

CHARLEMONT CONSERVATION COMMISSION
Meeting Minutes

SCHEDULED DATE: Wednesday; November 4, 2020
SCHEDULED TIME: 6:30 P.M. EDT

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting was conducted via a telephonic conference call. No in-person attendance of members of the public was permitted, but every effort was made to ensure that the public could adequately access and participate in the proceedings via conference call.

To join the meeting, the call-in number was **(425)-436-6388** and the access code: **279013#**.

Meeting Minutes

Roll call: The roll call was taken by Tom Cashin at 6:30 P.M., where it was confirmed that the following members of the Conservation Commission were present via a telephonic conference call session: Bill Harker, Justin Maynard, and Tom Cashin.

Note: Charles Ricko (Conservation Commission Chairperson) was unavailable to participate due to a family obligation, and Tom Cashin assumed the role of the Chairperson for this meeting.

Note: Mark Stinson (Massachusetts Department of Environmental Protection (MassDEP)), while not a member of the Conservation Commission, also joined this meeting to support the business of the Conservation Commission.

As a full quorum for the conduct of this session of the Conservation Committee was declared as being present, Tom Cashin concluded the Roll Call and asked for a motion to open the meeting to conduct any and all business of the Conservation Commission.

Bill Harker made the motion, Justin Maynard seconded the motion, and Bill Harker, Justin Maynard, and Tom Cashin voted to open the meeting to conduct the scheduled appointment(s).

Appointments:

1. 6:30 P.M. Sophie Traficonte, NEFF to discuss Knobloch Conservation Restriction

At 6:41 P.M., Tom Cashin opened the meeting to Ms. Sophie Traficonte (New England Forestry Foundation (NEFF), Inc.; Littleton, MA.) and Mr. Kevin Knobloch (property owner), who started the hearing by presenting the highlights and rationale for the proposed Knobloch Conservation Restriction (CR), which was provided to the Conservation Commission as a read-ahead for the meeting. **(The proposed CR is provided as an attachment to the minutes.)**

Note: [Massachusetts Department of Conservation Services (DCS) definition follows:] Conservation Restrictions are legal agreements that prohibit certain acts and uses, while allowing others, on private or municipally owned property in order to permanently protect conservation values present on the land. The Conservation Restriction Review Program reviews CRs for the Secretary of Energy and Environmental Affairs, who must approve of the CR in the public interest in order for it to be a permanent restriction, pursuant to the requirements of Massachusetts General Laws (Ch. 184 Sec. 31-33).

Note: For the Town of Charlemont, the signing of the CR, as presented, is a requirement for the members of the Select Board to review and approve with all pertinent Town offices. When the Select Board approves and signs the CR, it is in perpetuity as directed by the Massachusetts DCS. Conservation Commission inputs to the Select Board are provided in these meeting minutes.

Ms. Traficonte indicated that the basis of the transfer of the Knobloch property to NEFF was supported by various state grants as “critical natural landscape” that were awarded as part of the Massachusetts Division of Conservation Services process as described in the DCS CR Review Process (accessible at <https://www.mass.gov/doc/cr-review-process-general-outline/download>) and In Accordance With Massachusetts General Law Chapter 184, sections 31 through 33.

Note: NEFF is a nonprofit corporation operating under the laws of Massachusetts and is qualified as a nonprofit under Sections 501(c)(3) and 170(h) of the Internal Revenue Code.

Note: In Massachusetts, all conservation restrictions which are held by non-profit land trusts (such as NEFF) must be approved by the local Conservation Commission, the Board of Selectmen (or Town Council), and by the Commonwealth’s Secretary of Energy and Environment.

Note: The Knobloch property, which consists of six parcels of land and portions of private roads totaling approximately 41 acres (See Exhibit ‘A’ and ‘B’, as provided in the CR), is understood to already be managed under a Massachusetts Department of Conservation and Recreation (DCR) Forest Stewardship Plan (MGL Chapter 61) active in the Town of Charlemont (See Exhibit ‘C’ as provided in the CR). High-level details of the CR are as follows:

GRANTORS: Kevin T. Knobloch & Nicole K. Knobloch

GRANTEE: New England Forestry Foundation, Inc.

ADDRESS OF PREMISES: off Legate Hill Road, Charlemont, MA

FOR GRANTOR’S TITLE SEE: Franklin County Registry of Deeds: Book 3738, Page 293; Book 5254, Page 298; and Book 7504, Page 180.

As the hearing was determined to be mostly informational in nature, Bill Harker provided background information and confirmed that the property location, current status, and an assessment of the potential features of interest to the Conservation Commission such as wetlands and waterways were not subject to any requirements, issues, factors, or findings pertinent to the Conservation Commission. An examination of the provided CR materials,

and a discussion related to the CR materials with NEFF and the property owners included the property owners description of their plan for a ten (10) acre portion of the property not part of the CR to be reserved for the future use as two (2) x five (5) (ten (10) acres total) potential building lots for their children.

Based on the discussion and review of the CR materials with NEFF and the property owners, the Conservation Commission determined that a vote to recommend that the discussion be closed and that no further action was required by the Conservation Commission and that the CR be presented to the Town of Charlemont Select Board for their review and if approved, signing by the Select Board Members.

ACTION ITEMS:

1. Review/approve minutes.

The meeting minutes from the 11/4/2020 meeting were provided, reviewed, and accepted as presented, with no comments or edits.

The motion to accept the minutes was made by Bill Harker and seconded by Justin Maynard. Tom Cashin, Bill Harker, and Justin Maynard all voted affirmatively to accept the minutes as presented, in accordance with the motion.

