

TOWN CLERK

**Weymouth Conservation Commission
McElroy Room, McCulloch Building
182 Green Street, Weymouth
March 28, 2012 Meeting**

Present: George Loring, Chairman
Steve DeGabriele, Vice-Chairman
Scott Dowd, Commissioner

Not Present: Laura Harbottle, Commission Clerk

Also Present: Mary Ellen Schloss, Administrator

Recording Secretary: Patricia Fitzgerald

Cmmr. Loring called the March 28, 2012 meeting to order at 7:00 PM in the McElroy Room in the McCulloch Building, Weymouth, MA.

Minutes

Cmmr. Dowd moved to approve the minutes as written and amended for Jan. 11, Feb. 8 and Feb. 22, 2012, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

**Iron Hill Dam Repairs - Notice of Intent – Continued Hearing
DEP File #81-1099**

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

Appearing before the Commission were Allen Orsi, Park Corp., and Chip Fontaine, Town Engineer.

Mr. Orsi told the Commission that some comments have been received from DEP and the Dept. of Marine Fisheries (DMF). He said they were, generally, in agreement with the premise of coordination between the Herring Wardens, the Town Engineer and the contractor to provide the least amount of impact to the herring run and out-migration. He also stated that the DEP Tile number is 81-1099.

Mr. Orsi distributed a revised plan, dated March 2012, and explained some of the changes made since the last meeting:

- Sheet 1, Column 3, Erosion Control notes: #6 was added: "All loamed areas with slopes steeper than 3H:1V shall be provided with jute netting."
- Sheet 3: A line of hay bales (closest to the limits of disturbance), bank restoration and water vegetation will be provided. Coir logs are being proposed along the water line of the disturbed bank. Willow and dogwood will be planted above the coir logs and a mixture of arrowhead, soft rush and wild celery below the water line.
- Sheet 6: Dewatering and sediment details: pumping to be run through a hose to a sediment basin on top of the 2nd structure, a rectangle of hay bales go through geotextile fiber and dropped down into the flood control system.

Ms. Schloss asked Mr. Orsi if they ever set the pump in a perforated pipe or wrap it in filter fabric; he said they do but this can slow down flow too much.

Ms. Schloss asked if the pumps will take up mostly ground water and are set below the level of excavation; Mr. Orsi replied yes, adding "it will be ground water and any run-off from the work area".

Ms. Schloss commented that, generally, the performance standards are that if turbidity is seen, you have to go to the next step (whatever that may be).

Mr. Orsi said if the sump is pumping turbidity, they can put a silt sock at the end of the pump lines, before it drops into the siphon. He explained that the hose will be coming out with a geo-tech bag at the end.

Cmmr. Dowd asked if it is cinched; Mr. Orsi said the bag is a back-up measure in the sediment basin.

Ms. Schloss handed out the Mar. 27th comments from DMF and asked that the issue of migration timing be discussed. She said that the DMF has their definition of the timing of in and out-migration. She recommended that local conditions be built into the Order of Conditions and that the OOC specifies that local conditions need to be coordinated with the Herring Wardens, and some flexibility is needed in this regard. She added that the DMF letter stated that if both sluiceway and fish ladder have to be closed for a few days, DMF would allow for bypass pumping in order to replicate down-stream flows.*

**[Note: Upon further discussion with DMF staff, they explained that they would approve of closure of both outlets only if it were outside the migratory periods.]*

Cmmr. Dowd commented that, under those circumstances, the out-migration wouldn't happen, but for fish that are already there it may be possible to pump over the temporary dam; this would help down-stream and address any fry still in the ladders.

Ms. Schloss suggested discussing the subject of 'flow', and asked about closing the ladder in August.

Cmmr. DeGabriele said he interpreted the DMF periods as absolutes (and only as it refers to *early* migration). He said it could be a condition that if migration is occurring, it is that plus working with the Herring Wardens to assess the situation.

