

**Rochester Conservation Commission  
June 20, 2017**

**Present:** Michael Conway, Chairman  
Laurene Gerrior  
Christine Post  
Maggie Payne  
Rosemary Smith

**Absent:** Daniel Gagne  
John Teal, Vice Chairman

Margaret Gonneville, Board Administrator  
Laurell J. Farinon, Conservation Agent

**The meeting was held at the Rochester Town Hall Meeting Room. Chairman Conway called the meeting to order at 7:03 p.m. and announced that the meeting was being televised.**

**Public Meeting**

**A Request for Determination of Applicability filed by Caleb Garone c/o The Trustees, 290 Argilla Road, Ipswich, MA 01938 for property located at East Over Reservation Field 6, 0 Hiller Road, Rochester, MA 02770, designated as Lot 5 on Assessor's Map 11. The applicant proposes to create/maintain a shrub habitat for various wildlife species by selectively removing all tall growing tree species: a portion of said work is within the 100 foot Buffer Zone of a bordering vegetated wetland. The majority of species to be removed are a thick stand of small diameter, 2"-4" White Pine. A well-developed stand of invasive species that is dominated by Multiflora Rose with Honeysuckle and Japanese Barberry native shrub species which provide food and cover will be retained and will act as seed sources for regeneration. The removal will be completed by a low ground pressure tracked machine with a mulching forestry head. North of the line of blue flagging, the applicant proposes to do spot treatment of invasive plants with cut and paint application of a wetland approved herbicide.**

**Documents submitted:** WHIP Plan Map dated July 7, 2010 and East Over Field 6 Aerial Photo

Diane Lang was present at the public meeting representing The Trustees.

Agent Farinon explained that The Trustees are doing vegetative management in phases and are working to maintain portions of the property as open fields for ground nesting birds. The RDA application is for vegetative management and includes selective spot treatments to rid invasive species. The removal will be done by a low ground pressure tracked machine with a mulching forestry head. Ms. Lang stated that the work will be done by a contractor experienced in habitat restoration work and will be supervised by Caleb Garone who is The Trustees Habitat Specialist. Agent Farinon recommended the issuance of a Negative Determination of Applicability.

A motion to accept Agent Farinon's recommendation was made by Member Gerrior and seconded by Member Smith. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0)**

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**A Request for Certificate of Compliance was submitted by Collins Civil Engineering Group, Inc. for property owned by Joseph Rocha located at 237 Walnut Plain Road as Lot 19E on Assessors' Map 29. An Order of Conditions was issued to Joseph Rocha on August 19, 2016 under DEP SE 272-0527 allowing for the repair of a residential septic system for the existing home.**

**Documents submitted:** As-Built Plan "Subsurface Sewage Disposal System Upgrade" for 237 Walnut Plain Road, Rochester, MA dated September 12, 2016 and Photographs of the Site

Agent Farinon explained that a letter and as-built were submitted by George Collins of Collins Civil Engineering Group requesting a Certificate of Compliance for an Order of Conditions under DEP SE 272-0527 that was issued to Joe Rocha for property on 237 Walnut Plain Road. Agent Farinon summarized that the project was for a septic repair; she distributed photographs taken at the recent site visit she conducted. Agent Farinon reported that work has been completed in substantial compliance with the Order of Conditions and recommended the issuance of a Certificate of Compliance.

A motion to approve the issuance of a Certificate of Compliance for DEP SE 272-0527 was made by Member Post and Member Gerrior. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0)**

**Public Hearing**

**DEP SE 272-0539 (Continued from June 6, 2017)**

**A Notice of Intent filed by Lorraine Roy Hawkes & William Hawkes for property located at 591 Neck Road, Rochester, MA 02770, designated as Lot 25 on Assessor's Map 43A. Said Notice of Intent was filed in response to an Enforcement Order issued on February 7, 2017 for illegal clear cutting of vegetation in a Bordering Vegetated Wetland and Bordering Land Subject to Flooding on Snipatuit Pond. The applicant proposes to restore wetland and Buffer Zone areas to remediate illegally altered areas. The property owner of record is Lorraine Roy Hawkes & William Hawkes, 591 Neck Road, Rochester, MA 02770. The applicant's representative is Brad Holmes, Environmental Consulting & Restoration, LLC, P.O. Box 1319, Plymouth, MA 02362.**

