

**Town of Pelham, NH
Pelham Conservation Commission
6 Village Green
Pelham, NH 03076-3723**

MEETING OF 01/09/19

APPROVED 04/10/19

Members Present:

Karen Mackay, Ken Stanvick,
Louise Delehanty, Lisa Loosigian,
Paul Gagnon, Mike Gendreau
Brandie Shydo

Members Absent:

None

Paul Gagnon brought the meeting to order at 7:06 p.m.

OLD BUSINESS:

Map 31 Lot 11-33 & 11-37	64 Blueberry Circle – Proposed construction of a 150 foot cell phone tower by American Tower, LLC – WCD impacts on the access road to the proposed tower pad – Presentation by Edward D. Pare, Jr. of Brown Rudnick, LLP. and Luke Hurley of Gove Environmental Services.
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Last meeting, Mr. Gagnon suggested we route the access driveway over abutting town land to avoid impacts to the WCD. The Forestry Committee was asked to get involved in this case. There were 3 site walks. Mr. Gagnon explained, by state law once a town votes a piece of land a town forest the Forestry Committee has jurisdiction over the use of the land. Last night, Forestry voted against going over town land for the access road because the use was inconsistent with the purpose of a town forest. Mr. Gagnon as a member of the Forestry Committee, voted for the proposal to go over town land. Other members felt differently. Mr. Gagnon does not know the specific vote numbers as he voted via email and was not present at the meeting. He thought one other member may have abstained from the vote so he presumed the vote was a 4-1 or 3-1 as he was the only Forestry member to vote in favor of the proposal.

Mr. Gagnon gave his summary of the Forestry vote. Before any further discussion, Ms. Mackay reminded the Commission that she had recused herself from the case at the last meeting. She also reminded Mr. Gagnon that there was still an open motion from the last meeting on the floor. The motion related to the use of the town land for an access road; therefore, the motion cannot pass because Forestry voted against the access road across town land.

Public Input:

Mr. Larry Horgan, a resident of Blueberry Circle, spoke about the sensitive habitats in the area and the 2003 Natural Resources Inventory (NRI) for the town of Pelham. The subject parcel is abutting town forest with lots of diversity of plants and wildlife. Mr. Horgan consulted the NRI posted on the town website. He noticed on map 4 there was a circle that identified a plant or animal community that is threatened. This project area is within the circle. The NRI recommends a complete inventory, prior

to development, of any area that has identified species. This procedure would go through the Natural Heritage Inventory now called the Natural Heritage Bureau (NHB).

Mr. Pare explained that this is a federal project and is subject to the National Environmental Policy Act (NEPA) regulations. NEPA is a federal statute that requires sign off of 7-8 agencies including historical, wildlife, and fish and game, Native American impacts and environmental. Mr. Pare cannot come back to us with the completion of this study prior to the Commission voting. The project is on its way to Planning. The project must continue to move forward while the study is underway. The study is extensive and may take many months to get the results. Mr. Gagnon stated that applicants usually go through the Natural Heritage Bureau to make sure there are no problems with any identified species in the area of construction. Mr. Pare would like us to make a recommendation to Planning contingent of the applicant receiving all applicable permits and approvals prior to construction. This would allow the project to move forward and not be delayed by any town boards waiting for approvals.

NEPA requires all federal licensees to obtain or provide environmental impacts for projects. T-Mobile is a federal licensee so the company must comply with NEPA requirements. There are no changes to the plans. Last meeting the Commission requested the square footage (sf) be added to the plans. This has not been done yet, but will be added when the plans are revised.

Mr. Hurley stated the NHB involvement is not required for this project because there are no wetlands impacts. There is no required permit through the state for wildlife impacts. There is no alteration of terrain either; therefore, no state permits are needed for this project.

Mr. Pare would like us to write, in our letter to Planning, that the Commission expects the applicant to comply with all federal, state and local regulations prior to construction. He is not sure the applicant is required to go the NHB and does not want a condition in the letter that the applicant does not legally have to meet. Mr. Pare repeatedly pushed back on the Commission for asking the applicant to undertake extra tasks that are not required in the filing for the project.

Ms. Loosigian felt that if there were a species of concern, as Mr. Horgan stated, then the condition should be explored. If the Commission is to write a letter to recommend the project, the Commission should know if the species of concern is in the area of the proposed tower.

Commission members and the applicant's representatives discussed these concerns for several minutes in a back and forth manner repeatedly stating their cases for checking with the NHB and possibly not being legally required to check with the NHB.

