

**Town of Becket Conservation Commission
27 August, 2019 Meeting Minutes**

Commissioners in Attendance: Vice Chair David Johnson, Meredyth Babcock, Cindy Delpapa, Henry Scarpo and Agent Mary Stucklen.

Commissioner not in Attendance: Alison Dixon

Members of the public: Barbara Wacholder, Bob gross, Kathy Didinse, Dave Didinse, Lauren Sullivan, Carl Rosentstein, Chris Swindlehurst, Lee Blatt, Al Blake, Tommie Hutto-Blake, Steven Reiss, Gabrielle Murphy, Ariel Katz, Elise & Craig Fitzsimmons, Linda Gurski, Lee & Bob Hirsch, Alex Garberg, and Bill Tosch.

Vice Chair Johnson called the 27 August 2019 Becket Conservation Commission meeting to order at 6:35 PM, read the meeting guidelines and asked if anyone was recording the meeting. No recording was being made.

Public input and comment for items not on the Agenda. None offered.

New Business:

A Request for Determination of Applicability submitted by Fred Zimmel of 31 Bow North (Map 213, Lots 54,55,56) for the installation of french drains along the side of the house. Commissioners visited the site. Neither the applicant nor a representative was present. This project involves the installation of a french drain along the side and back of the house, the back of the house faces the lake, to help with runoff from a single-family house. No sump pump discharge will be direct to the proposed french drain. The 4 inch pipe will require minimal disturbance and a silt fence will be installed between the work area and the lake. Any areas disturbed during the drain installation will be reseeded at the completion of work. During the site visit the Commissioners noted there was fencing near the lake edge (wildlife fencing) and a wide mowed path along the lake. The pathway is wider than allowed under the WPA without filing a RDA/NOI. The applicant did not indicate a willingness to delay this RDA for a french drain to incorporate the path and fencing under WPA jurisdiction. Commission discussed the request and requiring clean gravel be brought to the site for the drain to prevent the introduction of invasives as a condition to the RDA decision. Motion made to issue a negative determination #3 for the installation of french drains along the side and back of the house at 31 Bow North (Map 213, Lots 54, 55, 56) with the additional condition that clean gravel be used at the site to prevent the introduction of invasive species, (Scarpo/Babcock). Gabriel Murphy, a neighbor, asked if the french drains might wick lawn care chemicals, if used, into the lake. Commissioners felt, given the topography, the french drains will capture roof runoff and little if any lawn runoff. Agent Stucklen reported she has begun a conversation with the landowner about the wildlife fence and path. Vote called. MSV.

A Request for Determination of Applicability submitted by Judy Latz of 233 Old Pond Road (Map 210, Lot 46) for the installation of rocks along the property's waterfront area. Commission visited the site. A. Katz, on behalf of the applicant, explained the old wall along the shore has deteriorated over time exacerbated by an increase in power boats on the lake creating wakes that erode the shoreline. Construction contractor recommended rocks to protect the lake edge from wakes and shore up the wall. The stones would be carried to the lake edge. Commission asked what machinery would be used to complete the work. A. Katz said a contractor has not been selected so the construction methods are not known. Commission noted during the site visit the rocks had shifted forward and either side of the wall was well vegetated. Motion made to issue a negative determination #2 to allow the placement of rocks along the waterfront area at 233 Old Pond Road (Map 210, Lot 46) with the additional condition that when a contractor is hired the Commission must receive for review a plan on how the work will be completed, (Babcock/Scarpo). MSV. Agent Stucklen will send a letter to the applicant requesting the methods to be used to complete the project.

A Request for Determination of Applicability submitted by Indian Lakes Association of Indian Lake and Niskayuna Pond on Seneca Rd (Maps 218/218/219, Lots 123, 124/180/221) for the hand pulling and removal of invasive aquatic species. Agent Stucklen apologized for the mistake on the agenda- the RDA is for the removal of nuisance, not invasive, aquatic species. B Wacholder, representing the Indian Lakes Association, provided a

map showing the locations of the bladderwort which grew during the heat of this past summer. The Association is looking for permission to hand pull this rootless plant as all of the lake management companies are busy and not able to address the issue this season. Would like permission to be allowed to hand pull for the next two years and be permitted to move to diver assisted suction harvesting (DASH) if the hand collection is not successful by July 2020. DASH is able to collect the plants without disturbing the lake bottom. Commission asked where the harvested plants would be disposed of? B Wacholder reported the Association is looking into renting a dumpster but they are open to recommendations. Commissioner was concerned this lake management work is separate from the already permitted lake drawdown amounting to a segmenting the lake's management and not using a big picture planning and management effort. Motion made to issue a negative determination #3 for the hand harvesting only of bladderwort on Indian Lake and Niskayuna Pond only until the 2019 lake drawdown begins in October. All harvested plants will be dewatered on-site in an upland area before the plants are disposed of in an acceptable manner, (Babcock/Scarpio). MSV.

