



**NEWTON
CONSERVATORS**

SPRING ISSUE

NEWSLETTER

Newton's land trust working to preserve open space since 1961

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Conservation in Newton: The Conservation Commission

By Jennifer Steel



PHOTOS: DAN BRODY



Newton Conservation Areas from left to right: Flowed Meadow, Helen Heyn Riverway and Dolan Pond

This story doesn't have a villain bent on destroying a kingdom or a fair maiden in distress, but the story of the evolution of Massachusetts's conservation commissions is an interesting, though an admittedly slow-paced, tale that has unfolded over the past six decades. Commissions have evolved over the years and are now bodies with broad regulatory powers that are a key element in the Commonwealth's framework of protective laws and programs. Indeed, Massachusetts has been at the cutting edge of environmental protection and has engaged its citizens in a rather unique way.

The Commonwealth invented the municipal conservation commission in 1957 with passage of the Conservation Commission Act (MGL Ch. 40 §8C), which authorized each city and town in Massachusetts to establish a locally appointed municipal agency "for the promotion and development of the natural resources and for the protection of watershed resources of said city or town." Specifically, conservation commissions are charged with (1) planning for natural resource protection, (2) coordinating with other groups with similar goals, (3) acquiring important land and water areas (in fee or through restrictions), and (4) managing these properties (to "maintain, improve, protect,

limit the future use of or otherwise conserve and properly utilize open spaces in land and water areas within its city or town."

Conservation commissions are made up of volunteer citizens. Some commissions have multiple paid professional staff; some do not have any clerical assistance. Newton has a commission with 7 appointed members, alternate members, and one professional staff member. Newton's Conservation Office is part of the Planning Department (located in the basement level of City Hall). Newton's Senior Environmental Planner, Jennifer Steel, serves as staff to the Conservation Commission and can be reached at (617) 796-1134 or at jsteel@newtonma.gov.

The Newton Conservation Commission meets every three weeks on Thursday evenings beginning at 7:00 pm, usually in Room 204 of City Hall. Conservation Commission meeting dates, agendas, and materials are all available on the Newton Conservation Commission website. At its meetings, the Commission reviews and votes on wetland permit applications, issues of land management, and administrative issues. The Commission welcomes guests and interested members of the public to its meetings.

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Current Newton Conservation Commission members are

- Ira Wallach, Chairman
- Susan Lunin, Vice Chair
- Judy Hepburn, Clerk
- Dan Green
- Norm Richardson
- Jane Sender
- Barbara Newman
- Jeff Zabel, Associate Member

Planning

The Newton Conservation Office plays a lead role in creating and updating the City's Open Space and Recreation Plan (see below).

Land Management

Under MGL Chapter 40, Section 8C, "The Conservation Commission Act," conservation commissions can acquire and manage land. It is up to a land donor or the City at the time of acquisition to determine which City body should be given custody of the parcel. Natural land with watershed or ecological value is usually given to the care and custody of a conservation commission while more managed or manicured lands are usually given to a parks department. Sometimes, however, conservation commissions have custody of land with buildings, parking lots, roads, and other "improvements", and parks departments have custody of natural open spaces.

The Newton Conservation Commission currently controls 20 conservation areas totaling over 280 acres. It is responsible for managing these lands for ecological health and/or passive recreation. Fourteen of the parcels have trails that are open to the public, with a total of over 9.5 miles of trails. Locations of the parcels and individual parcel maps are available on the Conservation Commission's website. Residents are encouraged to explore these natural gems that are scattered across Newton. You will be surprised just how quickly the pace of urban life slips away as you enter one of these wooded gems; you may soon forget that traffic, work deadlines, or home stresses exist as you watch the stream dance along, listen to the wind in the trees, watch a chickadee enter its nest cavity, or smell the rich sweetness of new growth bursting forth from the brown leaves of last year.

