

**GLASTONBURY CONSERVATION COMMISSION
(INLAND WETLANDS & WATERCOURSES AGENCY)
Amended REGULAR MEETING OF MINUTES THURSDAY, JUNE 10, 2021**

The Glastonbury Conservation Commission (Inlands Wetlands & Watercourses Agency), along with Mr. Tom Mocko, Environmental Planner, in attendance held a Regular Meeting, via ZOOM video conferencing.

ROLL CALL

Commission Members-Present

Frank Kaputa, Chairman
Kim McClain, Secretary (*logged in at 6:33pm*)
Brian Davis (*logged in at 6:32pm*)
Kelsey Hawkins
James Parry
William Shea (*logged in 6:35pm*)

Commission Members- Excused

Mark Temple, Vice-Chairman

Chairman Kaputa called the meeting to order at 6:30 P.M. and explained the public hearing process to the applicants and members of the public.

I. INFORMAL DISCUSSION

- 1. Proposed agricultural activities (land clearing, farm road through and apple trees planted within conservation easement area, construction of a farm irrigation pond within wetlands regulated areas) and implementation of a restoration plan at 150 Chatham Hill Road (14.5 acres) – James Jusko, landowner – C. Webb & Associates, LLC, Environmental Consulting Services – Clark Land Surveying, LLC, L.S. – Sebastian A. Amenta, P.E. – Richard Snarski, Registered Soil Scientist**

Mr. Clint Webb, Senior Environmental Planner of C. Webb & Associates, LLC explained that Mr. Mocko had visited the site and informed him that the project would require a wetlands permit. It was also determined that the impacted areas would need to be restored. Mr. Webb explained that unfortunately, due to a gross misunderstanding, the Project Manager for the site cleared the trees and removed the stumps without obtaining wetlands agency approval. Mr. Webb reported that they will restore the impacted areas.

Mr. Webb explained that they will plant 3 species of hybrid apples and construct a pond to irrigate the apple trees. The apple trees are shallow rooted, high fruit production, low stem varieties that would require staking. Each limb has to be supported, and the woody part of the plant is much smaller than that of a traditional apple tree. An irrigation system is required because of the shallow roots of the apple trees, and is especially beneficial and necessary during periods of drought. Mr. Webb explained that the apples will mostly be used in the hard cider industry. He informed the Commission that the farmers/orchard owners of Bussa Orchards in

South Glastonbury will oversee the planting and management of 1,000 apple trees. Mr. Webb said that 400 apple trees have been planted south of the conservation easement. Another 200 apple trees will be planted in the same area. 400 apple trees will be planted in the area north of the conservation easement, surrounding the proposed irrigation pond. Mr. Webb reported that the proposed irrigation pond will be 12 feet deep and will be 0.65 of an acre in size.

Mr. Webb said that the wetlands impact is minimal. He outlined that the irrigation pond will discharge into a manmade stone channel from the pond outlet to an existing stream channel that flows to a culvert under Matson Hill Road. The plans require permanent access, a farm road, through the existing conservation easement that is administered by the Town. Mr. Webb explained that the Town will be compensated with a 2:1 conservation easement swap. The landowner will give the Town a conservation easement measuring 8,773 square feet. The current conservation easement in favor of the Town measures approximately 4,038 square feet. Mr. Webb reported that the farm road is needed to access the apple trees and the irrigation pond. He explained that the irrigation system they plan to put in place will not be permanent. The water is designed to trickle and when not in use can be removed. Mr. Webb stated that the harvesting of apples must be done by hand because of the fragile nature of the trees. Unlike traditional apple trees which are cylindrical in shape, these smaller, hybrid trees are similar to a vine.

Mr. Webb explained that the pond will not have a dam or berm. He noted that it is the safest way to construct a pond. Mr. Webb said that the pond outlet was originally an undefined flow path and has been modified over the years to control water coming down the hill and into the property. Mr. Webb explained that they propose the construction of a channel from the pond that will flow into the immediate, downhill, watercourse channel and ultimately outlet into a culvert under Matson Hill Road. The bottom of the channel will be 2 feet wide and will flow to the corner of the Donnelly property and drain into the existing stream.

