

TOWN CLERK

**Weymouth Conservation Commission  
McElroy Room, McCulloch Building  
182 Green Street, Weymouth  
April 11, 2012 Meeting**

**Present:** George Loring, Chairman  
Steve DeGabriele, Vice-Chairman  
Greg Shanahan, Commissioner

**Not Present:** Scott Dowd, Commissioner  
Laura Harbottle, Commission Clerk

**Also Present:** Mary Ellen Schloss, Administrator

**Recording Secretary:** Patricia Fitzgerald

**Cmmr. Loring called the April 11, 2012 meeting to order at 7:16PM in the McElroy Room in the McCulloch Building, Weymouth, MA. This late start was due to the many questions from people who were present for the 0 Oak St. hearing, which was postponed.**

**New Committee Member**

Mr. Greg Shanahan was introduced as the newest member to the Conservation Committee.

**Minutes**

Approval of the March 14<sup>th</sup> minutes was tabled until April 25, 2012.

**93 Grant Street – Continued Violation Hearing**

Cmmr. DeGabriele moved to re-open the violation hearing, seconded by Cmmr. Shanahan.  
UNANIMOUSLY VOTED

Appearing before the Commission were Dr. Walter Hewitson, botanist, and Timothy MacLeod, owner.

The following documents had been submitted to the Commission for their review:

- Restoration narrative prepared by Walter Hewitson, PhD, Botanist, titled "A Restoration Plan for a Disturbed Wetland at 93 Grant Street, Weymouth, MA," dated April 6, 2012.

- “Plot Plan showing Wetland Delineation Lines at 93 Grant Street in Weymouth, MA,” Prepared for Timothy MacLeod by James L. Nabstedt, PLS, dated March 22, 2012, 1”= 20’.

Dr. Hewitson remarked that Mr. MacLeod has been in the construction business for over (10) years. He has stored construction equipment in the rear portion of his property and the area has also been used for parking and to hold exotic materials (for example, boulders and an (8) ft. high soil pile). This area is in the no-touch-zone and abuts wetlands, which have been encroached upon.

On March 12<sup>th</sup>, after the Enforcement Order was issued, Dr. Hewitson looked at the site. He tried to determine where the fill met with the undisturbed wetlands and on that same day placed unnumbered yellow flags along the edge of the fill. On March 23<sup>rd</sup> a back hoe was used to dig a ditch (1) bucket wide and approximately (3) ft. deep perpendicular to, but not touching, the wetlands in the vicinity of flag #6 on the plan. They reached the point where, possibly, the wetland ended and then notified the Conservation agent.

Ms. Schloss went out to the site and eventually they arrived at a tentative line; it was based upon the fact that they found soils which could be expected to be found upland. Dr. Hewitson also pointed out to Ms. Schloss that between flags 4 and 5 there is a cherry tree with a diameter at breast height of (12)” - a tree that has been there longer than (10) years and cherry trees are an upland tree. On the west side there are an additional (3) black cherries, 6-8” dbh, and (1) red oak, (6)” dbh which are also upland trees. Then at about flag #5 there are (2) large red maples, 14-15” in diameter; 50% of the time, red maples can be an upland tree and he feels, in this case, they are upland.

Dr. Hewitson said he calculated the area of disturbance to total 3,089 sq. feet (+/-); Con Comm had originally estimated the area to be around 2500 sq. ft.

He said the wetlands are a swamp dominated by pussy willows and some red maples but the interior is lacking trees. There are a few shrubs - pepper bush, silky dogwood, arrow wood, highbush blueberry and (1) clump winterberry. There are some invasives including Japanese knotweed and a few purple loosestrife.

Dr. Hewitson stated that, according to the Norfolk County Soil Survey, the swamp is under laid with Swansea muck – he inserted a 65” steel rod and reached nothing but muck. He said he’ll use the swamp as a model for what they’ll do in the restoration area. He said along wetland flags 10-13 they might need to pull back the pussy willows and pull out the stag horn sumac, and at flags 5 and 6 multiflora rose may need to be pulled back, before he can stake the wattle. He wants to pull back the soil (2) ft. and stake the wattle, then he’ll contact Ms. Schloss to come out to give her approval. He plans to excavate and pull the fill back away from the undisturbed wetlands, which are now (1) ft. lower than the top of fill; they will try to recreate and extend that level of wetlands.