A Notice of Intent application submitted by the Department of Conservation and Recreation for the initiation of an Aquatic Management Program to control nuisance aquatic plants and maintain future vegetation at Buckley Dutton Reservoir (Map 203, Lot 1; DEP File #102-0446). L Sullivan, of SoliTude Lake Management, was in attendance on behalf of the applicant. She stated a SoliTude biologist visited the reservoir this past June and noted dense bladderwort growth in the south cove. The goal is to manage bladderwort with limited mechanical harvesting of 4 acres of the reservoir "to get the density under control. This work can be a factor in fish, wildlife and recreation." The work does not involve dredging. The harvested bladderwort will be dewatered on the shore and moved to upland for disposal. A small amount of bank will be impacted as an egress point for the harvester.

Commission noted neither the data collected or a report from the June site assessment was included in the NOI application. L Sullivan said the report can be supplied to the Commission along with the vegetation distribution map omitted from the electronic NOI packet. Agent Stucklen wished to let everyone present know that no decision can be made by the Commission on this application until the MA Natural Heritage's findings are received. Also, a site visit has yet to be arranged with the applicant or a representative- a practice of the Commission's for NOI projects.

The Commission had many questions for L Sullivan about the proposed project. Agent Stucklen asked for clarification on the plant species to be harvested. L Sullivan stated the majority of the harvested plants will be bladderwort, white and yellow water lilies. In follow-up, it was asked if the lilies are rooted plants. L Sullivan confirmed the lilies are a rooted plant. The harvester will dislodge the entire plant including the roots and this method can take-up some of the organic matter. She compared the mechanical harvester to a lawn mower. Commissioner asked how often the biologist visited the reservoir. L Sullivan said the visit was on 25 June for a half day. The biologist used a boat to perform the field inspection. Question was asked about the rationale of removing the water lilies in a cove where there is no swimming? Agent Stucklen asked if motorized boats are allowed in the reservoir. L Sullivan assumes they are allowed. Agent Stucklen was out at the reservoir in June and noted a great many stumps in the south cove. L Sullivan said the area was harvested previously in 2008. Agent Stucklen requested a summary of all the past lake management efforts in the reservoir be included with the other material requested. Commissioner asked about the amount of disturbance associated with this work- the NOI application list the impact as 30,4920 on page 1. Was this meant to be 30,492.0 or 304,920? L Sullivan believed a decimal point was misplaced and the amount is 30,492.0. Commissioner noted this is the equivalent of 0.7 acres- far less than the 4 acres to be harvested cited earlier in the discussion. If 304,920 was meant to be the number in the NOI this amount would translate to 9.1 acres, an area significantly different than 4 acres mentioned earlier. Commissioner requested this huge discrepancy in the amount of area impacted be clarified in any supplemental materials. Commissioner also noted the MA Department of Environmental Protection (DEP) lists the only impairment for the reservoir as mercury in fish tissue, a situation unaffected by the harvesting, for which there is a completed TMDL. The reservoir is not listed on the state's Clean Water Act required Integrated List of Waters as a category 4- a waterway impaired by something other than a pollutant including nuisance aquatic plants. The reservoir is also not included in the category 5 waters, impaired by a pollutant and requiring a TMDL, which would be the case if the waterbody was found to be eutrophied. Given the MA DEP findings, does the applicant have data showing there are elevated nutrient levels or other indications of cultural eutrophication? L Sullivan was not sure. Commissioner asked if there is a current whole Lake Management Plan for Buckley Dutton? L Sullivan was not sure. Commissioner asked how the biologist defines dense growth as there was no definition of 'dense growth' or data from the June site assessment in the NOI. L Sullivan explained

density was determined by the amount of plant materials brought up on a rake dragged through the plant bed. Commissioner asked L Sullivan to explain how this project would be a benefit to water quality as the area to be harvested involves less than 2% of the lake area and there was no water quality data provided to document the existing water quality impairments, such as data showing the anoxic condition mentioned in the NOI. The NOI didn't provide data or citations to support the statement that the "filling in of the reservoir will occur at an accelerated rate" if the harvesting of these native plants is not done. There was also no information, explanation or citations to support the statement in the NOI that the plant harvesting will assist in flood prevention.