Wetland Regulation

In 1972, as the municipal focal point for environmental protection, conservation commissions were given



Kennard Park

responsibility for administering the state Wetlands Protection Act (MGL Ch. 131 §40). The Wetland's Protection Act is Mass DEP's law, implemented almost exclusively by local conservation commissions. Conservation commissions' role in community government expanded enormously as they suddenly became a major permitting authority, responsible for a very complex set of environmental regulations. (This was, to be sure, a huge unfunded mandate, but it gave each municipality the opportunity to take charge of its own development and natural resource protection!) Conservation commissions' wetland regulatory responsibilities have continued to grow with the addition of new laws and regulations, such as the Rivers Protection Act and stormwater permitting requirements. Now, any work that would alter vegetation, grading, structures, or drainage within 100 feet of a wetland or within 200 feet of a perennial stream must be permitted by a conservation commission—regardless of whether it is on public or private land. Under the Wetlands Protection Act, commissions across the state process thousands of applications every year. Newton processes roughly 40 wetland applications per year, then monitors those projects through to completion. (The Newton Conservation Commission website has lots of information about wetland regulation and permitting and has links to useful maps showing estimated wetland resource areas.)

In 1966, Article 89 of the state Constitution, known as the Home Rule Amendment, was adopted. It allowed cities and towns to adopt laws "not in direct conflict with the General Laws of the state." It is the source of the power of communities to create charters, but it is principally used to adopt bylaws and ordinances. Under Article 89, many commissions have local non-zoning bylaws or ordinances protecting wetlands, well-heads, land. As of 2012, 30% of Massachusetts's 351 communities had adopted wetlands bylaws or ordinances. Newton has a floodplain ordinance, but no other wetland protection ordinance.

Community Preservation Committee

For municipalities that have adopted the Community Preservation Act structure, conservation commissions' obligations expanded yet again since conservation commissions must have representation on their Community Preservation Committee (CPC) and consult over proposed projects. Commissions sometimes end up with land management responsibility for newly acquired lands. Newton has an active CPC.

The Conservation Commission: Conclusion

So, Massachusetts really puts its citizens in the driver's seat (albeit without funding or prior training!) and entrusts them to administer a very powerful set of environmental laws and regulations. Conservation commissioners need to embrace a very steep learning curve to understand the hundreds of pages of regulations that they must administer, and they must engage in land protection and management (and the inherently politically complex job of resource regulation and allocation!).

The Newton Conservation Office

The Senior Environmental Planner, as part of the Planning Department, undertakes a number of other efforts on behalf of Newton.

- **Advocating for expanded and improved trails.** For example, the Senior Environmental Planner is trying to capitalize on trail opportunities on state Department of Conservation and Recreation land along the Charles River.
- **Assisting with the planning for enhancements to the city's stormwater management system.** The Senior Environmental Planner is part of the City's planning team. Since so much of our wetland areas have been filled and so many of our streams have been piped, there is limited opportunity for stormwater to get into the soil, be cleaned by nature, recharge our rivers during dry periods, and mitigate flooding episodes. Hopefully planning efforts will allow for long-term improvements to the system.
- **Undertaking public education.** The Senior Environmental Planner is creating fliers, web information, and public presentations to help residents understand the opportunities for and benefits of things such as green lawn care, rain gardens, tree preservation, use of native species in landscaping, and low impact development strategies.
- **Coordinating with local conservation organizations.** There are many organizations in the

area dedicated to issues of conservation. The Senior Environmental Planner coordinates with groups such as: the Newton Conservators, "Friends of ..." groups, the Charles River Watershed Association, and the Mass. Department of Conservation and Recreation.

- **Holding conservation restrictions.** The Newton Conservation Commission "holds" many conservation restrictions (CRs) on privately owned open space that has been deed restricted to remain open space in perpetuity. The Senior Environmental Planner helps maintain the database of CRs.
- **Overseeing the City's Open Space and Recreation Plan (OSRP).** A planning mandate was one of the primary reasons for the creation of conservation commissions, long before wetlands regulation began. In this planning capacity, the Senior Environmental Planner helped update the 2014 OSRP.

Conclusion

With all of these obligations, the Conservation Office is a very busy place but a truly wonderful one, where planning and regulation meet real-life development projects, where individuals can help to shape the way in which the City grows, where every encounter is an opportunity for education and engagement, and where I, for one, am always reminded of the most important things in life: the health of this planet, an educated and engaged citizenry, and the opportunities for kids to enjoy the wonders of nature... right outside their homes. ■

Do you have a few hours to devote to a good cause each week?

Would you like to learn more about Newton's conservation lands?

As you can tell by reading her article, Jennifer Steel, the Senior Environmental Planner for Newton and city staff member for the Conservation Commission, oversees many tasks. She is looking for an assistant to help her with administrative tasks for several hours (or more) each week.

Some of the tasks can be done from home, and others require going to the office in City Hall.

For more information, call Jennifer at 617-796-1134 or write to her at jsteel@newtonma.gov.