

West Newbury Conservation Commission Meeting Minutes

Meeting date & place: 7:00 pm, August 14, 2023, Second Floor Town Offices.

Members Present: Chair Molly Hawkins, Jack Haley, David Parrott, George Preble, Haley McCraven, and Conservation Agent Michelle Greene.

1. Discussion (continued): Local filing fees

Ms. Greene presented a final version of the proposed fee schedule that had been introduced at the August 8th meeting. The commission discussed how the previous filing fee schedule was unclear and not well aligned with the state-level fee schedule, as well as how in certain specific situations the fees are open to a wide range of interpretations, especially when a notice of intent proposes work impacting more than one resource area. This new schedule addresses those concerns.

There was additional discussion regarding the difference between a cat 2 and cat 4 crossing. Ms. Greene clarified that she considered any crossing not explicitly for a single-family home would be considered “for development” and therefore fall into category 4. It was emphasized that it is important that the intent behind any RDA be clear so that appropriate fees can be applied. Ms. Greene suggested that we could revisit again after adopting a wetlands bylaw.

Ms. Hawkins moved, Mr. Preble seconded, and the commission voted unanimously to adopt the updated filing fee schedule.

2. Discussion: Wetlands revolving account spending plan

Ms. Greene regretted having no initial spending plan to propose, but suggested that the commission consider Agent overtime as one of the potential expenditure buckets. The town doesn’t have a budget for overtime and typically allows her to take compensatory time instead, but there is only so much time off that makes sense.

Ms. Greene also suggested that the commission would likely want to keep a certain percentage of the funds in the revolving account set aside for unforeseen expenses such as emergency enforcement.

Ms. Hawkins asked for clarification on typical amount of overtime that Ms. Greene works. Ms. Greene suggested that, while it is very irregular, it likely averages little more than 50 hours a year, of which the entirety could easily be accounted for as wetlands administration or enforcement without extra administrative timekeeping overhead.

Mr. Parrott suggested the commission allocate funds for this fiscal year’s overtime promptly, rather than waiting for a full spending plan, in order to make incremental progress without unnecessary delays or ambiguity around Ms. Greene’s compensation.

Ms. Hawkins moved, Mr. Preble seconded, and the commission voted unanimously to allocate \$5,000 from the wetlands revolving account for fiscal year 2024 Agent overtime.

Mr. Parrott asserted that in addition to the overtime, the commission could likely move quickly on the purchase of a weather station, which could be used by the Agent for more accurate local rainfall measurements, as well as provide a public benefit to the town. The commission agreed that this could be prioritized before the full spending plan and Ms. Greene will continue to research options and attempt to bring a proposal for a specific purchase to the commission when she is able.

3. Discussion: Revisions to BCCs survey

Ms. Greene provided the commission with an updated “charge” statement incorporating the feedback from the select board.

Ms. Hawkins moved, Mr. Haley seconded, and the commission unanimously voted to update the survey as proposed.

4. Discussion: Meeting schedule changes; select date for first September meeting

Ms. Greene provided a list of schedules for the meeting dates of the conservation commissions of surrounding municipalities. It was observed that Tuesdays and Wednesdays are very popular and that very few other commissions meet on Monday. The commission agreed that retaining the existing first-and-third Monday meeting schedule is the best choice to service the community.

Meeting times for September were agreed upon as follows:

First normal meeting: September 6th @ 7pm (Due to Monday being Labor Day)

Additional administrative meeting: September 11th @ 7pm

Second normal meeting: September 18th @ 7pm

5. Discussion: Wetlands Protection Bylaw

Ms. Hawkins presented her most recent draft.

Mr. Parrott proposed that the Commission omit the entire exemptions section and simply accept the same exemptions that are provided at the state level. Different options and variants of exemptions were discussed. Ms. Greene observed that the State is looking to expand some exemptions which might complicate the local bylaw if the Commission explicitly repeats or excludes certain state exemptions. Ms. Hawkins observed that removing the exemption exclusions contained in the current draft bylaw may go a long way toward good will from the community without actually causing a lot of harm. Ms. Greene suggested that she has never had an enforcement issue where the recipient had believed they qualified for an exemption, so allowing all the state-level exemptions could be an olive branch.

The commission considers the primary value of the bylaw to be extending protection and performance standards to buffer zones and isolated vegetated wetlands of greater than 2000 sq. ft., as well as adding buffer zones to vernal pools.

Exemptions to local filing fees were discussed. Mr. Parrott questioned the addition of unqualified “non-profit organizations” to the list. Ms. Greene suggested this was likely verbiage from the MACC model bylaw and is included in many local bylaws. She also reminded the commission that the fee is only optionally waived by the commission on a case-by-case basis and would benefit groups like Greenbelt and West Newbury Wild and Native. Mr. Parrott wondered if the Commission might want to cover those interests with different and less general language such that it did not also encourage groups completely uninterested in or even opposed to conservation interests from asking for a fee exemption. No other commissioners had feedback on this point.

Mr. Haley questioned if the Commission could add something to address applications with outstanding orders of conditions. Ms. Greene replied that this was not possible as the state Wetlands Protections Act does not allow for this and DEP has advised that each application had to be treated independently of any outstanding Orders on a property.

Mr. Parrott asked for clarification on the proposed codification of a 25-foot no disturb zone in the yet-to-be-drafted regulations under the bylaw. Ms. Greene and Ms. Hawkins clarified that it was very necessary and valuable to call this out and that there would be a waiver application process, but that the applicant would no longer have a default right to build on or modify the 25-foot no disturb zone (as the currently do retain). It was suggested that the commission would ultimately allow reasonable activities in this zone, but would be able to require conditions and mitigation that would be binding.

[Mr. Haley?] suggested that the bylaw as currently written lacked a logical order, to the agreement of Ms. Greene. She suggested that, once we’ve removed the exemptions and simplified where possible, a reordering of paragraphs to focus on better flow and readability would improve the document.

6. Other Business / Informal Discussion:

Ms. Greene gave an update on clearing within the buffer zone of BVW which occurred at 13 Turkey Hill Road and continued onto the abutting property owned by Greenbelt.

7. Next Meeting: Monday August 21, 2023 at 7:00 PM

Adjournment: 9:15 pm