Mr. Webb explained that they plan on constructing a channel that will match up to the existing channel. He reported that they will plant wetland shrubs in an undefined, random pattern to achieve a natural look. He said that all bare areas will be seeded with a wetland seed mix. The complete plantings list is outlined in the application packet. Mr. Webb said that the plantings were chosen in consultation with the Bussa Orchards farmers. It was determined that high bush blueberries would be in direct competition with the apple trees and will not be used. The plantings that will be utilized will be other species that have no adverse effects upon the apple trees. Mr. Webb explained that they plan to plant shrub species in groups of 3 to create a clump planting thicket habitat for birds, rabbits and other animals. Mr. Webb stated that the area will be stabilized with grasses which will encourage the return of native species. He explained that newly planted trees will attract birds and insects, resulting in revegetation.

Mr. Webb stated that there will not be increased flooding to Matson Hill Road and directed the Commission to view the submitted hydrology report. Mr. Webb reported that the existing culverts are adequate and the pond would actually serve to attenuate the storm flows.

Chairman Kaputa said that he visited the site with Mr. Mocko and was troubled by what he saw. There were a series of wetlands violations, excavations, altering the channel, draining the wetlands, etc. Chairman Kaputa noted that he is less troubled after reading the material in the

application packet. He noted that the project seems to be moving in the right direction. Chairman Kaputa explained that there are 2 separate issues: the wetlands and the conservation easement. He stated that they must keep these two issues separate.

Mr. Webb remarked that he has not dealt with conservation easements and leaves that to an attorney. Chairman Kaputa explained that the land is tied to a legal document that is in favor of the Town. He said that the Conservation Commission is charged with maintaining it.

Commissioner Davis asked for clarification on the misunderstanding. Mr. Mocko explained that the applicants wanted to plant apple trees in the conservation easement. He informed them that it is permitted because the area was originally an orchard. Language in the conservation easement states that the land shall be kept in its current condition. Mr. Mocko noted that many years ago, a property put in a hayfield in the conservation easement, and it was determined to be legal because the area was originally a hayfield. He continued, saying according to his understanding of wetlands law, no permit is needed to build a farm pond in areas measuring 3 acres or less, as long as spoiled material and debris are not put into the wetlands. Mr. Mocko noticed the violations during the following site visit. The land was cleared of trees, the stumps and surface stones were removed, and stones were placed in the downhill receiving watercourse. These actions were the misunderstanding. Mr. Mocko added that, once he had told the applicants to stop and asked them to hire consultants, they immediately complied. Mr. Mocko said that he believes the violations were not done with malice and believes it to be a misunderstanding.

Commissioner Davis remarked that it is good to hear. He noted that the Commission should keep in mind the history and heritage of the Town and encourage business opportunities that promote the best interest of the Town in a safe and responsible way, while protecting the wetlands. Commissioner Davis remarked that it is worrying when developers take away orchards to build houses. He noted that this application is one that is bringing in an apple orchard and the Commission should help them achieve this, because it is beneficial to the Town.

Chairman Kaputa said that large machines were brought to the site, the area was regraded and the stumps were removed. He noted that the violations are as bad as it gets. Mr. Webb explained that, when he took on the assignment, he was preparing to get a wetlands permit. He also reported that he started questioning the decisions that were made. Mr. Webb said that he consulted with Mr. Mocko and will restore the area. He acknowledged that permission was not granted to clear the land and reiterated that it is a gross misunderstanding. Mr. Webb said that he understands that the violations are not minor and they will take corrective measures.

Secretary McClain agreed with Mr. Mocko's assessment and agrees with the points made by Commissioner Davis. She remarked that it is better to ask for forgiveness and move forward. Secretary McClain commented that applicants should adhere to the process and not make assumptions.

