

# Leverett Conservation Commission

Date: Thursday, October 26, 2023

Remote Zoom Meeting

## In Attendance:

Julia Firl, Voting member

Seth Heminway, Voting member

Joan Deely, Voting member

Jono Neiger, Voting member

Meeting start time: 7:01

## Minutes

### 1. Attendance

### 2. Review & Approval of Minutes

- July 17<sup>th</sup> Meeting: wait for Gail
- September 18<sup>th</sup> Meeting: (Joan did not attend; must wait for Gail)

### 3. Public Hearing/Public Meeting

- 3 Hemenway Rd (Kevin Schnell) – Discuss RDA / Building Permit - disturbance now ~ 55-65' from the nearest vegetated wetland, enclosed by straw wattles, all else is outside the buffer zone, house will be in center of field, house is 28x40, no reason to haul dirt fill uphill, will stay out of 100' buffer zone almost exclusively – only to haul materials in/out of site, Kevin submitted all forms have been properly; LCC needs to issue negative determination (meaning no NOI required); Sarah Lowe (landowner) spoke up to state that minimum footprint/damage to land is her desire; Seth motion to issue negative determination, Joan 2<sup>nd</sup>, all in favor. Joan volunteered to prepare form for signatures: WPA Form 2 determination of Applicability
- Public Works (Matt Boucher) requesting permit (RDA or Emergency Cert) to breach beaver dam and trap beavers at end of Rattlesnake Gutter and off Montague Rd near Cave Hill trailhead. NOTES: Seth & Jono visited site w/ Matt this morning; trapping no longer being considered; Sarah Robb's property has some of the dam; pond leveler is probably the best long-term solution; Beaver Solutions company is quite busy – no response to inquiries yet; big rain event could flood road, saturation of road bed would break up pavement in freeze/thaw cycle; consider marking water levels now to gauge how much higher the water gets; Matt w/ HWY Dept is open to solution that protects road and respects beaver; many reasons we want beavers to stay; laws give emergency

decision on beavers to Board of Health (not Con Com); LCC would only be responsible for issuing permit for longer term wetland management; Matt does not plan to act on Emergency permit, but some solution needed before freeze/thaws begin;

Comments from public:

Eva: this past spring, hay could not be harvested due to amount of rain (not beavers), but was able to be hayed fully in September; now the entire field is flooded; 3 dams total; road was covered with water during July storms; pond leveler to lower water 1-2' would help but would probably not be enough; seasonal stream usually dries up during "normal" summers and keeps beaver at bay; no drinking wells being impacted;

Sarah Todd: lives on Montague Rd near dams; worried about traps being set on her property without her knowledge/permission due to her dogs being loose, etc.; what is the law about setting traps on private property even during a "public health emergency"

Maureen: glad LCC is considering pond leveler and she willing to help install those if Beaver Solutions is not available to help before winter.

Jono shared article; Seth shared title Eager: The Surprising, Secret Life of Beavers and Why They Matter by Ben Goldfarb. Joan knows of case where beaver activity contaminated a well w/ Giardia; a dam right in front of a culvert is not ideal

- Kestrel Land Trust (Chris Volonte)– update on the conservation restriction; update on National Grid's proposed work for powerline corridor and updating access easement. From email:

CPA Vote Update: At the last Concom Meeting Kestrel attended back in August, we [Kestrel] informed the commission that the legal department at the Dept of Energy and Environmental Affairs had raised an issue with Town Meeting vote language used to direct CPA funds to Kestrel's acquisition of the Heronemus forest land on Depot Road. EEA informed us that the vote language is in conflict with CPA, M.G.L. c. 44B, as it states the funding being directed towards Kestrel's fee interest, and not towards the Towns conservation restriction interest.

At the time Kestrel was notified, we thought we would be able to correct the issue with an affidavit clarifying the intent of the vote. In September we received further feedback from EEA's legal staff, Read Porter, that the necessary corrective action is a new town meeting vote. Kestrel, with the help of an attorney, has rewritten the vote and has had it pre-approved by EEA. We've shared this with CPC Chair Danielle Barshak, and Town Administrator Marjorie McGinnis, and Marjorie has provided it to Leverett Town Counsel for inclusion on the November 14<sup>th</sup> Fall Town Meeting Warrant.

We hope that the new vote language will be approved for the Nov 14<sup>th</sup> meeting and would ask the commission members if possible to attend the Nov. 14<sup>th</sup> meeting and support what should be a simple re-vote. Kestrel is happy to put together a handout for the meeting if it seems the

best way to inform Town Residents of the need for a re-vote. This will allow the CR to be finalized by the end of the calendar year.

