

APPROVED



Mayor Joseph C. Sullivan

Department of Planning and Community Development

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**CONSERVATION COMMISSION
MEETING MINUTES
THURSDAY, NOVEMBER 5, 2009 7PM
FLETCHER HALL – TOWN HALL**

Public Hearings

None

Other Business

Members Present: Patrick Flynn, Chair
Gus Murphy, Vice Chair
Gail Feldman
Alan Weinberg

Staff: Kelly Phelan

Sunset Lake – November Weed Treatment Filing

Staff explained that she was preparing the Notice of Intent application for Sunset Lake Weed Treatment. [Weed treatment has been occurring under an Order of Conditions issued in 1994 and it is time for an updated permit.] The state Natural Heritage and Endangered Species Program (NHESP) mapped the lake as Estimated Habitat of Rare Wildlife beginning in 2006. Because it is mapped as Estimated Habitat, NHESP review is required. NHESP requires a filing fee. Staff inquired with NHESP to see if municipalities are exempt from filing fees. NHESP responded that municipalities are not exempt and that the fee for this type of project would be \$300.

Ms. Feldman asked for clarification of what the fee was for. Mr. Flynn said that it is a permit fee. NHESP reviews work within their mapped habitat areas to ensure that it does not impact rare species. Motion by Mr. Murphy to pay the \$300 permit fee for the weed treatment filing. Second by Ms. Feldman for discussion.

Mr. Weinberg said he could not vote for the motion without more information.

Mr. Murphy withdrew his motion.

Mr. Weinberg asked staff to check with the Massachusetts Association of Conservation Commissions to see if other towns have had to pay filing fees to NHESP and to have staff from NHESP come to the Commission's next meeting.

Staff said she would provide the section of the Wetland Protection Regulations which requires NHESP review when working in mapped habitat as well as the map itself.

Enforcement Procedures

A recent enforcement conference attended by Ms. Feldman and staff provided clarification on the process by which the Commission can issue fines for violations.

Under the town's general bylaw, Chapter 1.08.020, the Commission is given the authority to issue fines through "non-criminal disposition" processes for violations of the wetland bylaw. The fines are \$50 for the first violation, \$100 for the second violation and \$300 for the third violation. Each day that a violation remains in effect can result in another fine.

The Town has "ticket" forms in triplicate on which to issue the citation and fine amount. One copy is sent to the District Court, one to the Town Clerk and one to the violator. The violator has 21 days to pay the fine at the Town Clerk's office or can request a hearing with the District Court. If the violator does not pay the fine within 21 days, the Town can file a complaint in District Court.

The Town of Topsfield gave a presentation at the conference on their use of the fining procedure to gain compliance. They also have a ticketing form which they created and had approved by their District Court.

Mr. Murphy noted that the ticket form does not have a line for the violator's address. The address must be included on the form so that the Court knows how to reach the violator.

Ms. Feldman said that the fines must only be used for serious violations and that education and warnings are the first steps.

Staff explained that she always asks for voluntary compliance through letters and phone calls. Fines would only be issued if someone ignores the repeated requests for compliance.

Mr. Weinberg suggested staff get a photo ID card to show for site visits.

Ms. Feldman said the Commission should have something like the Topsfield form and give it to people when they get their permits so that they are aware of potential consequences if they don't follow their permit. Mr. Flynn agreed and asked staff to draft some language to include with the permits to that effect and adapt the Topsfield form to Braintree.

Mr. Flynn asked Mr. Weinberg if he wondered if surviving conditions from his last time as a Commission member in the 1980s were still being adhered to. Mr. Weinberg said the Orders of Conditions are recorded against the deed so that there is a record with the title. Ms. Feldman said that people could still ignore the conditions if no one is checking to see that they are complied with.

Discussion on education and outreach ensued. Ms. Feldman said that most people want to comply with the law and the Commission should make people more aware of the Wetlands Protection Act.

Staff suggested the Commission consider sending information out with the Braintree Electric Light Department bill. The Commission would have to pay for the cost of printing 16,000 copies of the information to be included in the bill.

Mr. Flynn asked staff to put together some recommendations on outreach methods for consideration at the next meeting.

Minutes of October 22, 2009

Motion by Mr. Murphy, second by Ms. Feldman, to approve the October 22, 2009 minutes. Mr. Weinberg abstained because he was not at that meeting. Vote: 3-0.

Adjourn

Motion by Mr. Murphy, second by Mr. Weinberg, to adjourn the meeting at 8:10 PM. Vote: 4-0.