Commissioner Davis inquired whether the application would have been approved had it come in before any work was done. Mr. Mocko explained that a lot of agricultural activities are exempt from wetlands regulations. This includes the building of roads and structures that are directly related to the agricultural operations. Mr. Mocko said that it is clear that the legislature did not

want to create regulatory obstacles for farming. He noted that he is familiar with the site contractors performing the work to date and they have done very good work on the site. They have incorporated a crop cover through reseeded, and have put in other stabilization improvements. Mr. Mocko remarked that they did cross the line and it resulted in violations. He noted that the digging of a channel in a wetlands area should require a permit.

Commissioner Davis inquired if there are any reservations about the condition of the water in relation to the levels of fertilizer and pesticides. Mr. Mocko pointed out that fertilizers and pesticides cost money, and that farmers save money by putting down the least amount of fertilizer and pesticides. Mr. Mocko explained that farmers have training in pesticide applications. He remarked that there will be detectable collateral impacts upon the wetlands and they would be more so in the case of the construction of a house and lawn. Mr. Mocko commented that Mr. Webb has put together an effective restoration plan.

Commissioner Hawkins agreed with the point made by Secretary McClain. She added that she agrees with Commissioner Davis and wanted to voice her agreement for the cider orchard.

Commissioner Shea said that he is fine with the solution to remedy the violation. He added that he agrees with Mr. Mocko's assessment. Commissioner Shea remarked that the property will end up being in a better state than it had been previously.

Commissioner Parry mentioned that he has friends in that area and has been visiting the area for over a decade. He noted that the area was degrading and full of dying trees. Commissioner Parry also mentioned that there were plans for a 6-lot subdivision. He noted that the current plan of transforming the area into an apple orchard is something that he and his friends are excited about. Commissioner Parry noted that he has heard about the project for a few months, before joining the Conservation Commission. He noted the involvement of the very experienced Bussa Orchards is another reason why the project is exciting. Commissioner Shea said that he is glad to hear the comments about the neighbors. He noted that he was going to ask how the surrounding neighbors feel about the project. Commissioner Parry commented the he does not know if all of the neighbors are in favor of the project; he only knows that his friends in the area are in favor.

Mr. Webb stated that the old field stone wall located on the conservation easement is dilapidated, with large boulders piled on top of it. He explained that, after consultation with Mr. Mocko, they are committed to reconstructing the field stone wall and removing the large boulders. The stone wall will be restored, preserving the historic New England landscape. Mr. Webb reported that the proposal will create and enhance edge wildlife habitats. Mr. Webb added that the 1,000 apple trees will also contribute to an overall enhanced habitat.

Chairman Kaputa agreed with Mr. Webb's assessment on edge habitats. He noted that historically, the Conservation Commission is in favor of preserving field stone walls. Chairman Kaputa pointed out that most of that wall is in the conservation easement, which has to be discussed. He asked Mr. Mocko for more information on the altered wetlands. Mr. Mocko explained that it was a forested wetlands. The abutting property to the east has an existing conservation easement.

Chairman Kaputa inquired about the channels and noted that they appear somewhat defined on the available mapping. Mr. Mocko stated that he did not see any defined channel prior to the land clearing. He noted that the leaves were still on the trees, it might have been last fall when the conditions were dry. Mr. Mocko added that he did not see any signs of a watercourse; he noted that there may have been a drainage way. Chairman Kaputa asked who flagged the wetlands. Mr. Mocko replied that it was Mr. Richard Snarski, Registered Soil Scientist. Chairman Kaputa asked when it was done. Mr. Webb replied that it was this past May, and the information is located in the packet. Mr. Mocko remarked that he reduced the site plan document dimensions to 11" by 17", which probably made the soil scientist's information difficult to find.

Mr. Webb explained that the undefined channel measures approximately 1/10th of an acre and will be lined on each side with wetlands shrubs in an effort to create some shade and keep the water as cool as possible. He directed the Commissioners to the planting list and noted that winterberry holly is a little bit taller and the berries will not interfere with the apple trees. Chairman Kaputa noted that there were 12 plant species previously, and now it is 6. He asked Mr. Webb to explain the change. Mr. Webb mentioned that they would like to utilize a sufficient number of species, but not all species are available. Chairman Kaputa noted that the concern is that there is not enough variety. Mr. Webb explained that the shrub species are generally available at the nursery they use. He added that the place is good about keeping stock of plantings. Mr. Webb noted that any changes or deviations will be approved by the Commission first, as stated in the application materials.