Mr. Gagnon then asked Mr. Hurley the level of difficulty or involvement that would be necessary for checking with the NHB. Mr. Hurley stated the process of filling out an online form about the project. If the report comes back with no impacts to species of concern, then the project can move forward. If the report comes back with possible impacts then a survey for the species needs to be completed. Sometimes if there is a single plant or a few plants they can be moved. There is a process that must be worked through if something is found. Mr. Gagnon stated the process did not seem to be too laborious. Mr. Stanvick suggested in the spirit of mutual cooperation that we vote on the tower with a condition that the NHB is asked about the project. Mr. Gagnon emphasized the Commission is working for the environment and is responsible for the NRI. Members should have known about the possible species of interest in the NRI, but we did not. A town resident brought this forward and the Commission needs to ask the applicant to make sure species are protected in the construction area.

Mr. Gagnon asked about the run off from the relatively steep gravel road. The gravel on the access road may run off into the wetland at the corner of the road. The wetland is directly adjacent to the edge of the road. There is a tower off Mammoth Road also made of gravel and the surface of the road has washed out to make the road almost unpassable. The Commission does not want gravel from this road washing out into the wetland. There will be a culvert under the access road that will allow for water to flow off the land as usual. There will be a swale on the down slope side of the road adjacent to the wetland.

There should be a maintenance plan for the gravel road. The Commission does not want the gravel washing out into the wetland and the applicant wants the gravel to remain in place so vehicles can use the access drive. A stable road is in both parties interest. The Commission does not want the applicant to keep adding gravel to a washed out road. Mr. Pare agreed the road must be stable.

The plan shows a silt fence for erosion control. Mr. Hurley suggested the fence be changed to a mulch berm. A mulch berm is made on-site by chipping brush from trees cut to clear the site. The brush can be chipped and blown into a berm. The berm is completely natural and critter friendly. The berm can stay on-site and will decompose over a period of years. This form of erosion control is stable and will remain in place during and after construction. The berm will still exist long after the slopes have been stabilized with plant materials. The berm will be 1-2 feet wide and about 1 foot high.

Motion: (Loosigian/Stanvick) to recommend the project to Planning as shown on the plan with the following conditions.

- The applicant comply with all applicable federal, state and local regulations specifically those involving NEPA.
- The applicant complete NHB review request and take appropriated action based on the results.
- Add the sf of WCD impact to the plan.
- Replace silt fence erosion controls with a mulch berm.
- Seed the side of the road.
- Maintain the gravel road to keep gravel out of the wetland.

Vote: 4-1-0. Mackay recused. Ms. Loosigian voted against the motion. She felt the parcel was not an appropriate place for a tower and the impacts to the WCD were inappropriate.

Mr. Gagnon will send a letter to Planning in a few days. The applicant stated they have not submitted to Planning yet. Conservation input was needed as well as the safety committee. The time clock has not been triggered yet. Construction is set to begin in the spring or summer if they receive all approvals from Planning and the federal government.

PRESENTATION:

Mr. Joshua Megyesy and Ms. Melissa Doperalski, wildlife biologists with the Non-Game and Endangered Wildlife Program at NH Fish & Game, will give a presentation on turtle habitats.

The Non-Game and Endangered Wildlife Program works to conserve species in NH that are not game species. This program focuses on endangered, threatened and species of concern as well as all other species in the state. This includes all species that are not hunted such as insects, mussels, vertebrates,

invertebrates and amphibians. Funding for the Non-Game Program comes from federal revenue (58%), private donations and partner matches (12%), NH General Fund (5%), and Moose plates (25%). The focus of this presentation will be turtles in the state of NH. Seven turtle species live in NH, 4 are listed turtle species.

Painted turtle

- Live in lots of diverse habitats.
- NH's state reptile.
- Most common in NH, statewide range.
- Inhabit lakes, ponds, wetlands and streams.
- Hibernation in ponds and lakes.
- Do not like salt water.
- Eggs laid and hatched underground, overwinter in nest chamber, come out in spring go to ponds.

Musk Turtle

- Stinky. Foul odor from gland under shell.
- Live in southern parts of NH.
- Seem to be secure in numbers.
- Lives in muddy bottom ponds and slow streams.

Snapping turtle

- Statewide range. Common species.
- Very defensive, aggressive.
- Live to 40 years old.
- Live in lots of diverse habitats.
- If need to move off the road, pick up by rear legs and lift. Never pick up by tail as this can harm the turtle by separating the vertebrate.
- Always move a turtle in the direction it was heading. The turtle had a purpose and a reason for travel and will return to travel in the initial direction.

