

Carlisle Conservation Commission
March 11, 2021
Minutes

7:00 p.m. Chair Tatistcheff Introduction to Remote Meeting: 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 concerning imposition on strict limitations on the number of people that may gather in one place, this meeting was conducted via remote participation via Zoom with the link provided on the Posted Agenda. No in-person attendance of members of the public was permitted, but every effort was made to ensure that the public could adequately access the proceedings.

Members Present: Lee Tatistcheff (Chair), Angie Verge (Vice Chair), Ben Belitz, Helen Young, Alex Parra, Navneet Hundal

Members Absent: Dan Wells

Conservation Staff: Sylvia Willard, Conservation Administrator; Mary Hopkins, Assistant to Administrator

Agricultural License Agreements and Annual Farmers Meeting:

Fox Hill East: Dick Shohet/Mill Iron Farm

Report 2020: Crop: 5-6 acres mixed pasture grasses and legumes; Organic Management; Soil Amendments: 300#/acre organic fertilizers; Yield: 40 400# bales; In-Kind Service: mowed 10 feet back all relevant edges
Plan 2021: same as 2020; In-Kind Service: mow back 10 feet on south and west edges of Fox Hill East and south, west, east, and north of Fox Hill West.

Tatistcheff thanked Farmer Shohet for his work and for his offer to continue mowing and field edge clearing on Fox Hill West for the time being or until another farmer steps forward following the previous farmers' departure.

On the motion by Young and seconded by Belitz, it was unanimously VOTED to approve the Agricultural License Agreement for Fox Hill East. Roll Call Vote: Verge – aye; Belitz – aye; Young – aye; Parra – aye; Hundal – aye; Tatistcheff – aye.

Woodward Field Off Maple Street: Tatistcheff noted one of the two applications submitted for the Woodward Field Agricultural Grazing License has been withdrawn.

Judy Asarkof; Associates Laurene Beaudette, Hale Sophia Schatz

Plan 2021: Crop: 6 acres goat grazing with additional mowing if needed for removal of woody invasive plants; Soil Amendments: none at this time; Yield: regular prescribed grazing by 5-10 Nigerian Dwarf Goats, focusing on areas overgrown by invasive plants. In-kind service: maintain mowed paths in the Woodward Fields for trail use and educational studies

Farmer Asarkof's proposal focuses on a variety of activities centered on grazing of livestock/goats with the additional goals of restoring and maintaining meadow and field habitat through grazing of non-native and/or invasive plant species and of encouraging more diversity of native insects and wildlife. Future plans include inventorying all meadow vegetation and communities before and during the course of the license period, with the data to be provided to the Land Stewardship to expand their Baseline Study and to incorporate into future Open Space and Recreation Plan releases. Farmer Asarkof hopes to create future educational opportunities and activities for the town as well.

When asked she if had any interest in Fox Hill West, Farmer Asarkof said she had communicated her decision to focus on the Woodward Land to the Land Stewardship Committee, and it is now her understanding that LSC member Tom Brownrigg will be working with Farmer Shohet to evaluate the mowing schedule relative to supporting breeding birds and other wildlife.

On the motion by Hundal and seconded by Parra, it was unanimously VOTED to approve the Grazing Agricultural License Agreement as put forward by farmer Asarkof. Roll Call Vote: Verge – aye; Belitz – aye; Young – aye; Parra – aye; Hundal – aye; Tatistcheff – aye.

Mark Duffy – Great Brook Dairy, LLC

Bisbee Land: Report 2020: Crop: 8 acres hay; IPM: yes (not itemized); Soil Amendments: cow manure; Yield: not provided; In Kind Service: field edge mowing; Plan 2021: same as 2021

Cranberry Bog: Report 2020: Crop: 2 acres corn silage; IPM: Prowl and Atrazine; Soil Amendments: cow manure; Yield: not provided; In Kind Service: not provided in report; Plan 2021: same as 2020

Fiske: Report 2020: Crop: 4 acres corn silage; IPM: Prowl and Atrazine; Soil Amendments: cow manure; Yield: not provided; In Kind Service: field edge mowing

Plan 2021: Crop: 4 acres hay; IPM: glyphosate; Soil Amendments: cow manure; Yield: not provided; In Kind Service: field edge mowing

