

TOWN OF SOMERS
Conservation Commission
600 Main Street

REGULAR MEETING
WEDNESDAY, MARCH 5, 2025
7:00 PM TOWN HALL
MINUTES

I. CALL TO ORDER

Chairperson Joan Formeister called the meeting to order at 7:02 P.M. Commissioners in attendance were Dan Fraro, Drew Kukucka, Candace Aleks, and Sydney Flowers. Joanna Shapiro, the Town of Somers Wetlands Agent, was also present.

II. OLD BUSINESS

1. **SHOW CAUSE HEARING - ORDER TO CEASE VIOLATION (continued). 183 King Road.** Regulated activity within 100 feet of a wetland or watercourse. Nicholas Turnberg.

Joanna Shapiro explained that at the last meeting, the Commission left the order to cease in place, because the work actively being done has been identified as outside of the regulated area, so at this point the order is not stopping him from working. Joanna stated that most of our questions had been answered and resolved, except regarding stabilizing the current soil stockpiles, which has not yet occurred. Mr. Turnberg was present and noted this would be completed as soon as weather permits.

Joanna visited the site yesterday with the property owner, Nicholas Turnberg. Joanna looked at the watercourse that runs adjacent to the southwest corner of the field and saw a clear channel with standing, frozen water on the neighboring property. Mr. Turnberg's property has more of a swale with barely any water. However, Joanna reported that the area is lower than most of the surrounding area and is most likely a wetland. She measured from that channel to the pile of logs, which was about 38 feet. The distance from that low area in the woods is well over 100' from the gravel area.

Joanna mentioned a pile of logs/trees and some smaller equipment in the landing area, but no other changes have been noticed since her last visit. Drew Kukucka asked if the 100-foot area between that wetland and the work site is stabilized, and Joanna reported there are no signs of erosion; the log piles are in the URA, and the equipment is on the gravel. Drew stated that there should be no issues as long as the soils are stabilized.

Joanna shared a couple of pictures she had taken of the area yesterday. Joan Formeister asked Mr. Turnberg what the plan is for the soil stockpile, and he stated that as soon as the snow melts, he will hydroseed them. Drew asked him what his plans were for the log piles and told him the area needed to be stabilized when they moved them. Mr. Turnberg agreed and said they would access the log piles from the side furthest from the wetland.

Joanna Shapiro mentioned that the town attorney stated at the last meeting that the commission can either keep the order in place until the matter is fully resolved, or could lift it since there is cooperation with the landowner and willingness to stabilize the soil stockpiles, but then the landowner would have to submit an application for remaining work, yet permits

are voluntary and would not ensure that the area is stabilized. Joanna also mentioned that if we keep the order to cease in place, we are not preventing the landowner from performing further work outside of the URA at this time, and the order shall remain in place until the soil stockpiles have been stabilized. The Commission agreed with this approach. Mr. Turnberg acknowledged this and said he hopes to stabilize them by our next meeting in April.

2. **Jurisdictional Ruling/Application #811:** 183 King Road. Selective timber harvest within wetland, with temporary stream crossing. Nicholas Turnberg.

The property owner was in attendance. Joanna Shapiro said she visited the site with the landowner and the forester, John Clarke. The owner has applied for a jurisdictional ruling as a permitted use of the right under the agricultural exemptions. He would like to remove a lot of the dying and overmature oak and pine so there will be more space for the healthier oaks and pine to grow. Mr. Turnberg provided a Notification of Timber Harvest with maps that he and the forester filled out.

There is one part of the stream where they will need to install a temporary crossing of about 30 feet, which will be removed after they finish the work. Water bars will be installed on either side to prevent water from flowing from the skid trails to the wetland area. The property owner will also fix any created ruts to ensure that all soils are stabilized.

Joanna Shapiro stated that based on the application and conversations, they will not be clear-cutting, filling in any part of the wetland, or installing a permanent crossing, which are actions that could prevent it from being a permitted use of right. Joanna also stated that no more than 50% of the basal area would be removed with wetlands, and she did not see any issues with the presented plan that would require a permit. She said that there are a lot of mature trees and dead oak to remove, and lots of pine and some live oak to promote. Land immediately adjacent to the crossing appeared to be upland, but most of the land on the eastern side of the property appears to be a wet red maple wetland. The owner agreed to not work in that area until frozen or dry weather conditions.

