presence of Japanese Knotweed (*Polygonum cuspidatum*) in portions of the Pow Wow Riverbank. The Applicant shall develop and

provide a more detailed plan for the location of the invasive species removal during construction and long -term monitoring for review and approval by the Commission or its Agent. This plan would be suitable for approval as a perpetual condition.

11) No work within a jurisdictional area to the Chapter 91 Waterways License shall begin until the license has been issued and verification has been received by the Amesbury Conservation Commission. All work outside of Chapter 91 jurisdiction shall not be limited by this conditional approval.

A motion was made to conditionally approve NOI 002-1330 2 and 13 Merrimac Street as presented and discussed by F. Zackon. The motion was seconded by A. Jones and approved by Rollcall Vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Amanda Jones	YES
Jaime McCarthy	ABSTAIN
Bob Manseau	ABSTAIN

A motion was made to close the public hearing for NOI 002-1330 2 and 13 Merrimac Street by F. Zackon. The motion was seconded by M. Ebert and approved by Rollcall Vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Amanda Jones	YES
Jaime McCarthy	ABSTAIN
Bob Manseau	ABSTAIN

NOI 002-1336 5 Albion Street

The proposed project is for the removal of an existing fieldstone retaining wall and wooden deck. The wall will be reconstructed as a recon block wall system built 5 feet closer to the building to create a buffer between the wall and the wetland resource area.

A waiver has been received for work within the 25' no disturb – section 21.7 structures. A structural engineer's report was submitted as requested. A site visit was held on August 21st with Commissioners McCarthy, Jones and Zackon. A landscaping plan has been received as requested by the Commission.

J. McCarthy asked that 2 rows of waddles be installed due to the steepness of the slope, this will be added as a Special Condition.

A motion was made to approve the waiver for a retaining wall within the 25' no disturb zone – section 21.7 for NOI 002-1336 5 Albion Street was made by F. Zackon. The motion was seconded by J. McCarthy and approved by Rollcall Vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Jaime McCarthy	YES
Amanda Jones	YES
Bob Manseau	ABSTAIN

A motion was made to approve NOI 002-1336 5 Albion Street with the Special Condition of 2 rows of waddles installed on the slope was made by F. Zackon. The motion was seconded by A. Jones and approved by Rollcall Vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Jaime McCarthy	YES
Amanda Jones	YES
Bob Manseau	ABSTAIN

A motion was made to close the public hearing for NOI 002-1336 5 Albion Street by F. Zackon. The motion was seconded by A. Jones and approved by Rollcall Vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Amanda Jones	YES
Jaime McCarthy	YES
Bob Manseau	ABSTAIN

NOI 002-1337 31 Newton Road

Agent McKay reviewed the application and prior meeting. The wetland flags have been rehung and refreshed as needed and a site visit was conducted to review the flagging. DEP comments have been addressed. An application has been submitted to the Planning Board. A wetland replication plan has been submitted and the wetland area has been reconfigured and the site grading in the wetland eliminated. The culvert will now be 2 10" double barrel culverts which reduces the alteration to 475 sq. ft. The wetland replication plan will be updated with new plantings recommended by ECR.

The applicant's representative reviewed the bioretention area and how it will function.

A motion was made to continue NOI 002-1337 31 Newton Road to October 7, 2024, was made by F. Zackon. The motion was seconded by A. Jones and approved by Rollcall Vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Amanda Jones	YES
Jaime McCarthy	YES
Bob Manseau	ABSTAIN

NEW BUSINESS

NOI 002-1331 13 Newton Road

DPW has submitted a request to withdraw without prejudice.

A motion was made to approve the withdrawal without prejudice for NOI 002-1331 13 Newton Road was made by A. Jones. The motion was seconded by F. Zackon and unanimously approved by Rollcall Vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Amanda Jones	YES
Jaime McCarthy	YES
Bob Manseau	YES

RCOC 002-342 11 West Whitehall Road

A request for a COC was received for OOC issued 5/13/1992 with standard WPA conditions. No file was found, nor does DEP have any record of the filing. A site visit was conducted and no violations or disturbances to the wetland resource areas was seen and are well protected by dense brush and a buffer zone.

A motion was made to issue the COC for 002-342 11 West Whitehall Road was made by B. Manseau. The motion was seconded by F. Zackon and unanimously approved by Rollcall Vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Amanda Jones	YES
Jaime McCarthy	YES
Bob Manseau	YES

RCOC 002-1155 425 Main Street

A request for a COC was received for an OOC issued on 11/16/2016. The work has been completed in compliance with the OOC and plans including required plantings and landscaping plan.

A motion was made to issue the COC for 002-1155 425 Main Street was made by F. Zackon. The motion was seconded by A. Jones and unanimously approved by Rollcall Vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Amanda Jones	YES
Jaime McCarthy	YES
Bob Manseau	YES

ANRAD 002-1338 27.5 and 29 Clarks Road

The application is to confirm the boundaries of jurisdictional wetland resource areas and on 27.5 and 29 Clarks Road and that the wetland resource areas on the site are limited to BVW associated with an intermittent stream and associated buffer zone. Staff has reviewed the flagging with LEC Environmental; however, a second review is needed.

