

**Town of Webster
Conservation Commission
Minutes of the Meeting – May 4, 2020**

A meeting of the Conservation Commission was held on Monday May 4, 2020 via conference call in accordance with Governor Baker's emergency order Suspending Certain Provisions of the Open Meeting Law, G.L. c.30A,§20 due to the public health emergency relating to the Coronavirus pandemic.

Attending: Chairman Joseph Wigglesworth, Vice Chairman Michelle Sherillo, Fred Bock, Klarissa Johnson, Hayden Brown, Brandon Faneuf – Consultant, Ecosystem Solutions, Inc.

Absent: Robin Jewell, Daniel Duteau

Staff –Mary Overholt, Conservation Agent, Kelly Gorham, Clerk

Meeting called to order: 5:31 p.m.

Meeting Minutes

Mr. Bock motion to continue the meeting minutes from April 27, 2020 to the next meeting. Ms. Johnson second. Vote all in favor by roll call (Mr. Wigglesworth – AYE; Ms. Sherillo – AYE; Ms. Johnson – AYE; Mr. Bock – AYE)

Discussion

Chairman Wigglesworth announces that the proposed Bylaw will be discussed at approximately 6:00. This is not a public hearing and the discussion will be open to questions and comments.

Webster Lake Association Permit – Jason Piader is present and updates the Board. The cold weather will delay the spring survey, because the cooler weather will inhibit vegetation growth. Treatment won't begin until the end of June. The treatment and methodology will be the same as past years. A map will be forwarded to the Town. It is year three of the study. Solitude will add the spring survey once it is done. Mr. Piader will be in touch with Ms. Overholt to schedule another meeting. Ms. Johnson motion to approve holding another meeting for this discussion. Ms. Sherillo second. Vote all in favor by roll call (Mr. Wigglesworth – AYE; Ms. Sherillo – AYE; Ms. Johnson – AYE; Mr. Bock – recused)

85 South Shore Road – Minor Modification – Owner and applicant Jeff Landers is present to discuss the project. Ms. Overholt shares the approved plans on the screen. There are sliders to the patio area and they would like to build a concrete patio under the existing deck. This project is 25 feet from the shore of Webster Lake. They will install a drain in the middle of the patio for drainage and a downspout into the cultec system. Water from the roof will be captured. Ms. Sherillo suggests native plantings for between the gravel and the wall. The finished grade on the wall needs to be 3-6 inches below the wall. Mr. Bock asks about the recharge system. That was done by the original contractor so they will account for additional water. The site should be checked before the turbidity curtain can be taken down. Ms. Overholt can visit the site after May 18th. Mr. Bock motion to approve the minor modification. Ms. Johnson second. Vote all in favor by roll call (Mr. Wigglesworth – AYE; Ms. Sherillo – AYE; Ms. Johnson – AYE; Mr. Bock – AYE).

Riverwalk – Carol Cyr would like to begin the bidding process for the next phase of the French Riverwalk project. The phase is simple and involves regrading, landscaping and repaving. Mr. Wigglesworth met with Ms. Cyr. They will keep the turbidity curtain at the site. This is being reviewed

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by CME Associates. Ms. Johnson motion to approve this phase. Ms. Sherillo second. The bidding process will begin on May 14th. Vote all in favor by roll call (Mr. Wigglesworth – AYE; Ms. Sherillo – AYE; Ms. Johnson – AYE; Mr. Bock – AYE).

Wetland Bylaw – Chairman Wigglesworth gave a brief overview of what the Bylaw is about and what the Conservation Commission’s role is in the permitting process. He reminded the audience that this is a discussion only and not a public hearing. The Commission is in the final phase of drafting the bylaw and it should be on the Conservation website soon. Brandon Faneuf from Ecosystem Solutions, Inc. is introduced and gives background on his credentials. Mr. Faneuf is the consultant working with the Commission on drafting the Bylaw. Bylaws are in place to enact protections that go above and beyond the baseline the State institutes, and tailors those protections to fit Webster’s specific needs. This will help minimize and mitigate impacts that could affect the interests of wetland protection. There needs to be a balance to protect public interest and also allow property owners rights to develop their property.