Sydney Flowers asked Mr. Turnberg about the approximate date of timber harvesting indicated on the Notification of Timber Harvest and whether it should read 02/24/2025 versus 02/24/2024, and he stated it should be 2025. Drew Kukucka asked the property owner to identify items on the map, such as the stands to be harvested and skid trails, and Mr. Turnberg pointed out there is legend/key on it. Joanna Shapiro asked if they would be installing another landing for the materials, but Mr. Turnberg stated they would not and would only use their current one. Nicholas Turnberg pointed out that one of the maps had the skid trails added to the map upon Joanna Shapiro's request. Drew Kukucka asked how they would access the wet eastern area, as there are no trails or stream crossing shown, and Nicholas Turnberg stated they would utilize the currently maintained road to access the timber stands, and to bring all timber to the one designated landing area.

Drew Kukucka mentioned he was on the CT DEEP website regarding timber harvesting and best practices. Joanna Shapiro stated that John Clarke is a registered forester with the state. Drew asked if we should have a forestry management plan that includes stream buffers and what amount of trees will be cut in each area. Joanna Shapiro stated that the forester should have a plan, but we don't always see it with the applications. Joan Formeister pointed out that this property is in a significant watershed and is right next to the Scantic River. It would be helpful to have that information, specifically the stream buffer, what areas are being cut, and how much. Nicholas Turnberg pointed out that all best practices would be met, that they would harvest no more than 50% of the area, and that the areas cut would be distributed through the cutting area, not clustered in a few areas, so any one area will have no more than

50% removal of basal area. Drew stated that he appreciated that it was assumed that would happen, but it was not specified anywhere in the application, and it would be good to have that documented. Mr. Turnberg stated there would be no crossing of the stream/river to the east and no equipment on the banks of the stream/river. Mr. Turnberg explained that there are many forestry best management practices, too many to list, but asked if he should state on the application that all the best management forestry practices that will be met, and the Commission agreed that should be included. Joanna Shapiro stated that by statute, there is no enforceable buffer between the stream and the work being done, and she asked Mr. Turnberg if he had an idea of how close he would have to come to the river. He stated that he would not go any closer than 25 feet of the streambank, and that he could reach in further without bringing the equipment closer, and would only go in the wet areas when frozen or dry. Drew noted that the Harvest Timber Plan asked if all neighbors within 100 feet had been notified, and Mr. Turnberg stated he believed that John Clarke contacted them.

During this meeting, Nicholas Turnberg wrote on the application that he would follow all the best management practices outlined by DEEP and initialed it.

Drew Kukucka motioned to approve Jurisdictional Ruling/Application #811: 183 King Road. Selective timber harvest within wetland, with temporary stream crossing as a permitted use of right. Dan Fraro seconded. All were in favor, and the motion carried

III. NEW BUSINESS

1. **Jurisdictional Ruling/Application #814:** 407 South Road. Clearing vegetation within wetland/along stream to restore pasture. Pleasant View Farms Realty Co.

Jeff Lipton, the owner of Pleasant View Farms, was in attendance. He stated that they started to remove some trees because they are returning an overgrown field to pasture suitable for his cattle, and it will be about 7 to 8 acres. They are currently in the process of growing their herd and need more pasture space. Mr. Lipton stated that this field has not been used for 35 years and that they want to bring it back to add it to their rotational grazing plan.

Joanna Shapiro showed the aerial view of the pasture from the past and what it looks like now. Mr. Lipton stated that while they clear out the trees and brush from the pasture, they will also be fixing the current erosion that is taking place at the drainage outlet. Mr. Lipton noted that there is a swale between the existing pasture and that it is thinned out, catching a lot of the runoff. He stated he would do the work once it is dry, and they aim to get seeded in April. Jeff said they are working with the NRCS to ensure they are following all the criteria they must meet for the funding they are currently getting for the farm operations.

Joanna Shapiro stated that this is another application we need to determine whether it meets the agriculture exemption. She explained that clearcutting of vegetation in wetlands is only allowed for expansion of agricultural crop land. She noted that they do not propose clear cutting in wetlands, only thinning. Some clear-cutting is occurring, but it is apparently not in the wetlands, and they intend to expand pasture to seed it and feed their cattle.

Candace Aleks motioned to approve Jurisdictional Ruling/Application #814: 407 South Road. Clearing vegetation within wetland/along stream to restore pasture. Pleasant View Farms Realty Co, as is a permitted use of right. Sydney Flowers seconded. All were in favor, and the motion carried

2. **Application #815:** 127 Egypt Road. Installation of 975 KW (kilowatts) AC Solar Farm in the Upland Review Area. VCP Somers LF, LLC.