Mr. Mocko asked if there are any questions for Mr. Sebastian Amenta, P.E., who will answer all hydrology-related questions. Chairman Kaputa remarked that Vice-Chairman Temple typically has hydrology questions, and added that he is not here tonight. Mr. Amenta replied that he is happy to stay on. Commissioner Parry remarked that he did not see anything concerning in the hydrology report. Mr. Amenta remarked that it is a straightforward project.

Commissioner Davis noted that the proposed conservation easement is twice the size of the other easement. He also noted that the conservation easement is not connected and solitary. Several Commissioners agreed. Mr. Webb noted that the existing, smaller conservation easement is isolated as well. Chairman Kaputa noted that the smaller conservation easement is a strip that is actually connected on the eastern side.

Chairman Kaputa asked the Commissioners and Mr. Mocko if there were any wetlands questions. Mr. Mocko reported that the only item that the applicants need is a wetlands permit for the construction of the proposed pond's outlet channel. He again noted that there are some farming and agricultural activities that are permitted as of right by regulations. Chairman Kaputa replied that they will need to take a closer look at the regulations. Commissioner Parry remarked that State Statutes regulate this.

Mr. Mocko began reading a passage from the regulations beginning with Section 4.1, while noting uses that are permitted as a right, including farm ponds of 3 acres or less. Mr. Mocko noted that the language does not include watercourses. He explained that the proposed farm pond is less than 3 acres, and specified that no fill from excavating the pond need to be deposited

into the wetlands. Mr. Mocko explained that the only thing he sees as being regulated is the construction of the 2-foot wide channel connecting to the watercourse. Commissioner Parry thanked Mr. Mocko for locating the information.

Chairman Kaputa stated that fill has already occurred in the wetlands. Mr. Mocko asked how so. Chairman Kaputa replied that big machines were used on the site. Mr. Mocko does not believe fill was put into the wetlands and that the land surface was regraded. Chairman Kaputa explained that when the large machines were used, the earth moved and settled, some of which ended up in the wetlands. He noted that the creation of a channel is not exempt. Mr. Mocko concurred that a channel is not exempt. Chairman Kaputa asked the Commission if they were in agreement. The Commission agreed that a wetlands permit will be required. Mr. Mocko explained that a watercourse is created to drain the pond and added that it is the only aspect that requires a wetlands permit. Mr. Webb agreed.

Chairman Kaputa wanted to confirm that what is excavated out of the pond is moved up the hill and away from the wetlands. Mr. Webb replied yes, and the excavated material will be relocated to just downhill from the house, and he added that it will be away from the upland review area as well. Chairman Kaputa remarked that it will not be far from the upland review area. He asked if the area was marked on the map. Mr. Webb reported that the fill will not be placed in the upland review area. He pointed out the red lines on the site plan and explained that they are excavations, and not fill. Mr. Webb reported that, when the stumps were taken out, no fill was placed in the wetlands area. He explained that the area is now wetter and he is confident the shrubs and plantings will survive. Chairman Kaputa thanked Mr. Webb for his explanation.

Mr. Webb remarked that he would prepare an application showing the channel in detail. Commissioner Parry inquired if that is upstream from where the pipes are. Mr. Webb replied yes. Commissioner Parry asked for confirmation that the pipes are clear and free-flowing. Mr. Webb explained that the pipes were installed by the land owner for the creation of a turnaround on their driveway. He noted that the pipes were installed, but it was determined not to be their property. The pipes are just there. Commissioner Parry noted that there is no purpose for them. Chairman Kaputa suggested the applicants remove the pipes and explained that keeping them on the site might cause a problem with the drainage in the future. Mr. Amenta stated that he would recommend the pipes be removed. He added it is better hydraulically. The Commissioners were in agreement about the removal of the pipes. Mr. Webb stated that he will include that in the application.