Mr. Wigglesworth states that the Bylaw is not a take of land. The Commission looks at proposed work and conditions so the resource area will not be impacted. It is not a Bylaw specific to the Lake; it is a town-wide Bylaw. The first 25 feet are most impacted closer to the water and is critical and the Commission needs to be proactive. Pollution, run off degradation of habitat, and warming of the water are concerns.

Ms. Overholt reads questions from the chat. Anthony Molinari, 6 Pattison Road, ask how much tax payer resources have been used to develop the Bylaw? Mr. Faneuf has not been paid from that fund. The funds from a law suit settlement were used. There is a question regarding dock registration. Mr. Wigglesworth explained the process. The Harbormaster used to number the docks. Massachusetts DEP requires docks, piers and anything over open water to be registered. The permit is good for 15 years. More information can be found online at: <https://www.mass.gov/guides/chapter-91-the-massachusetts-public-waterfront-act>

Audience member Richard Cazeault shared his experience of registering his dock. He is concerned about getting residents involved in the clean water act. He is also concerned about the length of the Bylaw and adds that the Lake is a unique situation.

Mr. Faneuf explains that the Lake is ground water fed, with a few brooks tied into it. Water is held in Webster Lake longer since there are no rivers flushing water out of it. The Lake is a unique situation and a Civil Engineer will look at the rubric proposed in the Bylaw. The rubric will be based on lot size. Mr. Faneuf states that the Bylaw is long because of the definitions.

Ms. Overholt announces that the chat is recorded and saved and that the meeting administrator can see it. Mr. Wigglesworth states that the Conservation Commission will not be a policing authority. The Commission needs to play a role in education. They would like to hold office hours to answer questions. There are protocols under the Conservation Act.

Mr. Wigglesworth addresses denials. There have only been 2 and after the Commission denies a project, the project then goes to DEP for review.

Will Starzek asks what does the new Bylaw achieve that the current one does not? Mr. Wigglesworth explains that the Commission has seen an increase in activity that is not compliant. There are issues with erosion and unpermitted projects. The current regulations are not black and white. The Conservation Commission is the regulatory overseer of the resource area. The Webster Lake Association is an asset to

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the Town and the Commission is working on developing a good relationship with them. Linda Littleton asks why the WLA not included in the bylaw discussions. Mr. Wigglesworth states this is a draft and will be open for comment after the draft is finalized. The Board welcomes feedback. Cynthia Bradley of 27 South Point Road asks if a Bylaw is a way to bring Webster up to date. There are 212 other communities with Bylaws. Dave Chappell went through the process for a retaining wall and asks what would be different now with a Bylaw? Ms. Overholt states that the project would have been addressed the same way. Mr. Faneuf states that the State regulations have no performance standard; it is subjective. The Bylaw tries to get rid of subjectivity and has specific performance standards for work such as specific setbacks based on lot size.