**Documents submitted:** Revised Restoration Plan for 591 Neck Road, Rochester, MA prepared by Environmental Consulting & Restoration, LLC dated May 2017 and Letter from Natural Heritage & Endangered Species Program

Lorraine Roy Hawkes, William Hawkes, and Brad Holmes of Environmental Consulting & Restoration, LLC (ECR) were present at the public hearing.

Mr. Holmes stated that since the last meeting, a letter from Natural Heritage & Endangered Species Program has been received indicating that the project will not result in a "take" of rare and endangered species habitat. A revised restoration plan has been submitted and includes additional shrubs and saplings of greater size than originally proposed.

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Agent Farinon summarized that the Natural Heritage & Endangered Species Program letter states that the proposed mitigation plan does not adversely affect species in the area. A comprehensive list of the species composition of the vegetation altered has been submitted. Agent Farinon recommended the Commission accept the restoration plan as presented and issue a Positive Order of Conditions with the condition that a professional wetland scientist be on site to supervise work during the restoration.

A motion to accept Agent Farinon's recommendation was made by Member Smith and seconded by Member Post. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0)**

**DEP SE 272-0541**

**A Notice of Intent filed by Hartley Beach Trust c/o Patricia Corwin, Norene W. Hartley & Keith M. Cannon, Trustees for property located at 90 Snows Pond Road, Rochester, MA 02770, designated as Lot 3C on Assessor's Map 39. A Notice of Violation was issued on April 13, 2017 for illegal brush cutting and alteration of Bordering Vegetated Wetland on Snows Pond. The applicant proposes vegetative restoration within Bordering Vegetated Wetland, Freshwater Wetland, and Bank of Snows Pond. The property owner of record is Hartley Beach Trust c/o Patricia Corwin, Norene W. Hartley & Keith M. Cannon, Trustees, 215 Cushman Road, Rochester, MA 02330. The applicant's representative is Brian Madden, LEC Environmental Consultants, Inc., 12 Resnik Road, Suite 1, Plymouth, MA 02360.**

**Documents submitted:** Proposed Restoration Plan in Rochester, Massachusetts Prepared for Hartley Beach Trust, 90 Snows Pond Road, Map 39 Part of Parcel 3C 591 Neck Road, Rochester, MA dated May 25, 2017, Prepared by Bracken Engineering, Inc. and Photographs of the Present Site

Brian Madden of LEC Environmental Consultants and Hartley Family Trust representative Norene Hartley were present at the public hearing.

Brian Madden stated that a Notice of Intent was submitted to address unauthorized activities on the property. In early April 2017, brush-cutting activities were conducted on the site and after a Trustee notified the Conservation Commission, a Notice of Violation was issued on April 13, 2017. The majority of the brush cutting was done along the edges of the driveway and the cottage. Mr. Madden stated that three clusters of landscape islands were cut as well, but are regenerating. The proposed vegetation restoration activities are within or adjacent to the Buffer Zone to Bordering Vegetated Wetlands, Freshwater Wetland, and Bank to Snows Pond. The existing mulch abutting Snows Pond will be raked out to enable regrowth; disturbed bordering vegetated wetland areas will be revegetated with highbush blueberry and sweet pepperbush.

Discussion ensued about semi-permanent barriers as a means to demarcate the limit of wetlands to avoid further encroachment. It was agreed by all that boulders and/or fencing would impact the visual integrity of the family property. It was proposed that 4 X 4 posts with inscribed metal plates can be installed in critical areas. Ms. Hartley stated that posts can be put in wherever the Commission wanted them.