Wood Turtle

- Very long lived, over 75 years.
- Likes slow moving, winding streams with sandy bottoms. Also hibernates in this habitat. Needs high oxygenated water to hibernate.
- Semi-aquatic/semi-terrestrial. Spends much of year in uplands foraging, cold weather brings the turtles back to streams for winter.
- Drumming on dirt to get worms to come out for eating.
- Nests in April and May.
- Roads and vehicles large source of mortality.
- Highly collectable, prized in illegal pet trade. Used for food and medicine in Asia
- Range Ontario to West Virginia and Great Lakes Region.
- Sculpted shell with bright orange legs and neck.
- This species has been studied state wide under a grant. Several turtles have been tagged and tracked with transmitters. One turtle has spent most of his time in an upland hay field. This can be dangerous because of tractors and haying operations.

Spotted turtle

- Habitats: wetlands, vernal pools, shrub swamps, fens. Use combination wetlands and move throughout the season
- Secretive
- Long lived, 50 years.
- Mostly southern part of the state.
- Has been studied under a federal grant for past 2 years. Looking for population areas so the habitats can be protected.

Blanding's turtle

- Habitats: wetlands, shrub swamps, vernal pools (very imp. for this species), forested wetlands, emergent wetlands.
- Large home ranges. Will travel more than a mile to find nesting sites.
- Long lived.
- Hibernation areas – vernal pools
- In spring, eat wood frog and spotted salamander eggs in vernal pools.
- Mostly southern part of NH.
- Nesting sites in abandon and active sand pits and residential house lots. Sunny, open, sandy soils.
- State endangered turtle
- Has been studied through 2 federal grants.
- Best known populations in NH in large unfragmented land, like Pawtuckaway State Park, with lots of different types of wetlands no roads.
- Enemies: loss of habitat and vehicles.

NH Fish and Game tracked one female for several years. The female was captured in a vernal pool, using a netting trap that was baited with sardines. A transmitter was attached to her shell and the turtle was tracked using radio telemetry. The turtle traveled from the vernal pool through a series of wetlands to a nesting site in a residential back yard. She repeated this track every year. If a subdivision was built in the path of her travel, she would still attempt to make the journey. The more roads that need to be crossed by any turtles the more the chance they have of death or injury.

All animals that are captured and tracked will be listed with the Natural Heritage Bureau and will be used in environmental review. Not all projects trigger NHB review. Projects that have review and find species of concern will be reviewed by NH Fish and Game and recommendations will be made to avoid, minimize and mitigate impacts. We cannot stop development, but land can be protected which would help maintain habitat for turtles and other animals.

Eastern Box Turtle

- Only completely terrestrial turtle in NH. Lives completely in forested areas. Oak/pine, dry forests and transmission lines.
- Endangered in state.
- Very few documented in state. At the edge of their northern range.
- 7 individuals with transmitters, 6 of which are in the Hudson/Gumpus Pond area.
- NH F&G wants to know about these turtles immediately so they can be studied.
- High dome shell, colorful, bright yellow and orange. Hard to see in the environment.

State residents can help the Non-Game Program by recording when they see species of interest or even common species. Public input can be a huge help tracking all species. Live animals as well as dead or road killed animals can provide important data about state species. Residents may report

sightings by taking a picture of the animal, alive or dead, then emailing the photo and location to raarp@wildlife.nh.gov or nhwildlifesighting.unh.edu. Photos are a must to provide evidence to the exact species.

China has a demand for turtles. They have largely hunted them out of their country.

Threats

- Reptiles and amphibians declining globally, even common NH species.
- Road mortality, turtles do not realize the danger of roads.
- Habitat loss
- Removal of turtles from a population for commercial or personal collection purposes. Genes are pulled out of the pool with each individual that is removed.
- Illegal wildlife trading. This is the 5th largest contraband trade.

Habitat destruction can be happening even when there is a large block of undeveloped land if it is surrounded by developed area, especially if corridors are blocked. Wildlife corridors must be open so individuals can come into the population and leave the population.

Town roads can have turtle signs posted. State roads cannot have turtle signs posted. NH F&G might be able to help the town acquire and post signs to identify turtle crossings.

Turtles are often 15-16 years of age before they reproduce. One individual can have a huge impact on populations. Turtles reach reproductive age a lot slower than many common NH species such as deer, moose, and bears.

Biodiversity is important. The NH Wildlife Action Plan provides communities with multiple maps and descriptions of ground conditions and habitats that can be used by residents to conserve the highest value blocks of land. Town level actions that can be taken include turtle crossing signs, vernal pool surveys, NHB data checks for rare species, forming buffers around wetlands and vernal pools, culvert upgrades, and use of erosion control materials.

Plastic culverts should be upgraded to concrete pipe or corrugated metal. Plastic is too slippery for turtles and amphibians to cross through. Concrete allows the buildup of mosses and debris which help small animals cling to the bottom and not be washed down stream.