Ms. Overholt addresses more questions from the chat. Michael Snow, 128 Point Breeze Rd., asks where they can view the Bylaw? Ms. Overholt states that once finalized, it will be on the Conservation website. Residents will be able to give comment before voting at the Town Meeting. Tom Klebart asks about the number of docks permitted and what is the basis of that? Ms. Overholt answered this is from state regulations. The state may allow more than one based on square footage and need. Sharon Pelletier states this is bureaucratic overreach and her experience that the Commission is not easy to work with. Ms. Overholt states that the Bylaw is not completely new. The MGL section mentioned is in the existing bylaw already. Cynthia Bradley, 27 South Point Rd., will there be a check and balance to land use that may constrain home owner plans such as an appeal? The Commission can offer a waiver and variance on the Bylaw and work with mitigation or finding another way to protect the resource. There is a section on waivers and variances. Dean Ciocci, 14 Kenneth Ave., is wondering if the rubric is included in bylaw. It is. Table 1 is outside of the Lake Protection District and table 2 is inside the Lake Protection District. Jane Lavesque, 20 Bates Point Rd., asks how is tree removal considered to mitigate runoff? Mr. Faneuf states that under State law there are minimum thresholds for requiring a stormwater study. State law says it is required on a subdivision of 5 lots or greater and any commercial lots. The bylaw can lower that to one house if necessary. In general, the theme of the bylaw is impact avoidance and mitigation. Sharon Pelletier asks why the Commission hasn't taken care of the runoff at LKQ and Curaleaf? Mr. Wigglesworth states that the Commission is aware of other matters and is in communication with organizations for the remediation of the pollution runoff.

Mr. Faneuf states there are certain criteria for the vegetated buffer strip. If the construction is new, it will be based on square footage. Bob Theriault, 16 Union Point Rd., asks what is the minimum setback for buildings and patios? On new builds, if changing the foot print, then they have to follow the rubric. If using the existing foot print it would remain the same. The minimum would depend on the lot size. Mr. Wigglesworth states that the average setback is 25 feet. Mr. Faneuf states that on a less than 10,000 square foot lot that has never been built on, a 5 foot vegetated strip would be required and the house would be 20 feet from the water. There would be a view corridor and pathway to water to avoid and minimize impact. Mr. Wigglesworth states that the vegetated buffer strip is to help with the protection of resource, adds value, and protects the shoreline. Lawn is not considered a vegetated strip. Eric Marcoux, South Point Rd., is adding a retaining wall and states that if the Commission is requiring a vegetated strip, they are taking away from the property value. The Commission would need to work with them to find a good solution. A retaining wall is not a situation that would require a vegetated buffer strip. Ken Cournoyer asks why a Bylaw is needed now. The Commission wants to reduce impacts to resources. This is a Town wide matter, not just the Lake. Ms. Overholt states that any other questions not answered during this meeting will be responded to in an email at another time.

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The Commissioners discuss the bylaw wording. Mr. Bock would like to change who can file applications (page 9 of Bylaw). Only owners can apply and this would exclude the Webster Lake Association and Nipmuc Ski Club. Some definitions were added since the last discussion.

The section about the AURA defines setbacks. Commercial and industrial setback is 50 ft. and 75 ft. for the edge of driveways and structures (if burden of proof cannot be met they can request a variance). Lots can't be subdivided in order to reduce setbacks.

The tree replacement section were added.

In the Enforcement Orders section, the word may was added.

Mr. Wigglesworth states there is already wording in the regulations regarding enforcement and it is written in a legal manner. Legal counsel, Jay Talerman can review the wording in the enforcement section.

The numbering of the Bylaw document may change in the final draft.

Mr. Bock asks if the water is considered streams at the LKQ section of Browns Brook and Rt. 16. Mr. Fanuef says yes, unless it is road drainage or dries after a rainstorm. The Bylaw gives the Commission jurisdiction.

Ms. Johnson motion to approve the Bylaw subject to Ms. Overholt's review of the formatting. Mr. Bock second. Vote all in favor by roll call: (Mr. Wigglesworth – AYE; Ms. Sherillo – AYE; Ms. Johnson – AYE; Mr. Bock – AYE).

Ms. Johnson motion to adjourn the meeting at 9:34 pm. Mr. Bock second. Vote all in favor by roll call: (Mr. Wigglesworth – AYE; Ms. Sherillo – AYE; Ms. Johnson – AYE; Mr. Bock – AYE).

Next Meeting Date: May 18, 2020 – Location to be determined.

Respectfully submitted,
Kelly Gorham
Clerk for the Conservation Agent

Conservation Commission Approval: _____ Date: _____
Chairman