Dr. Hewitson commented that when the ditch was being dug he didn’t notice any construction material, but he did find 5-6” logs and some boulders. He thinks it best to leave the logs and boulders to prevent blowdown plus they add texture and body to support the specimens they’ll be using.

Dr. Hewitson explained the rest of his plan:

- He'll use a siltation fence along the wetland line from flag 1 to flag 10.
- The no-touch-zone is now at the same level as the fill; he'll drop it (1) ft., remove the gravel and put in a foot of loam; this will create a foot-high lip and will show the wetland line.
- Boulders will be removed to be used by Mr. MacLeod at a construction site.
- Another siltation fence will be used at the upland side of the no-touch zone.
- When the project is done, Mr. MacLeod has proposed a (6) ft. stockade fence along the property line.

Plantings:

- (21) 1-2 gallon pussy willows and (10) 2-3 gallon red maples.
- During the summer he will collect some herbaceous seeds such as Fringed sedge, lurid sedge, bone set and Joe Pye weed and will spread throughout.
- In the no-touch zone, (9) red maples and he will hydro seed with an Agway conservation mix of rye grass and clover.

Cmmr. DeGabriele commended Dr. Hewitson's report as being very thorough and said he would accept his wetland line location. He also said he was glad to hear about the stockade fence and asked if any bushes or low plants would be planted.

Dr. Hewitson responded that, at present, only the pussy willows have been considered.

Cmmr. DeGabriele asked if the boulders and soil pile outside of the no-disturb-zone will be removed or will there be piles somewhere else; Dr. Hewitson said the material and equipment will be moved to a new site that Mr. MacLeod will be renting.

Cmmr. DeGabriele suggested a stipulation to prevent equipment from the property.

Mr. MacLeod said 'that can get dangerous – what if I bring equipment home?'

Cmmr. DeGabriele explained that if anything is done within (100) ft. of the resource area that will alter the property Mr. MacLeod would need to come before the Commission; he was not saying he couldn't bring equipment home.

Ms. Schloss reminded Mr. MacLeod that the Enforcement Order says 'there will be removal of the fill and restoration of the wetland and (100) ft. buffer zone', adding that changes in the buffer zone need to be discussed as they were never approved.

Mr. MacLeod stated he would discuss it but suggested they move forward with this plan. He said all he can do is give his word he won't bring in material from jobs and stockpile it in his yard, adding "I'm not stupid".

Cmmr. DeGabriele stated that he did not call Mr. MacLeod 'stupid' but thinks it's important that he knows where the 100-foot line is.

Mr. MacLeod then said 'We'll have a problem with that down the road. You've already taken the whole back of my yard, so now you're going to tell me you're going to police (100) feet (+). So every time I'm going to mow my lawn I call you? Really?'

Ms. Schloss offered to explain, but Mr. MacLeod interrupted her, saying "I already know what you're going to say, that you're in charge of the (100) feet beyond the wetlands. I know that, but why do you want to put it in writing?"

Cmmr. DeGabriele explained that if Mr. MacLeod was to do an activity such as extend the yard or store equipment, he would need to get permission. He stated that there is an Enforcement Order that already says this.

Mr. MacLeod challenged that the Commission was taking (100) feet from him.

Cmmr. DeGabriele countered that the LAW states that activity within (100) feet of a resource area is under the Commission's jurisdiction and he shouldn't get angry because Con Comm is trying to explain the rules.

Mr. MacLeod said that putting it in writing "ticked me off".

Ms. Schloss explained that it doesn't mean that nothing can be done in the 100-foot buffer zone, but certainly nothing can be done in the 25-foot no-touch-zone. She asked Mr. MacLeod to tell the Commission if he would like to make any alterations in the 100-foot buffer zone, adding that because this wasn't done before (when the area was cleared) this hasn't been previously discussed.

Mrs. MacLeod then spoke from her chair, saying that when they bought the property (17) years ago, the wetland area was not that predominant; they got a business permit and were using their yard. She feels their yard is being taken, that what they can do with their yard is being mandated and they are being financially burdened by having to move their business and pay a monthly rent. She stated that a lot of the conservation land that is there is from years of problems that they've been battling "that was never taken care of". She ended by saying that they have a right to be angry.

Cmmr. DeGabriele commented that it is the responsibility of the Commission to protect the resource and to see to it that the area is used in such a way as the resource is protected.