Mr. Amenta excused himself from the rest of the meeting, first asking if there any questions pertaining to hydrology. No additional questions were asked. Mr. Amenta thanked the Commissioners.

Chairman Kaputa explained that the conservation easement that the applicants want to swap is a strip of land that was given to the Town in 1998. He said that the owners that had gifted the conservation easement might not have wanted any changes and might have preferred for the land to remain as is.

Mr. Webb inquired if it would be possible to get a farm road through the conservation easement. He noted that, although violations took place, it is a good project. Mr. Webb remarked that the conservation easement is a legal document and asked if they can change the conditions, allowing them to put in a road to have access. Chairman Kaputa said that he might be open to that, adding that he is usually a hardliner when it comes to conservation easements. Chairman Kaputa said that he might be open to granting the applicants an access road, but is not sure. Granting a road might create problems. Mr. Webb noted that granting just the width of the path works. Chairman Kaputa asked the Commissioners to comment.

Secretary McClain said that she is on board with putting in a farm road, but noted that it might lead to someone in the future upgrading the road and creating a driveway. Secretary McClain noted that there is concern about what will happen. Chairman Kaputa recommended that the language in the conservation easement is phrased in a way that would prevent an upgrade to the road. He added that it must remain natural.

Commissioner Parry recommended that the Commission use an agriculture approach. He explained that the uses should be limited to agricultural purposes, and added that restrictions can be placed to prevent other activities. Chairman Kaputa remarked that Commissioner Parry raised a great point and added that the conservation easement seems pretty standard. Chairman Kaputa suggested that the Town keep the easement and allow an exemption for a farm road.

Commissioner Shea stated that he is in agreement. He inquired who would be responsible for modifying the language. Mr. Mocko explained that, generally, legal counsel for the applicants/developers write up the agreement. Commissioner Shea suggested the Commission provide input in how the language should be phrased. He added that he agrees with Commissioner Parry's point on agricultural use.

Mr. Webb said that he is in agreement with the Town keeping both easements and allowing just an encroachment in the form of a farm road, to provide access. Chairman Kaputa remarked that the Commission is still discussing the details.

Commissioner Davis remarked that easements are there for a reason and added that rarely do they follow contours. He noted that the conservation areas that are donated are usually leftover pieces. Commissioner Davis noted that he appreciates Commissioner Parry's approach. He also suggested that modifications can be granted if it is in the Town's general interest and promotes business without compromising the environment in any way. Commissioner Davis noted that he personally likes to remain flexible in such situations.

After further discussion, Mr. Mocko said that he will assign a staff member to find the minutes from the 1998 meeting. He explained that it might shed light on the details and purpose surrounding the conservation easement. Chairman Kaputa inquired whether Mr. Mocko recalled any details from that meeting. Mr. Mocko explained that the leadership of the Commission asked for a conservation easement for the creation of a buffer for the wooded area. He noted that the area was an existing orchard. Chairman Kaputa noted that the Commission has to be careful and added that they are charged with protecting the conservation easement and not giving it away because a property owner/developer wants it. Secretary McClain remarked that it would

be useful to see the 1998 minutes. She also noted that she understands the point Commissioner Davis had made and agrees with what Chairman Kaputa outlined.

Commissioner Davis explained that they are getting an additional conservation easement that is twice the size, which is a net gain and not a swap. Chairman Kaputa remarked that it is a good point. He asked Mr. Webb why the applicants chose that specific location for the proposed conservation area.

Mr. Webb replied that he wanted to give a portion of land that would provide an extra buffer to the wetlands. He noted that it was a starting point for a discussion. Mr. Webb reiterated that he is not really familiar with conservation easements and has always left it to the lawyers.