Foss Farm: Crop: 18 acres corn silage; IPM: Prowl and Atrazine; Soil Amendments: cow manure; Yield: not provided; In Kind Service: field edge mowing; plow and harrow community garden plots; relocate compost pile. Plan 2021: same as 2020

Greenough: Crop: 4 acres corn silage; IPM: Prowl and Atrazine; Soil Amendments: cow manure; Yield: not provided; In Kind Service: field edge mowing; Plan 2021: same as

Hutchins: Report 2020: Crop: 28 acres hay; IPM: yes (not itemized); Soil Amendments: cow manure; Yield: not provided; In Kind Service: field edge mowing; Plan 2021

Robbins: Report 2020: 28 acres corn silage; IPM: Prowl and Atrazine; Soil Amendments: cow manure; Yield: not provided; In Kind Service: field edge mowing; Plan 2021: same as 2020

Farmer Duffy expressed his appreciation for the use of the fields in support of his dairy farm. He noted last year's lack of rainfall was challenging. He noted he irrigates the fields at Great Brook Farm and said it is something he may look into for some of his leased fields if dry weather patterns continue.

Tatistcheff noted the Commission has received comments regarding pesticide use on town conservation lands, particularly the use of neonicotinoids due to their impact on pollinators. She said she was not sure the law allows the Commission to disallow their use but said it would be a good topic of discussion with the farmer. Farmer Duffy said he is currently attending a series of state sponsored workshops on pesticide use and the impacts on bees and he is in compliance with his responsibilities with regard to the use of neonicotinoids. He said the plans for the future regarding pesticide use in Massachusetts are somewhat complex, but there is currently a big push is to ban the use of neonicotinoids by homeowners and on crops where it is believed it could be harmful to pollinating bees.

Tatistcheff asked Farmer Duffy if he is legally required to notify the Commission prior to pesticide applications. Farmer Duffy said they do not use anything that legally requires posting but he does communicate with the Administrator. He noted the applications are typically dry within minutes of spraying.

Belitz proposed that any application of pesticide on conservation land should be given notice, including date and type, whether or not required by law, so people can be aware and could exercise their own judgement. Young said that providing the Administrator with advance notification, if not already being done, will help answer any inquiries from the public that may be received. Following further discussion, the Commission requested that Farmer Duffy inform the Administrator via email on the day of future applications, including product and time of application.

On the motion by Verge and seconded by Parra, it was VOTED to accept the Agricultural License Agreements for Bisbee, Cranberry Bog, Fiske Meadow, Foss Farm, Greenough, and Hutchins/Robbins. Roll Call Vote: Verge – aye; Belitz – aye; Young – aye; Parra – aye; Tatistcheff – aye. Tatistcheff thanked Farmer Duffy for his help to the town in keeping the fields in agriculture.

Interview for appointment to the Land Stewardship Committee:

Nick Ognebene introduced himself to the Commission and gave some background. He moved to Carlisle with his wife and son last October and a large part of what attracted them to Carlisle is the town's extensive preserved spaces and opportunities to enjoy them. His university studies included environmental science and sustainable development. He works with a London-based law firm practicing in environmental law and international practice

law. He grew up in Dover, where his dad was on the conservation commission for many years and for whom he did a number of projects in his youth. He hopes he can contribute through his role as a member of the LSC to preserving more land and maximizing people's utility of that land while also maximizing wildlife diversity.

On the motion by Parra and seconded by Verge, it was unanimously VOTED to recommend to the Select Board the appointment of Nick Ognibene to the Land Stewardship Committee. Roll Call Vote: Verge – aye; Belitz – aye; Young – aye; Parra – aye; Tatistcheff – aye. The Commission welcomed Mr. Ognibene and family to town and thanked him for his willingness to participate.

8:00 (DEP 125-1085) Abbreviated Notice of Resource Delineation, Continued Hearing

Applicant: Chris Buono, All Things Real Estate

Project Location: 0 South Street, Map 5 Lots 54 and 56

Project Description: Review of 6,500 feet of Bordering Vegetated Wetland Resource Area delineation. The Applicant has again requested the hearing be continued to the next available meeting, April 1, 2021.