New Vote Language:

*To authorize the Select Board, pursuant to M.G.L. c. 44B, § 12, to appropriate and transfer the sum of \$81,000 as follows: \$50,000 from the Community Preservation Fund Open Space Reserve and \$31,000 from the Community Preservation Fund Unreserved Fund Balance in order to permanently conserve land located between Depot Road and Long Hill Road consisting of 91± acres of land identified as Map 5, Lots 33 and 33b as approved by the Leverett Community Preservation Committee; and to authorize the Leverett Conservation Commission to accept and hold a Conservation Restriction as defined in M.G.L.c. 184, Sections 31 and 32 on said 91± acres.*

Town Meeting (not Select Board meeting!) 7pm 11/14 @ LES

Eva thinks we need to “rally the troops” to make sure this passes; many in town were opposed to fee acquisition in the first place and may make a push to block this; LCC holds the CR on the property that Kestrel now owns in fee; fall meetings are typically poorly attended; Bridget available to help with talking points; locate handout that Bridget created last spring; Chris – maybe pitch it as a technical correction vs. re-hashing the idea of creating more conservation land in Leverett;

National Grid: Kestrel is now in direct communication with National Grid about the anticipated tower replacement project in their corridor on Heronemus land. With Kestrel’s permission, they have begun preparatory site testing and surveying.

Actual tower replacement and construction is not scheduled to occur until 2027 – 2032. Kestrel is considering postponing formal parking construction and any major trail upgrades until after construction.

Kestrel has also reached an agreement with National Grid to grant the new access easement at the Eversource Gate on Long Hill Road. As previously discussed, this easement will allow them to better access the full length of their utility corridor. Kestrel believes granting this access will aid in minimizing overall impacts to the land. Please see attached document to review the survey showing National Grid’s utility corridor and their new access point, along with a map of the woods roads in relation to the utility corridors, and the actual easement exhibit.

Tanya: comment that easement from Long Hill Road not a good idea; don’t want traffic going through there.

- 51 Camp Rd Unpermitted deck construction (Neil & Amy Robb) – look again at site visit photos Seth circulated via email on 9/21; what mitigation requirements are required?; work is definitely within 20 feet of shoreline; Seth recommends flow mitigation measures; previous owner installed big hump to help stop flow into pond; something more absorptive than gravel (e.g. mulch, grass, etc); remove concrete gutters, new deck is 10x30 (will be non-vegetated, impervious under deck because water will not soak in much); Jono doesn’t want to set precedent for owners around the pond to “ask for forgiveness rather than permission”; LCC could request hiring of landscape designer to slow water down and mitigate run-off problems; owners do not have landscape plan in

place (have only owned it for ~ 2 years); significant slope will probably require a professional/engineered design to work well (just planting grass will not cut it); LCC requesting mitigation plan to include vegetation, soil amendment, terracing, etc. Tanya & Joan suggested installing of straw wattles while plan is being developed;

#### 4. Administrative Matters

- Discussion w/ Erin Jacque re: Conservation Agent work  
Served a Leverett's CA for about 3 years in the early 2000s; from Amherst; has M.S.; is currently wetlands administrator in Amherst; CA agent budget runs through June
- FRCOG regional agent meeting update: Julia (shared notes from 10/24 meeting); Erin likes idea of shared position w/ Shutesbury or other towns, LCC needs to let Erin know what we need, how to "apply", what the expectations are (e.g. attend meetings? Answer emails?), Memo of Understanding for contract work?;
- ConCom rep for CPA Committee (request from Danielle Barshak) - Gail was rep for the LCC; quiet in spring/summer; team reviews applications for funding through the Community Preservation Assoc; lots of meetings; focus of LCC rep would focus on conservation-related applications; some capacity to review applications, but NO CAPACITY to attend meetings regularly; Seth will email Danielle to let her know what we discussed;
- Application is cover letter + resume
- Julia: send out draft job description for LCC to share w/ Shutesbury – include enough flexibility to be able to hire Erin & accept applications from others?
- Joan: will ask Margie and/or MACC about records retention, and adding more storage
- Jono will ask Margie if we can hire Erin using MOU;
- Jono made motion to hire Erin under MOU, Seth seconds, all in favor

#### 5. Adjourn – Joan motion to adjourn; Seth second; all in favor

Meeting end time: 9:04PM