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Agent Farinon reported that the Commission has not yet received a response from the Natural Heritage & Endangered Species Program and recommended a continuation of the public hearing. Agent Farinon said that a condition for the posts and signage could be added to the Order of Conditions.

Mr. Madden requested a continuation of the public hearing until July 18, 2017.

A motion to continue the public hearing was made by Member Smith and seconded by Member Gerrior. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0)**

**DEP SE 272-0540**

**A Notice of Intent filed by Decas Cranberry Company for property located off Walnut Plain Road, Rochester, MA 02770, designated as Lots 2D, 2E & 2F on Assessor's Map 27. The applicant proposes an after-the-fact Notice of Intent (NOI) for the unauthorized cutting of vegetation within the 25-foot No Disturb Zone and the 100-foot Buffer Zone to a Bordering Vegetated Wetland. The NOI is submitted in response to the Notice of Violation issued on April 13, 2017. The property owner of record is Decas Cranberry Company, 4 Old Forge Drive, Carver, MA 02330. The applicant's representative is Brooke Monroe, Pinebrook Consulting, 59 Court Street, Plymouth, MA 02360.**

**Documents submitted:** "Plan to Accompany a Notice of Intent, Walnut Plain Road, Assessors Map 27, Lots 2, 2D, 2E, & 2F, Rochester, Massachusetts (Plymouth County)" Prepared for Decas Cranberry Company, Prepared by John L. Libby Consulting, Inc.

Brooke Monroe of Pinebrook Consulting and William Chamberlain of Decas Cranberry Company were present at the public hearing.

Mr. Chamberlain stated that he had arranged for the sawmill company to come onto the property and that they had cut into the vegetated wetland. Mr. Chamberlain agreed that a forest cutting plan should have been prepared and submitted, and that a forestry plan will be done in the future.

Ms. Monroe stated that the Notice of Intent (NOI) was an after-the-fact filing and that the sawmill had cut vegetation within the 25-foot No Disturb Zone and the 100-foot Buffer Zone to a Bordering Vegetated Wetland (BVW). She said preliminary survey was done and that a number of species were cut. Ms. Monroe stated that the applicant requests to wait until the fall to see what species come back. The applicant proposes Conservation posts be installed to demarcate the wetlands for the new owners of the property, which is presently for sale.

Agent Farinon summarized that Decas filing includes no mitigation of altered vegetation within the 25 foot Buffer Zone, and recommended that the Commission not wait until the fall to see what species come back. The Commission has been consistent with enforcement cases in requiring additional plantings to mitigate illegally altered areas. She explained that Commission was not asking Decas to replace 60 foot trees in kind, but could propose planting of wetlands shrubs to enhance wildlife habitat within the altered area.

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Chairman Conway requested a plan for the 25-foot Buffer Zone mitigation for the next meeting. Ms. Monroe requested a continuation of the public hearing until July 18, 2017.

A motion to continue the public hearing until July 18, 2017 was made by Member Smith and seconded by Member Post. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0)**

**DEP SE 272-0542**

**A Notice of Intent filed by William Chamberlain of Decas Cranberry Company for property located at 223 Burgess Avenue, Rochester, MA 02770, designated as Lot 16 on Assessor's Map 27. The applicant proposes an after-the-fact Notice of Intent (NOI) for the unauthorized cutting of vegetation within the 25 No Disturb Zone, 100-foot Buffer Zone, and the 200-foot riverfront area of a mapped perennial stream. The NOI is submitted in response to a Notice of Violation issued on April 27, 2017. The property owner of record is Decas Cranberry Company, 4 Old Forge Drive, Carver, MA 02330. The applicant's representative is Brooke Monroe, Pinebrook Consulting, 59 Court Street, Plymouth, MA 02360.**

**Documents submitted:** "Plan to Accompany a Notice of Intent, Map 27 Lot 16 – Burgess Ave., Rochester, Massachusetts (Plymouth County)" Prepared for Decas Cranberry Company, Prepared by John L. Libby Consulting, Inc.