Vice Chair Johnson opened the public hearing at 8:17 PM. C Rosenstein stated his opinion that the proposed project is serious matter and will do damage to the lake. He provided the Commission with images taken at Buckley Dutton the previous week and believes the images accurately show there is minimal bladderwort and no water lilies in the target area. C Rosenstein also showed images of two loons on the lake. He also stressed the filing is using the Ecological Restoration Limited Project exemption. Under CMR 10.53(4) the Ecological Restoration projects must improve the ecological conditions, in this case improve the ecology of Buckley Dutton, and fulfill all of the requirements related to Ecological Restoration Limited Project. His opinion is the broad and unsubstantiated statement at the beginning of the NOI, "improving habitat values and control nuisance growth and improve open water habitat and reduce eutrophication" lacks any scientific data to support the statement in the NOI. C Rosenstein questioned how a large lake could be understood in under a day of assessment? The NOI states bladderwort is invasive in one section (8.0) with a contradictory, but correct, description as native in another section (3.0). Bladderwort is used by wildlife for food, shelter and habitat. Water lilies are a natural resource and used for food by wildlife. The issue of safe recreation was raised but recreation is not an interest under the Act. Also there is easy access to Buckley Dutton at the dam and ample open water for recreation.

Commissioner Babcock there has been repeated sightings of a pair of nesting loons on Buckley Dutton for the past two years. Vice Chair Johnson also explained, in response to a question about the Commission being predisposed to a decision, that the Commissioners have taken an oath to uphold the state's Wetland Protection Act and its regulations. They will deliberate and make their decision based on the facts and what the regulations require.

L Blatt confirmed he received a notice as an abutter- one of four landowners on the lake and the only one attending the meeting. He explained a former Commissioner, Martin Winter, visited the cove years ago and saw the condition of the cove. When his boat tipped he was stuck in muck and needed assistance to extricate himself. Vice Chair Johnson asked how harvesting the vegetation would reduce the concern about muck? L Blatt gave a brief history of the lake management done over the years. When he arrived in the 1980's there was mechanical harvesting followed by chemical application in 2014 and now the management is returning to mechanical harvesting. He felt there is no total solution, only an attempt to beat back the weeds. Like mowing a lawn, you mow a lawn because the grass gets long, and the cove is trying to become a meadow and must be mowed. L Blatt reported the only lawn on the lake was on his property, the other properties are too steep, and the geese invade his lawn. Commissioner Babcock recommended adding a vegetated buffer to deter the geese. L Blatt reported he has tried physical buffers to little success.

A Blake introduced himself by explaining he is on planning board, zoning board, energy committee. He is not an expert but paddled out to the cove yesterday and found almost no lilies in the cove. He asked if there might be a discrepancy between when the biologist reported reservoir conditions – if it was after the NOI was filed? A Blake cited MGL 310 10.56 (3) and the presumption that performance standards were met by this work- particularly 4.3, and 4.4; This application does not comply with the pertinent MA General Law and its supporting regulations.

S. Reiss finds Buckley Dutton a beautiful place and is of the opinion that if it is not broken – don't fix it. He does not want to see anything done.

B Hersch thanked the Commission for its due diligence. He would like to see the reservoir managed holistically and the whole lake is considered and not just one small piece.

Agent Stucklen read into the record the written comments (attached) received regarding the NOI from: Amy Perlmutter; Alexander Garberg; Deborah & Michael Levin; Michael Berry; Will Rodgers (voice mail summation); Carl Rosenstein (2 emails); Ted Greenwood; Shelley Chandler; Stacey N., Pasquale Crispo & Linda Gurski; Emily Heffner Davidson & David Davidson & Martha Heffner Pollack & Hugh Pollack & Alice Heffner & Alan Lieber; and Julie Germaine. None of these commenters were in favor of the project. Motion made to continue the Public Hearing for the Notice of Intent application submitted by the Department of Conservation and Recreation for the initiation of an Aquatic Management Program to control nuisance aquatic plants and maintain future vegetation at Buckley Dunton Reservoir (Map 203, Lot 1; DEP File #102-0446) to the 24 September, 2019 Becket Conservation Commission meeting, (Delpapa/Babcock). MSV.

In response to repeated interruptions during the hearing and while the letters were being read despite requests to not speak until recognized, Vice Chair Johnson asked L Blatt to leave the meeting. L Blatt left the meeting.

Commissioner Babcock related her experience relative to the chemical application project five years ago. She filed a FOIA request with the DCR for all materials related to the project. Because the DCR indicated fulfilling the request would require the agency to charge a significant fee to cover the time needed to compile the information Commissioner Babcock did not pursue the request.

There was discussion about whether the letters had to be read aloud in their entirety during the meeting or if they could, in future, be summarized stating the pertinent points and attach letters to the minutes in their entirety. The request to remain civil and to avoid unsubstantiated defamatory / accusatory language was not possible to uphold if we are bound to reading the letters allowed, regardless of their content and significance. David Johnson requested that we seek council on this matter.