Chairman Kaputa noted that everyone seems to be ok with the farm road as an exemption or exception and accepting the new easement. He asked the Commissioners if they are all in agreement. There was unanimous agreement. Chairman Kaputa asked Mr. Mocko if he could proceed with writing the language of the conservation easement. Mr. Mocko remarked that lawyers usually write up the agreements, but he would try.

The Commission asked the applicants to provide more information on the following:

- Wetlands permit application for channel creation
- Removal of the existing pipes under the driveway turnaround used by the #524 Matson Hill property
- A new conservation easement agreement and modifications for the existing agreement

Mr. Webb inquired about the timeline for the next meeting. Mr. Mocko remarked that it depends when the application is submitted and that the meeting might be in July. Mr. Webb felt that a July meeting is realistic and thanked the Commissioners and Mr. Mocko.

There were no public comments.

II. APPROVAL OF MINUTES

a.) Meeting of May 13, 2021

Chairman Kaputa reported that he had 2 minor corrections. He noted that Commissioner Hawkins arrived at 6:31pm and, for the purpose of accuracy, it should be reflected. Commissioner Davis remarked that a minute late is not worth mentioning.

On page 8, it is written “Attorney Hope asked the Commissioners if they wanted to revise the plan to replace the culvert. Chairman Kaputa replied no and thanked the applicants.”

Chairman Kaputa noted that the wording was close, but explained that the sentence should read more clearly. He noted that, based on the recording, the passage should be changed to “Attorney

Hope asked Chairman Kaputa if he wanted the wetlands map revised to show the culverts better. Chairman Kaputa replied no.”

On page 5, the first paragraph about tier 2 refers to the vernal pool and not egg masses.

Motion by: Commissioner Davis

Seconded by: Commissioner Parry

MOVED, that the Inland Wetlands and Watercourses Agency accepts the minutes of May 13, 2021 as corrected and amended.

Result: Motion passes unanimously. (6-0-0)

b.) Meeting of May 27, 2021

Chairman Kaputa pointed out that on page 2, the first paragraph, the beech tree is 30 inches in diameter, and not height.

On Page 3, the sentence in the top paragraph reads, “Chairman Kaputa noted that historically the TPZ recommends a sidewalk.” “TPZ” will be changed to “the Conservation Commission.”

Motion by: Commissioner Hawkins

Seconded by: Secretary McClain

MOVED, that the Inland Wetlands and Watercourses Agency accepts the minutes of May 27, 2021 as corrected.

Result: Motion passes. (5-0-1) with Commissioner Parry abstaining.

III. COMMENTS BY CITIZENS ON NON-AGENDA ITEMS - NONE

IV. OTHER BUSINESS

1. Chairman’s Report

Chairman Kaputa asked the Commissioners if they received an email from Glynis regarding the ethics video; they had not. Chairman Kaputa stated that he will send that out. He explained that, for ethical reasons, certain discussions may have to be avoided, as the discussion might be considered a meeting without minutes kept.

2. Environmental Planner’s Report

Mr. Mocko informed the Commission that there is another meeting in 2 weeks. Chairman Kaputa asked about the agenda. Mr. Mocko noted that it will include the proposed subdivision on 1040 Main Street by Carrier Construction. He explained that, on their own volition, they have reduced the lots from 8 to 7. Mr. Mocko remarked that it is a nice gesture and done because of the concerns about activity near the vernal pool and wetlands. Chairman Kaputa remarked that it is unusual and nice.

Mr. Mocko stated that the MS4 requirements have not been resolved yet in the Parker Terrace application. He also informed the Commission that there is a proposal for a pickleball court located at Riverfront Park, which is within 150 feet from the Connecticut River. He said that it can be heard informally and, if the Commission is in agreement, a staff administered wetlands permit can be issued. Chairman Kaputa remarked that, either way, they will see them informally. Mr. Mocko replied yes.

Mr. Mocko noted that unless legislative action is taken, the Commission will have to return to in person meetings in July.

With no other business to discuss, Chairman Kaputa adjourned the meeting at 8:25 P.M.

Respectfully Submitted,

Nadya Yuskaev

Nadya Yuskaev

Nadya Yuskaev
Recording Secretary