Dr. Hewitson then spoke to Mr. MacLeod, trying to explain that they can use the (100) ft. buffer zone, but if they are going to permanently alter it they must come back before the Commission. He said that people are always working in the (100) ft. buffer zone but NOT in the (25) ft. no-touch-zone or wetlands.

Ms. Schloss asked Mr. MacLeod if he intended to seed; Mr. MacLeod said he "will just leave it as is and proceed with the project. I have no desire to do anything now".

Ms. Schloss expressed appreciation for the plan and the expense involved and asked Dr. Hewitson about irrigation and if he was okay with the time-of-year: Can he get the plants in? Will they need to be watered?

Dr. Hewitson replied that the trees might require a (5) gallon bucket of water once a week unless it rains.

Ms. Schloss emphasized the importance of watering as the plantings will be monitored for (2) years and anything that doesn't make it will need to be replaced.

Ms. Schloss asked Dr. Hewitson if he had considered seed mix with a shrub component.

Dr. Hewitson responded that he was also going to collect seeds of speckled alders.

Ms. Schloss said she was fine with seeds and conservation mix and asked Mr. MacLeod if it can be done by May 15<sup>th</sup>. He said he will start with the wattle next week but he couldn't promise completion by May 15<sup>th</sup>, but didn't think it would take much longer than that.

Ms. Schloss asked Dr. Hewitson if it would be too warm after May 15<sup>th</sup>; he said he prefers to plant in early fall to prevent water loss. He said for every plant he will create a 6" high x 3' diameter planting mound, explaining that the elevation will provide more oxygen and make it drier for the plants.

Ms. Schloss asked about seeding; Mr. MacLeod said that he can water the hydro seed.

Cmmr. Loring offered that there is no sense planting the trees until the fall if they're not going to make it; Mr. MacLeod said he would do whatever Dr. Hewitson tells him to do.

Dr. Hewitson said there will be no machines, "everything will be hand dug".

Ms. Schloss asked that Con Comm be contacted if the timing will be different than May 15<sup>th</sup>.

Dr. Hewitson said he thinks they can demonstrate progress and hopes they can get it done (close to May 15<sup>th</sup>). Mr. MacLeod added that he wants it done as soon as possible.

**DEP File # not available**

Cmmr. DeGabriele moved to open the public hearing, seconded by Cmmr. Shanahan. UNANIMOUSLY VOTED

Cmmr. Shanahan moved to continue the public hearing to April 25<sup>th</sup>, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

**Washington Street Pump Station, Sluice Gate Protocol – Discussion**

This discussion was tabled until the April 25<sup>th</sup> meeting, when Cmmr. Dowd can attend.

**Other Business/Conservation Report**

- Washington Street Pump Station: Cmmr. Loring reported that the sluice gate electrical box was not connected so the gate can't be closed. The timing is bad as Great Pond is down (6)", the hydrants need to be flushed (which takes 155,000 gallons per day for 7 days) and the herring are trying to come.
- Cmmr. DeGabriele asked for the plan for 0 Oak St. to be enlarged.
- Iron Hill Dam: Ms. Schloss said she is trying to get out the Orders.
- Weathervane: the Certificate of Compliance will be received in time for the April 25<sup>th</sup> agenda. Ms. Schloss reminded the Commission that this is a complicated project and Con Comm has the authority to hire a consultant. Cmmr. DeGabriele suggested that Weathervane needs to come in with an overview of what they're seeking, so conditions will be known before a consultant is hired.
- Cmmr. Loring announced that Clean-up Day on April 7<sup>th</sup> went great with over (100) people participating.
- Ms. Schloss said a dozen or so people will donate their time to clean Lower Jackson Sq. Herring Run, by the Skate Park, on April 13<sup>th</sup>.
- Great Esker Park: National Grid is pretty much done. There is no Con Comm permit but they have a 401 Water Quality Certificate and an Army Corps of Engineers Permit.
- Rte. 3 median work was finished within the last (3) weeks.
- The lantosca property out by Weymouthport: old timber piers and cross members are being cut and removed.

- Next meeting: Oak Street and Regatta Road.
- Ms. Schloss will be out week of April 16<sup>th</sup>.

**Adjournment:**

Cmmr. Shanahan moved to adjourn the meeting at 8:26 PM and to meet again on April 25, 2012 at The McCulloch Building on Green St., seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

Respectfully submitted,

Patricia Fitzgerald

Approved:

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Laura Harbottle, Conservation Clerk

Date