Tatistcheff opened the continued hearing under the Massachusetts Wetlands Act and the Carlisle Wetlands Protection Bylaw. On the motion by Verge and seconded by Young, it was VOTED to continue the hearing to April 1, 2021 at 7:15 p.m. at the applicant's request. Roll Call Vote: Verge – aye; Belitz – aye; Young – aye; Parra – aye; Hundal – aye; Tatistcheff – aye.

Enforcement Order: 155 Woodridge Road- George Kapsalis: Landscaping alterations within the Conservation Commission's jurisdiction including work within a documented vernal pool.

Tatistcheff opened the discussion with an apology to all concerned that the discussion of the Enforcement Order that had been scheduled for the previous meeting was postponed due to quorum issues. She then referenced the Willard's memorandum dated March 5, 2021 summarizing recent guidance provided by MassDEP Enforcement Coordinator Libby Sabounjian in regard to remediation requirements. She noted the Commission in general looks to the state for guidance on complicated Enforcement Orders of this nature.

Tatistcheff then cited Attorney Richard Nylan's letter to the Commission dated March 11, 2021 in which he responded to MassDEP's guidance and she asked that he summarize his position on behalf of his clients for discussion purposes. She noted the procedures recommended by DEP are quite contrary to what the Commission had been planning and asked Attorney Nylan to summarize his response.

Attorney Nylan stated the property owners were unable to attend due to an out of state family emergency but have been very interested in the proceedings. He noted that during the previous discussion with the Commission the question was whether or not the subject area should be restored as BVW or whether the fill should be removed. He recalled that at that time Commissioner Parra had recommended they submit the proposal as an Ecological Restoration Plan. Wetland Scientist Paul McManus of EcoTec then went through that process as provided in his letter to the Commission dated January 21, 2021. Attorney Nylan said they agree the area should be restored as a wetland and they believe the BVW they are promoting has enhanced functions as opposed to what existed previously.

McManus then provided an overview, accompanied by referenced photographs via screen share, of the proposed condition consisting of the BVW restoration plantings of the recently filled area as described in his 12/10/20 submittal, with additional re-naturalization plantings along the west side of the pool where the open water is abutted by grass. McManus asserts the proposed condition will restore the native wetland hydrology and provide a growing substrate similar to the adjacent native swamp and the proposed planting will provide a community similar to the adjacent swamp. It is Mr. McManus' assertion that the benefits to wetland function by restoring BVW and providing a natural pool buffer outweigh the limited loss of the shelf pool created by a former owner and he believes the proposed condition should be approved as a restoration project.

Mr. McManus then reviewed his letter of January 15, 2021 in which he responds to the guidance provided by MassDEP. He cited several excerpts from the Massachusetts Wetland Protection Regulations relative to BVW,

which place a high priority on the functional value of the vegetation in BVWs. He said that in terms of the Ecological Restoration Limited Project provisions, he believes his proposal is consistent with those regulations required for a project that requires that designation. He noted that Ecological Restoration Limited Projects were created for some projects that are recognized as an ecological benefit but that do not fit into the regulations, and therefore without this provision the regulations would prevent a commission from approving such a project.

In conclusion McManus noted the Ecological Restoration Ltd Project provisions acknowledge that all restoration projects represent some form of conversion of one form of resource to another and essentially not every change is negative. He said that in this case, they are proposing a modification from lawn into a true BVW with a natural plant community that would not be subject to maintenance and that would return the area to what would have existed if it had been left in its natural state.

Parra said his understanding in terms of the regulations regarding vernal pools is that they only protect vernal pools to the extent that they are within the BVW, so to him it seems useful to be proposing to enhance the value of the vernal pool habitat that remains by planting the BVW border. He then referenced McManus' memo of December in which he acknowledged that the shelf area had some vernal pool habitat value and asked McManus to what degree he thought that value was lost in the filling of the shelf. McManus confirmed the state regulations only protect vernal pool habitat when it is located within a resource area, noting he has always maintained throughout this process that the area is jurisdictional. In terms of the area being classified as vernal pool habitat, he believes this is a reasonable assumption based on his observations and those of others.