Brooke Monroe of Pinebrook Consulting and William Chamberlain of Decas Cranberry Company were present at the public hearing.

Ms. Monroe stated that the Notice of Intent (NOI) was an after-the-fact filing for 223 Burgess Avenue for cutting of vegetation within the 100 and 200-foot riverfront area; and within the 25-foot No Disturb Zone and 100-foot Buffer Zone to a Bordering Vegetated Wetland (BVW). She said that the USGS map designates the stream as perennial, however they believe it is intermittent. Ms. Monroe stated that the applicants request waiting until the fall to see what species come back.

Agent Farinon stated that the Wetland Protection Act sets forth protocol in which the applicant may collect and submit data to rebut the "perennial" designation. She reiterated her comments from the prior hearing regarding the plan being deficient because it does not include any mitigation for the illegal cutting of trees.

Ms. Monroe requested a continuation of the public hearing until July 18, 2017.

A motion to continue the public hearing until July 18, 2017 was made by Member Post and seconded by Member Gerrior. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0)**

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### Commission Business

#### For Signature

#### **Review and approval of \$35,000 voucher made payable to the Town of Marion for permanent protection of the Roy Hawkes property**

Lorraine Roy Hawkes was in attendance and interjected that she was not aware of the Conservation Restriction.

Agent Farinon explained that the Commission was approving a \$35,000 voucher for the Buzzards' Bay NEP mini grant that was received for the purchase of 164 acres of property that Mrs. Hawkes owns and has 2,900 linear feet of frontage on Branch Brook, which is a tributary to the Mattapoissett River. The property is under agreement between the Buzzards Bay Coalition and Lorraine Roy Hawkes. The purchase of the property is being funded by a number of grants and the Town of Marion is buying the property. The Drinking Water Supply Protection grant requires that a conservation restriction be put on the property.

Allen Decker of the Buzzard's Bay Coalition was present and agreed to step out of the public meeting to explain the specifics of the P & S and the project requirements of the grants used to purchase her property.

#### **Minutes**

A motion to approve the minutes of June 6, 2017 was made by Member Post and seconded by Member Gerrior. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0)**

#### **Voucher(s)**

The following vouchers were approved for payment: Reconciliation of Account / Transfer Charges to NOI Account in the amount of \$858.51; Bristol Engineering Advisors, Inc. / Decas Cranberry 109 Neck Road Escrow Account in the amount of \$13, 274.37; and Pitney Bowes / Postage Meter Fees (Signed on 06/14/17 by Chairman Conway): \$88.69.

#### New Business

#### **Discuss Issuance of Enforcement Order to Logan Smith for Work at 70 Ryder Road**

Agent Farinon reported that a Notice of Violation was issued to Mr. Smith on June 1, 2017. Vegetation was cut, earthwork was done, and wood chips were placed on the adjacent property. Mr. Smith e-mailed Agent Farinon that he does not believe the work was a violation and will not be removing the wood chips. She consulted with Town Counsel Blair Baily and he recommended that the Commission issue an Enforcement Order.

Agent Farinon distributed draft copies of the Enforcement Order stating that the property owner shall install erosion control barriers by July 7, 2017, remove the wood chips, and remove the fire pit. Agent Farinon passed out photographs of the property to the Commission members.

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A motion to issue an Enforcement Order was made by Member Smith and seconded by Member Post. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0)**

**Discuss Issuance of Enforcement Order to Taylor Jesse & Chance Avery for Work at 422 High Street**

Agent Farinon reported that a shed had been demolished in the 25-foot No Disturb Zone, as well as cutting of brush within said area. The Commission had issued a Notice of Violation and the date for submittal of a mitigation plan has now expired.

A motion to issue an Enforcement Order was made by Member Smith and seconded by Member Post. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0)**

**Estabrook Property Land Protection Project – Letter of Support for Rochester Land Trust Conservation Partnership Grant Application**

David Smith was present representing the Rochester Land Trust.