Dan Wells, LEC Environmental, reviewed the ANRAD filing and wetland flagging. A second wetland flagging will be scheduled with Agent McKay.

A motion was made to continue ANRAD 002-1338 27.5 and 29 Clarks Road to October 7, 2024, was made by F. Zackon. The motion was seconded by B. Manseau and unanimously approved by Rollcall vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Amanda Jones	YES
Jaime McCarthy	YES
Bob Manseau	YES

ADMINISTRATIVE

Draft Minutes June 13, 2024, July 1, 2024, and August 5, 2024.

A motion was made to approve draft Minutes for June 13, 2024, was made by A. Jones. The motion was seconded by F. Zackon and approved by Rollcall Vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Amanda Jones	YES
Jaime McCarthy	YES
Bob Manseau	ABSTAIN

A motion was made to approve draft Minutes for July 1, 2024, was made by F. Zackon. The motion was seconded by A. Jones and approved by Rollcall Vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Amanda Jones	YES
Jaime McCarthy	YES
Bob Manseau	ABSTAIN

A motion was made to approve draft Minutes for August 5, 2024, was made by F. Zackon. The motion was seconded by A. Jones and approved by Rollcall Vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Amanda Jones	YES
Jaime McCarthy	ABSTAIN
Bob Manseau	ABSTAIN

WPA Fund – Current balance \$6,746.76.

Invoices – Agent McKay updated the Commission on the invoices pertaining to Bailey’s Pond, Phases 1 and 2.

A motion was made to approve payment of the August invoices as discussed by F. Zackon, seconded by A. Jones and approved by Rollcall Vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Amanda Jones	YES
Bob Manseau	ABSTAIN

Batchelder Park Scenic View

The Commission has been asked to create a Management Plan for tree cutting at Batchelder Park. Acting Chair Ebert suggested a Town-wide Management Plan.

J. McCarthy added that the aesthetic value is protected under the Regulations and there is value in preserving the view. Removing trees now would be less expensive and disruptive.

Town Forest Management Recommendations from ONRSTC

Recommended actions pertaining to the Town Forest are:

- Develop and adopt rules and regulations governing allowed/excluded activities.
- Educate the public with signate and outreach and regarding the ecological benefits provided
- Improve trail management
- Removal of invasive species

Jonathan Sherwood reviewed the management recommendations with the Commission. Funding sources were reviewed and future plans for the Town Forest were reviewed.

B. Manseau recommended a letter of support be forwarded to City Council regarding the recommendations for Town Forest Management.

A motion was made to support the recommendations as presented and issuing a letter of support to City Council was made by F. Zackon. The motion was seconded by A. Jones and unanimously approved by Rollcall Vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Jaime McCarthy	YES
Amanda Jones	YES
Bob Manseau	YES

Enforcement Order NOI 002-1299 12 and 14 South Hunt Road

Staff conducted a site visit on August 12th with the environmental site monitor. It was verified that the impacted wetlands have been satisfactorily cleaned and restored. The steep slope on site upgradient to the impacted wetlands is not stable with thin vegetation cover and the EO issued required environmental monitoring for 2 growing seasons. BSC's monitoring reports have clearly stated with documentation photos that much of the stormwater management system on site has not been functioning adequately. Stantec is currently rereviewing the stormwater management on behalf of the Planning Board.

Mike Scannell addressed the issues reported and informed the Commission that the owner has reengaged Weston and Sampson to review the plans.

James Pearson, Weston and Sampson reviewed the wetland impacts and replication plans. Scott Jordan reviewed the current replication growth on site.

Acting Chair Ebert stated that the staff will review the new information provided.

CONSENT AGENDA

Emergency Certification

19 Lakeshore Drive, 95 High Street, 3 Carpenter and 149 Kimball Road

Emergency Certifications were issued for removal of compromised trees which were a safety concern to property and persons.

A motion was made to approve the Consent Agenda as presented by F. Zackon. The motion was seconded by A. Jones and unanimously approved by Rollcall vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Jaime McCarthy	YES
Amanda Jones	YES
Bob Manseau	YES

ADMINISTRATIVE

MACC Fundamentals Training

Agent McKay informed the Commission that Fundamentals Training with MACC begins in September and is a great learning tool for new members.

A motion was made to adjourn the meeting at 8:46pm by motion of F. Zackon, seconded by A. Jones and unanimously approved by roll call vote:

Vice Chairman Ebert called the Rollcall Vote:

Michael Ebert	YES
Fred Zackon	YES
Jaime McCarthy	YES
Amanda Jones	YES
Bob Manseau	YES

The next scheduled meeting is October 7, 2024.

Submitted by: _____
Lynn Viselli, Recording Secretary

Per the Massachusetts Open Meeting Law, the list of documents that were either distributed to the Amesbury Conservation Commission before the meeting in the packet or at the meeting are as follows:

- 1. Agenda**
- 2. Agenda Guide.**