Tatistcheff said she believes the biggest sticking point between the guidance from the state and from Mr. McManus' plan is not the planting but the gradient of the existing fill and asked what can be done about this. McManus said he did not understand that point because "hydrolic gradient" is a term used in the definition of a stream, and he asked Willard if she could further explain based on her discussions with MassDEP. Willard said she may have written down the wrong wording, but essentially Ms. Sabounjian felt as though the fill needed to be removed and the area restored to what it was before the work was done. McManus said the area is now flat and he strongly suspects that before the fill was excavated it was essentially at the grade that exists today. Willard said the comment was that the Ecological Restoration Ltd Project regulations were not intended for this purpose. She asked if they were planning to remove any of the fill or to leave the area as is. McManus said his protocol is to plant what is there now.

Attorney Nylan said he wanted to point out the fact that they would not be here discussing an ecological restoration if Mr. McManus did not answer the question of the enhanced value of what he is proposing as compared to just excavating the area and leaving the shelf that ponds on occasion. He noted that one of the previous owners had excavated the BVW and transformed it into a different wetland. He said the only reason they see this as a restoration is because they are proposing to return it to what existed originally. He also informed the Commission that, although it is not shown on the plan and was not previously discussed, the property owners are willing to fence the area knowing the Commission wants to ensure it retains its BVW functions and is not made an integral part of the backyard in the future.

Tatistcheff recalled a question that arose before the Commission consulted with Ms. Sabounjian was that there is a listing requirement for Ecological Restoration NOIs to give others an opportunity to comment and because this proposal is not under a NOI she asked how they would propose to achieve that function. Mr. McManus noted they did not originally propose this as an ecological restoration project, and they only went to that because the Commission had requested that they take that approach.

Members were then asked by Tatistcheff to share their comments:

Parra said the point of his earlier comment regarding the regulations is that vernal pools within resource areas are protected because the BVW is very important to the function of a vernal pool. He said in this case, the only evidence he had in terms of the now filled shelf is a few photos which show something that was 1-2 feet deep with a gravel bottom. He said his inclination would be to not require that the shelf be re-excavated, but he would

want to see a as wide a buffer of plantings as possible around the existing pool, bringing it back through the entire area that was filled in, including widening the strip towards the playhouse.

Verge said for her it comes to which decision will most benefit the values and functions of the resource area which previously functioned as a vernal pool and is different from the functions of a BVW that is proposed to be planted on lawn. Her other comment was she is curious as to why this area is so desired to remain in the current state as opposed to applicants agreeing to remove the fill. Hundal seconded Verge's question regarding removal of the fill, asking what the objection is to re-grading the area or removing the fill, since the proposed plan does not allow for usage of this now flattened area. McManus said he thinks the objection is because the property owners have young children, and the shelf was a protrusion into the lawn with a steep rocky cutoff at the edge of the lawn which became a flat unvegetated mud surface in the summer months. Hundal said she also has young children and understands the desire to protect them and create a safe space. She said the state has given their recommendation to regrade and plant the area or remove the fill and she asked if that is an option the property owners would be amenable to from an economical standpoint.

Belitz suggested that perhaps the reviewer from the state misspoke when they used the term hydraulic gradient and were perhaps speaking to what the land surface gradient ought to look like as opposed to a flat area leading to an abrupt vertical wall that is due to excavation. He said as a geologist and hydrologist he does not see many vertical surfaces in unconsolidated materials. He suggested thinking about what a natural landscape would look like here and what could be done to have a gradient that eases the transition from the flat area into the water in order to have a feature that mimics what might be natural.

Young said she has concerns with the disparity between the restoration proposal that would not involve changing the grade in any way and simply planting and what the state is saying in terms of removing some of the fill.

Willard asked McManus if he could assure the Commission that the filled area keyed out as a wetland or was there so much fill that the surface is no longer a wetland. McManus said that although you cannot do that analysis in fresh fill, he is quite confident from looking at the surrounding area that the hydrology is there, but it will take time to develop the features that classify it as hydric soil.

Tatistcheff said she had personally come around to not requesting a vote to modify the EO exactly as instructed by the state, but she was not sure that the Commission had come to the right solution. She asked if after the lengthy discussion, any members felt prepared to make a motion regarding what should be required of the team.