Representative Ian Gottheim from VCP attended and presented on the proposed solar project on the capped landfill next to the town's transfer station. Ian explained that they have not executed the agreement with the Town of Somers yet, but they are working this out now. He stated that he will be attending the planning commission meeting next Thursday for their review.

The proposed site is a previous landfill, and they would like to put the solar panels on top of it. Mr. Gottheim mentioned there will be about 10,000 square feet of minimal disturbance in the Upland Review Area but not in a wetland. They plan to install 2700 solar modules on concrete above the landfill and will weigh it down so there will be no intrusion to the ground. They will use erosion and sediment control (filter socks) near the construction entrance and install a concrete washout. Mr. Gottheim stated that their study found that the stormwater runoff before and after the installation will barely change.

Drew Kukucka asked if the lease with the town is for 20 years. Mr. Gottheim confirmed the 20 years and stated a decommissioning plan was included in the documentation. Drew Kukucka asked if the FEMA site identified in the area would trigger anything, and Mr. Gottheim believes that, if anything, it will trigger a map amendment.

Joanna Shapiro discussed how DEEP considers solar panels not completely impervious because drip edges are formed between the panels, which can cause erosion. Mr. Gottheim stated that they would reseed any areas if there were soil disturbances. He said that the VCP is responsible for the maintenance of the property.

The Commission noted that we did not feel there would be any wetland concerns with this project, as long as the site is stabilized and maintained.

IV. AUDIENCE PARTICIPATION

N/A, no audience in attendance

V. STAFF REPORT

Wetland Agent Joanna Shapiro reported:

1. Inquiries have been coming for 35 Therese Drive in the Wright Brooks Dr area, which is apparently on the market. When the wetland permit was first issued for this site, the court required the Commission to approve it, and that permit is still valid until Feb 2026. This could be extended for another five years if they apply for the extension on time. The Commission may have to relitigate it if there is no extension.
2. Residents have reached out about what is allowed when removing hazardous trees, putting in above-ground pools, and demolishing a house. It could be a reaction to the wetland flyer, but it is nice that people are calling before the work starts.
3. There are reports that the owners of 118/120 Watchaug Road are not maintaining erosion controls during construction. The sediment bypasses the strawbales and flows down the road. They have been responsive to emails about this but have taken no action. Yesterday, an email was sent that stated the concerns and that they need to cover the soil and put additional controls in to control the sediment, but there has been no response. The owners have stated that the adjacent land is causing the runoff issue. While that land is increasing the watershed,

their property is the source of sediment. If there is no action to this most recent email by next Tuesday, a notice of violation will have to be issued with a date on which the issue has to be fixed. Will speak with the Zoning officer about this concern so that they know the extent of concern from the Wetlands Commission. There is also concern that they are not using the current construction entrance, which is also causing a lot of sediment washout.

4. There was a plan to install a manure pit at 122 Watchaug Road. However, Oakridge Dairy notified the Zoning officer that they would discontinue this plan. Oakridge Dairy is planning to instead propose a 360 rain system and irrigation pond containing 70% water and 30% manure. It is unclear if they have to present this to the Conservation Commission. The Commission discussed how an activity outside of the 100' URA can still be determined within their jurisdiction if it is deemed likely to impact wetlands based on its nature.

Candace Aleks moved to approve the Staff Report. Drew Kukucka seconded. All were in favor.

VI. CORRESPONDENCE AND BILLS

The Scantic River Watershed Plan that the CT River Conservancy is embarking on needs town volunteers. Joanna plans to participate, but encouraged having a resident on the committee. More information to come about what is needed and what is involved.

VII. MINUTES APPROVAL: February 5, 2025

Sydney Flowers moved to approve the amended February 05, 2025, minutes, with 2 minor edits. Dan Fraro seconded. All were in favor, and the motion carried.

Candace Aleks moved to add Election of Officers to the agenda, Sydney Flowers seconded. All in favor.

VIII. ELECTION OF OFFICERS

Candace Aleks moved to nominate Joan Formeister as the Chair of the Conservation Commission, Drew Kukucka as the Vice Chair, and Sydney Flowers as the Recording Secretary. Dan Fraro seconded. Joan stated that she is willing to continue as chair if nobody else is interested. All were in favor, motion carried.

IX. ADJOURNMENT

Sydney Flowers moved to adjourn the March 05, 2025, meeting, and Candace Aleks seconded. All were in favor, and the motion carried. The meeting was adjourned at 9:21 p.m.

Respectfully Submitted, Commissioner Sydney Flowers, Secretary
MINUTES ARE NOT OFFICIAL UNTIL APPROVED AT A SUBSEQUENT MEETING