Agent Farinon stated that the Estabrook property is located off Walnut Plain Road in the Cedar Swamp area near the Middleboro/Rochester town line. A condition of the grant requires a Conservation Restriction on the property by a government agency, and RLT is requesting the Rochester Conservation Commission to hold the Conservation Restriction.

Mr. Smith stated that the property consists of 80 acres with the bulk of it as wetlands. The property is perfect for walking, birdwatching, and has a section for parking.

A motion to send a letter of support for the Rochester Land Trust Conservation Partnership Grant Application and commit to hold a Conservation Restriction on the property was made by Member Post and seconded by Member Payne. Member Gerrior recused herself from the vote and Member Smith abstained. **The motion passed by a vote of 3 in favor, 0 opposed, 1 abstained. (3-0-1)**

**Roy Hawkes Conservation Restriction Review and Approval – Vote to sign Municipal Certification Form**

Alan Decker of the Buzzard's Bay Coalition was present at the discussion.

The Town was awarded the Municipal Mini grant of \$35,000 for assistance to the Branch Brook Preservation Project. The closing for the property will be in the later part of next week. Mr. Decker stated that he had spoken to Mrs. Hawkes attorney and that he is aware of how the funding is being put together for the purchase of the property. The Rochester Conservation Commission is required by the state to sign the Municipal Certification Form. Chairman Conway was concerned about the Water Commission not being involved in the process.

A motion to sign the Municipal Certification Form was made by Member Smith and seconded by Member Gerrior. **The motion passed by a vote of 4 in favor, 1 opposed, 0 abstained. (4-1-0)**

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A motion to approve the \$35,000 invoice from the Town of Marion and sign the voucher was made by Member Smith and seconded by Member Post. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0)**

**Hydrogeologic Assessment Report Decas Cranberry Company / 109 Neck Road Property**

A hydrogeologic assessment report from Bristol Engineering was forwarded to Commission members. David Watling, Rochester Herring Inspector, stated that Snows Pond is still not as high as other ponds.

Agent Farinon reminded everyone that Snows Pond is higher on the landscape so it is slower to recover. Mr. Watling said that he is not confident that this is resolved and wanted to ask the hydrogeologists if it is possible that it will never recover. Agent Farinon stated that she would contact Peter Newton and ask him.

**Eagle Scout Project at Lionberger Woods**

Agent Farinon stated that she was contacted by Gabe Noble about an old structure that the Rochester Land Trust would like to have removed. Agent Farinon showed the Commission members photographs of the structure. She said that the structure is in an upland area and can be removed with very little impact to the bordering vegetated wetlands. She read an email from the Eagle Scout Gabe Noble. The structure will be carried out by hand, a dead tree will be removed, and a fire pit filled in. Two picnic tables built on site will be put in place of the structure. She said that it will have no adverse impact and is within a 50-foot Buffer Zone.

Chairman Conway prefers that the Eagle Scout come in with an RDA.

A motion to do the project without filing an RDA was made by Member Payne and seconded by Member Smith. Chairman Conway opposed and Member Gerrior abstained. **The motion passed by a vote of 3 in favor, 1 opposed, 1 abstained. (3-1-1)**

**MapGeo Layers**

Agent Farinon reported that she has been working to add the town zoning map as a layer in the Rochester MapGeo interactive software.

**Laptop Computer**

A laptop computer will be purchased by the Conservation Commission and Planning Board for the Board Administrator to use for the minutes of their meetings. The cost is approximately \$700 per board.

**Future Meetings and Site Visits**

Commission members discussed their availability for upcoming meetings and site visits. All members present will be available for the next meeting and site visits on Tuesday, July 18, 2017 except for Chairman Conway and Member Post.



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**Adjournment**

The meeting adjourned at 9:10 p.m. on a motion made by Member Smith and seconded by Member Post. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0)**

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Margaret Gonneville, Board Administrator

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Michael Conway, Chairman