Belitz said he would like to see some removal of the fill. He said when he looks at photographs of the slope, he estimates it to be somewhere between 30 and 45 degrees. He said he would like to see that be somewhere between 15 and 20 degrees, which would be more consistent with how materials would naturally settle and would make a transition from the flat area to what is currently filled with water. He deferred to others to determine the appropriate native vegetation that would stabilize the slope. Verge said she agreed that the slope needs to be eased. She suggested a combination of reduced fill and an extensive planting plan with fencing.

On the motion by Parra and seconded by Hundal it was VOTED to request that Attorney Nylan prepare a draft of the revised EO incorporating what has been discussed and submit that as well as the revised plan for the April 1 meeting. Roll Call Vote: Verge – aye; Belitz – aye; Young – aye; Parra – aye; Tatistcheff – aye.

Woodward Village Plan Change Request (DEP 125-1064): Dan Gainsboro of NOW Communities and site contractor A. J. Pittorino of Patriot Excavating Corp. were present to request a revision to the Erosion Control plan because the Straw Bales required by the Plan of Record and the Order of Conditions are reportedly not available due to current supply shortages. They are now proposing straw wattles with a biodegradable casing. Mr. Gainsboro shared the site plan via screen share, locating the areas where the substitution is proposed. On the motion by Verge and seconded by Hundal, it was VOTED to allow the substitution of 12-inch diameter compost sock encased in fabric tubing, staked every six feet backed up with entrenched erosion control fabric. Roll Call Vote: Verge – aye; Belitz – aye; Young – aye; Parra – aye; Hundal – aye; Tatistcheff – aye.

Certificates of Compliance:

(DEP 125-547): Applicant: Richard B and Linda St. Francis; Project Location: 138 East Street; Project: Construction of a Common Driveway issued to Theodore Treibick; Issued:1/28/1999

On the motion by Verge and seconded by Parra, it was VOTED to issue a Certificate of Compliance for DEP 125-547 as invalid/expired. Roll Call Vote: Verge – aye; Belitz – aye; Young – aye; Parra – aye; Hundal – aye; Tatistcheff – aye.

Administrative Matters:

Signatory Authority: On the motion made by Vice Chair Verge and seconded by Commissioner Young, it was unanimously VOTED to authorize the Administrator as signatory on all matters approved during the meeting. Roll Call Vote: Verge – aye; Belitz – aye; Young – aye; Parra – aye; Hundal – aye; Tatistcheff – aye.

Approval of Bills: On the motion made by Commissioner Hundal and seconded by Commissioner Young, it was unanimously VOTED to approve the bills as presented, with the exception of the invoice from Great Brook Farm subject to additional detail. Roll Call Vote: Verge – aye; Belitz – aye; Young – aye; Parra – aye; Hundal – aye; Tatistcheff – aye.

Upon further discussion, it was moved by Commissioner Parra and seconded by Commissioner Young to approve the invoice submitted by Mark Duffy/Great Brook Dairy, LLC, subject to additional detail including an itemization of maintenance tasks with corresponding time requirements and service date ranges. Roll Call Vote: Verge – aye; Belitz – aye; Young – aye; Parra – aye; Hundal – aye; Tatistcheff – aye.

Meeting Schedule: April 22; May 13; May 27

Programming opportunity with Freedom’s Way National Heritage Area: Tatistcheff said she had been contacted by community volunteer Mark Levitan in his efforts to reach out to several committees and organizations in Carlisle to make them aware of a Freedom’s Way programming opportunity coming up in May. This year’s annual Hidden Treasures theme highlights land and natural resource conservation and the American Conservation Movement. Mr. Levitan is seeking volunteers from these groups to explore potential ways the town could participate in the program. Young volunteered to work with Mr. Levitan to recommend ways in which the Commission can contribute to or support his efforts.

Conservation Land Management:

Benfield Land Septic System Repair Update: Present for the discussion were Mark Beaudry of Meridian Associates and Phil Giffie of the Neighborhood of Affordable Housing and Benfield Farms to review with the Commission their understanding of the requirements for the work on the Benfield Conservation Land and to provide update from their most recent meeting with the Board of Health.

Parra first provided a report following his review with Town Counsel of the Benfield Land CR documents with regard to the terms of the CR relative to the proposed siting of the replacement septic system for the Benfield Farms Affordable Housing development. He said the bottom line is that the CR itself permits septic systems to be constructed anywhere on the property and the Easement Plan does not restrict the area. He said the hope is this will give Beaudry and his team more freedom to design a replacement system that comports with the requirements of the BOH as they were enumerated in a recent letter and also to the requirements of the Commission to effectively leave grades as close to unchanged as possible.