2. Review Correspondence.

As there was no correspondence available in time for this meeting, the review of correspondence was deferred for further action.

The motion to defer the review/approval of correspondence was made by Bill Harker and seconded by Justin Maynard. Tom Cashin, Bill Harker, and Justin Maynard all voted affirmatively to defer the correspondence review, in accordance with the motion.

3. Elect a new Chairperson.

Based on an input received by the Secretary of the Boards (Ms. Carlene Hayden) prior to the Conservation Commission meeting, Mr. Charles Ricko requested that he be relieved of the role as a Conservation Commission Co-Chairperson due to personal obligations. As Mr. Ricko was not available to participate in this meeting, this request was noted but it was determined that this action item and any associated discussion be completed when Mr. Ricko was available to meet with the Conservation Commission.

The motion to defer the resolution of the Mr. Ricko request was made by Tom Cashin and seconded by Bill Harker. Tom Cashin, Bill Harker, and Justin Maynard all voted affirmatively to defer the Mr. Ricko request, in accordance with the motion.

DISCUSSION ITEMS:

1. William Lattrell, Wetlands Scientist submitted a report regarding possible wetlands violation on Schaefer Way.

As a follow-up to a complaint received by the Conservation Commission in October that was coordinated with the MassDEP, it was determined during review of the complaint that a possible wetlands violation (i.e., Massachusetts Wetlands Protection Act - Massachusetts General Law Chapter 131, Section 40) may have occurred, and that action by the Conservation Commission was required. The complaint was made that a dumping of organic (and possibly inorganic materials) may have occurred in a wetlands area.

During discussion of the details of the complaint, it was determined that both a follow-up site visit and an environmental engineer report based on an on-site review were needed, in order to define the wetlands boundaries and to ascertain if a wetland violation order needed to be formally issued. As regards the action regarding the property owner, it was discussed that the Commission should send a letter to the owner to have the wetlands area delineated and report back to the Commission.

The motion to vote to send a letter requesting the property owner hire an environmental engineer to review the status of the site and to submit a report to the Conservation Commission was made by Tom Cashin and was seconded by Justin Maynard. Tom Cashin, Bill Harker, and Justin Maynard all voted affirmatively to send the notification letter to the property owner, in accordance with the motion.

Note: Follow-up discussion after the conduct of the vote to send the notification letter was that the property owner should respond to the letter within two weeks after receipt or before the next Conservation Commission meeting in December.

The motion to vote to have the Conservation Commission visit the site was made by Bill Harker and was seconded by Justin Maynard. Tom Cashin, Bill Harker, and Justin Maynard all voted affirmatively to visit the site within one week, in accordance with the motion.

2. Request for building permit signoff for bathhouse at 232 Zoar Road

As the Charlemont Board of Health had previously indicated that there were possible problems associated with the five cabins located on the side of the hill on the property, the Franklin County Building Inspector requested that a site visit based on location of the septic systems at the site in relation to the existing stream be conducted. It has been observed previously by Bill Harker that one or more intermittent streams appear to be on the site.

As part of the building permit for the project, the engineer for the site had designed a bath house for installation on the property. As a stream is close by, the set-back distance of the stream from the planned bath house needs to be confirmed as part of an on-site determination. The Conservation Commission needs to decide if the bath house project has enough separation from the waterways, which is determined from the on-site visit. The timeframe to visit the site will be determined from a review of the schedule for the bath house project, which was not available for this meeting.

Note: As the timeframe to visit the site will be determined from a review of the schedule for the bath house project, the Conservation Commission will schedule the on-site visit to occur within one week from the building permit need date.

3. Notification of emergency beaver dam modification permit; 789 Tea Street

As the potential need to move the beavers that inhabit the pond formed by the beaver dam had been previously approved by the state in accordance with Massachusetts General Law Chapter 131, the use of the FRCOG form to approve the trapping of the beavers and the release of the water in the dam into the Deerfield River Watershed is not required. As no emergency permit is required and no breach of the dam is anticipated, the Conservation Commission does not need to issue a permit and no action is required.

Note: The Conservation Commission Secretary to the Boards will review the FRCOG form and make any recommendations required to update the existing FRCOG form, as this form may need to be updated.

4. Request for site visit for curb cut on Route 2

Prior to this meeting, the on-site visit for the curb cut permit had already been completed by the Conservation Commission, as the Mass DOT had already approved the initial curb cut permit as it opens onto Route 2 if the driveway is installed away from the near-by brook. As the MassDOT requirement was to move it west of the original position identified in the initial curb cut permit, the approval of a new curb cut permit is required. The only follow-up action is that the abutters to the property associated with the curb cut permit need to be notified of the change of the location of the curb cut/driveway, as well as the contractor for the curb cut/driveway project (Mr. Eric Dean).

The motion to vote to approve the relocation by Mass DOT of the curb cut/driveway was made by Bill Harker and was seconded by Justin Maynard. Tom Cashin, Bill Harker, and Justin Maynard all voted affirmatively to approve the curb cut relocation as amended, in accordance with the motion.

As the business of the Conservation Commission business was deemed to be completed, a motion to close the meeting at 7:45 PM was made by Bill Harker and seconded by Justin Maynard. Tom Cashin, Bill Harker, and Justin Maynard all voted affirmatively to close the Conservation Commission meeting, in accordance with the motion.

NEXT MEETING: WEDNESDAY, DECEMBER 2, 2020