A Request for a Certificate of Compliance for the Crystal Pond Dam (map 413, Lot 75; DEP File Number 102-0437) by Crystal Pond Homeowners Association. Order of Conditions was issued June 19th, 2018 for work to repair the dam located on Crystal Pond. Agent Stucklen visited the site both before and after the project work. She found the grass on the top of the dam dry but there is more than 75% of viable growth. Some debris was noted, and the applicant agreed to have it removed. Motion made to issue a full Certificate of Compliance for DEP File No. 102-0437 to the Crystal Pond Homeowners Association for work to repair a dam on Crystal Pond, (Delpapa/Scarpo). MSV.

Continuing Business

A Request for a Determination of Applicability submitted by Green Pillow LLC. Of 29 Chester Rd. (Map 414, Lot 37, 37.2) for the replacement of a septic system. The applicant, Ofer Zarius, was reached by phone. The Commissioners explained the location of the proposed dewatering box was within 100 feet of the river and needed to be moved as far as possible outside of the 100 foot inner riverfront area as possible. He promised an updated plan would be provided with the dewatering structure moved outside of the inner riverfront area. Motion made to revisit the RDA submitted by Green Pillow LLC for the replacement of a septic system at 29 Chester Road (Map 414, Lot 37, 37.2) until 4 September, 2019 at 6:30 PM at Becket town hall, (Delpapa/Babcock). MSV.

Additional Items:

Summary of Agent site visit to 143 King Richard Drive (Map 217, Lot 217; Map 216, Lot 279) following a community member's concern regarding a project's proximity to Little Robin Lake. Agent Stucklen received a call from a concerned citizen about activity in the buffer zone. A three car garage is being built at the site but it is 130 feet from Little Robin Lake. There was a large pile of soil onsite and a filter fence was in place even though it was not required. The owners had spoken to former Conservation Agent Parsons before beginning the work and was cognizant of the 100 foot buffer and the need to file if any work would be in the buffer. Agent Stucklen followed-up with the concern citizen explaining a site visit had been conducted, which included measuring distances and inspecting the work area, and found no work within a jurisdiction area. Mr. and Mrs. Fitzsimmons were present and explained a police officer arrived at their house with a letter from the Commission. There was also a call from the Building Inspector. All of this was harrowing ("3 days of hell"). Agent Stucklen recognizes this is a learning experience.

*Update Re: **Enforcement Order** for A. and V. Bleier, 819 Bonny Rigg Road (Map 416, Lot 23) for unpermitted work impacting bordering vegetated wetland, buffer zone, and intermittent stream; and **Enforcement Order** issued to L. and N. Dean, 765 Bonny Rigg Road (Map 416, Lot 22), for work impacting bordering vegetated wetland, buffer zone, and intermittent stream.* Agent Stucklen visited the site before the work began. This past Saturday's site visit was canceled as the work had not been completed though the stream had been reconnected and rocks placed. The berms are still in place. An environmental consultant will be hired and should file a report before the September site visit.

Two Emergency Orders were issued this past month. One to the Becket Motel to address two trees threatening utility lines. The town's assistant Building Inspector verified the threat. Agent Stucklen requested 10 foot stumps be left if possible and the wood removed from the site. Motion made to ratify the Emergency Order for the removal of two trees at the Becket Motel, 29 Chester Road (Babcock/Scarpo). MSV. The second EO also involved a tree gnawed $\frac{3}{4}$ way through by beaver. It was proposed the tree be placed on the bank of Big Robin Lake. No machinery will be used. Motion made to ratify the Emergency Order to Sherwood Forest Lake District to drop a tree at Map 216, Lot 453, (Babcock/Scarpo). MSV.

Update: Agent, Board of Health Clerk, and Town Administrator meeting re: agent position. Agent Stucklen explained the Board of Health clerk works for three different Boards but is only part time though the work load is such it could be full time for just the BOH work. Agent Stucklen talked with the town administrator about the possibility of sharing the Conservation Agent with other communities to make create a full time position which would make it a more attractive and stable position. Another alternative would be for the Conservation Agent take on the Planning and Zoning boards clerk duties to make a full time position and the Board of Health clerk become a full time position for the BOH only. The town administrator agreed to discuss with the Financial Committee. This change would require a vote at town meeting.

Conservation Commission vacancies. There are two vacancies.

Commission received a Forest Cutting Plan for a lot on Tyringham Road. There does not appear to be wetland resource areas involved.

Commission received a notice about a Public Hearing for the construction of a house at 22 Dragon Way.

Consensus was to defer several items to the special meeting next Wednesday.

Motion to Adjourn, (Johnson/Babcock). MSV. Vice Chair Johnson adjourned the meeting at 10:47 PM.

Next meeting: Special meeting September 4th, 2019 at 6:30 pm.

Action Items:

1. Agent Stucklen will send a letter to the applicant requesting the methods to be used to complete the project at 233 Old Pond Rd.