Tatistcheff thanked Parra for the update and said the Commission supports both the Benfield Farms development and the conservation interests and has come to an agreement to discuss relocating the leach field on the CR land now that they have learned the Article 97 is not a requirement. She noted however that if the proposal ultimately involves changing the grade with an elevated septic system, she will urge the Commission to retain their own private counsel and to oppose that. She encouraged Beaudry to complete the perc testing as soon as possible so that the Commission can work with the Select Board to implement an alteration of the Easement as needed.

Beaudry thanked the Commission for clarifying their recent findings relative to the CR and requested confirmation that raising the grade on Lot 4 is not as much of a concern as originally thought and they will now be able to incorporate some off grading that will allow them to blend that grade into the surrounding area so it can be made to look more natural. Tatistcheff said if they are able to incorporate grading to blend the area into the natural surroundings, she would personally find that acceptable pending further input from the Commission on the matter. She reminded Mr. Beaudry that it takes time to get a NOI submitted and through the approval process and asked if they have started that process yet in getting the wetlands resurveyed. She noted that the typically wet conditions around the cart path would preclude the use of heavy equipment to gain access to the field. Beaudry said they are making progress now that things are becoming more clear and will begin work on resurveying the wetland flags, the NOI and the BOH design plan submittals.

Present for the discussion was BOH Chair Tony Mariano, who said they received a report from Mr. Beaudry at their recent meeting and discussed some of the parameters they will expect now that the terms of the CR are more clear and not as restrictive as previously thought. He said they have established a schedule for the design of the replacement system in an effort to keep things moving forward and complete the replacement system as soon as possible.

Tatistcheff said the Commission is glad they were able to find a hopeful resolution and requested that Beaudry continue to coordinate with Willard in moving forward.

Greenough Dam EOEEA Grant Application:

Tatistcheff thanked Willard for her extraordinary work on the Greenough Dam application.

Willard thanked Warren Lyman who has been steadfast in assisting with this project for over 10 years.

Open Space and Recreation Plan Update: Conditional Approval has been received from EOEEA through March 2028, which means that the Town is eligible for grants that require a current/approved OS&RP. The committee chair is scheduling an upcoming meeting for the committee to review the conditions.

Foss Farm Assistant Garden Manager: Tatistcheff recused. On the motion by Parra and seconded Hundal it was VOTED to appoint volunteer Jonathan DeKock as assistant Garden Manager as requested by Garden Manager Jack O'Connor. Roll Call Vote: Verge – aye; Belitz – aye; Young – aye; Parra – aye; Hundal – aye; Tatistcheff – aye.

Foss Farm - Unpermitted parking lot use: Tatistcheff said in the past the Commission has issued Land Use Permits issued to a commercial enterprise to use the Foss Farm parking lot for their vehicles for limited periods of time within certain parameters and they have provided tax-exempt contributions to the Conservation Gift Fund in appreciation. Recently it has been noted that Warwick Tree Service has been using the Foss Farm parking lot to stage their trucks, taking up half of the parking lot and interfering with the public's use of the property. Willard reported that she contacted Warwick Tree Service for additional information and was told she should contact the electric utility company.

The Commission agreed the activity was unacceptable. Tatistcheff will be contacting Warwick Tree Service to give them another opportunity to remove their vehicles or will contact the CPD to have them towed.

Project Updates:

Stillmeadow Farm Notices of Intent Peer Review response. David Pickart submitted a response to the request for the Peer Review's as requested by the Commission at the last meeting. The applicants have accepted the proposal.

Willard noted that one year ago the Commission's meeting was cancelled due to COVID-19 state of emergency. A moment of silence was held before adjournment.

9:53 p.m. On the motion by Verge and seconded by Young, it was VOTED to adjourn. Roll Call Vote: Verge – aye; Belitz – aye; Young – aye; Parra – aye; Hundal – aye; Tatistcheff – aye.

Respectfully submitted,
Mary Hopkins

All supporting materials that have been provided to members of this body can be made available on upon request