Vernal pools are recognized as wetlands by the state. It is beneficial for the town to map vernal pools everywhere in town even on town land. Private land would need permission, but vernal pools on town land could be done at any time. The benefit of the mapping on town land would be for trail locations and logging road locations to avoid the sensitive vernal pool environment. The Pelham town ordinances require a buffer of 50 feet from a wetland which includes vernal pools. Vernal pools can dry up in the summer and therefore be difficult to identify. The best time to identify vernal pools is in the early spring when frogs and spotted salamanders lay eggs in the ponds. NH F&G has a vernal pool reporting website. The site explains vernal pools and the species living within the pools.

NH F&G recommends natural materials use for erosion control methods on the landscape. Bio-netting needs to be used that is made of degradable materials. When plastics are used in these products, animals can become trapped in the netting and die. Biodegradable materials allow for the breakdown of the materials over time.

NH F&G recommends log landings near wetlands not be seeded. The exposed soils and sunlight that penetrates the area are attractive habitat for turtles. Turtles will not use the site if grasses have grown in. Turtles use old sand and gravel pits for nesting. The old sand pits should be kept open on conservation parcels. The open spaces receive a lot of sunlight and are the exact environment nesting turtles seek. Mr. Gagnon spoke of the Gumpus Pond area. The conservation area has a gravel pit that was being used as an active shooting range. A hillside was used as a backdrop for shooting and was littered with broken glass and bullets. The town flattened out the hillside and seeded the area. This area could possibly be the location for a restoration project. Mr. Gagnon saw a Blanding's turtle in this area last year. A New England cottontail habitat restoration project was completed several years ago within the Gumpus Pond Conservation Area.

Conservation subdivisions are most beneficial to wildlife when open space areas back up to each other in adjacent subdivisions and the open space areas are used to create or enlarge corridors for animals. Conservation subdivisions with isolated pockets of open space are not useful for wildlife as they create islands surrounded by development.

A few years ago, interns were hired in the summer, to identify all the outflows of culverts and to GPS them.

The Commission thanked Mr. Megyesy and Ms. Doperalski for their presentation. Members asked if any other presentations could be given to us. Mr. Megyesy and Ms. Doperalski thought they could come again and talk about snakes and/or amphibians. In addition, members asked if they would be interested in conducting studies on Pelham town lands. They both expressed interest.

Mr. Gagnon described a tool that can help critters escape swimming pools. The device is a small floating netting with an arm that reaches out of the pool. If animals fall into the pool, they can climb onto the netting then climb up the arm to get out of the pool. Mr. Gagnon found this device at the pool store. He has not found any dead animals in his pool since he installed the device.

MINUTES:

Motion: (Loosigian/Gendreau) to approve the minutes from December 12, 2018.

Vote: 6-0-0 in favor.

Motion: (Loosigian/Shydo) to approve the minutes of the site walk of December 16, 2018.

Vote: 4-1-1 Gendreau abstained. Stanvick opposed.

Mr. Stanvick had several problems with the minutes and wanted his comments on the record. He wanted some comments struck from the record. He felt they were not appropriate because the comments were not within Commission purview. Mr. Stanvick felt the following sections of minutes should be struck.

Page 2, paragraph 2: comments about the emergency call center in Londonderry.

Page 2, paragraph 6: comments about a neighborhood resident looking at the tower.

Page 3, paragraph 1: comments about the drainage easement.

Ms. Loosigian and Mr. Gendreau felt the minutes must be written to record comments made at the meeting. Ms. Shydo felt the purpose of the minutes was to record what happened at the meeting, but in no way does the Commission need to act on the comments. In addition, she felt accurate recording of the meeting lends credibility to us by being totally transparent about comments made at the

meeting. Mr. Gagnon said the comments described by Mr. Stanvick are out of our purview, but someone said them in a public meeting so they should be recorded. Mr. Gagnon expressed that the person running a meeting should try to keep participants on topic. Ms. Mackay said she writes up the minutes as accurately as possible to relate events in the meetings.

All votes, whether on a case or on approval of the minutes, have a vote in favor, opposed or abstained. Both abstained and opposed members are named directly in the minutes. Members who oppose a project or the minutes usually have a reason and the reason is recorded in the minutes. Ms. Mackay asked Mr. Stanvick to look at this set of minutes and make sure she has accurately described his objection to the minutes from the site walk of December 16, 2018 and if not to let her know so the minutes can be changed to reflect his comments. Ms. Mackay asked all members to please let her know if she states anyone's comments incorrectly in any set of minutes.

NON-PUBLIC:

Motion: (Mackay/Stanvick) to go into non-public to discuss land acquisitions in accordance with RSA 91-A:3, to seal the minutes of non-public, then to adjourn following non-public.

Vote: 6-0-0 in favor.

Adjourned 9:35 p.m.

Respectfully submitted,
Karen Mackay
Recording Secretary