Ms. Schloss said that Mr. Orsi mentioned that one problem of waiting until the sluiceway work is done and the out-migration is over, is that colder temperatures would be upon us and it may not be a good time to do the crack repairs.

Mr. Orsi said that if the ladder work is delayed and there are freezing temperatures, the joint repair materials will be affected and insulation temperatures need to be around 40 degrees.

Cmmr. Loring declared that the work has to be done “around the fish”.

Mr. Orsi said they will work with the fish’s window, not the regulation’s window.

Mr. Fontaine said he would like to see DMF agree to allow work to start if the fish are gone.

Ms. Schloss explained that DMF’s opinion is advisory, as far as Con Comm’s orders are concerned.

Cmmr. DeGabriele suggested that the conditions be clear that the Order is not requiring strict adherence to the normal time frames, and the Herring Wardens determines when the time period is over.

Cmmr. Dowd informed Mr. Fontaine that several large granite blocks have been washed out in the flood control tunnel and asked if it was time to re-inspect the tunnel; Mr. Fontaine replied that it was too much to add onto this project.

Ms. Schloss said she wanted Controlled Water Notes #2 to be changed to read ‘no work during fish *spawning* changed to fish *migration* ’; Mr. Orsi agreed to that.

Draft Conditions handed out by Ms. Schloss were discussed:

- #3 was amended to allow local flexibility in determining fish migration periods.
- It would be good to have these conditions for shoreline plantings.
- Erosion control blankets would be used.
- Remove debris.
- NOI is requesting waiver for DEP wildlife habitat analysis.
- If flooding is not increased, there is no need for compensatory storage.
- Add “Findings” section to help describe local conditions.

Cmmr. Dowd moved to close the public hearing, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

Cmmr. DeGabriele moved to issue Standard Order of Conditions with Special Conditions as mentioned, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

35 Regatta Road – Discussion of Potential Violation

Mark Manganello of LEC Environmental appeared before the Commission, representing the owner, Rand Currier.

Ms. Schloss explained that an Enforcement Order was issued to Rand Currier in 2007 for bank cutting on Town owned property and Town owned coastal bank. Mr. Currier was required to hire a consultant to draw up a restoration plan and he hired LEC Environmental. Originally (60) shrubs were planted and now there are only about (12) remaining cherry, willow, birch and a crab apple tree have been cut; it also has been mowed. The Enforcement Order never specified shrub height and there was concern about bittersweet, multiflora rose and honeysuckle taking over the planted shrubs.

Ms. Schloss said there have been e-mails exchanged with Mr. Currier where he says he wants to cut the plants back and let the shrubs grow. Ms. Schloss said it was okay to cut them but he had to leave the roots. He also admitted to mowing.

Cmmr. DeGabriele said this situation is pretty egregious. An original condition was for both short and long term maintenance. This is a violation of approval and the original order.

Ms. Schloss commented that the slope and the beach have been impacted and a lot of the phragmites that existed on the beach in 2007 are gone.

Mr. Manganello confirmed that his company prepared and successfully implemented a wetland restoration plan in 2007, but they did not follow up or monitor afterwards. He said he went out this week and observed what should have been a grassy field has been mowed like a lawn and numerous (30-40) shrubs are gone.

He also said they will work with Ms. Schloss and agrees the property needs monitoring and someone there at the end of each growing season. He proposed a revised restoration plan and the installation of new plantings. He also said the grass should be allowed to grow (recommending that it be mowed 1-2 times per year) to provide wildlife habitat.

Ms. Schloss asked if there is a reason to mow the grass; Mr. Manganello replied that it keeps the invasive species from taking over, eliminates woody growth and provides bank stability.

Cmmr. DeGabriele asked how long it would need to be monitored; Mr. Manganello answered “for perpetuity” then asked if it could be added to the deed.

Ms. Schloss stated that Memorandums of Agreement have been discussed and, as it is Town of Weymouth property, Con Comm can make the decision.

Mr. Manganello told the Commission that a property’s view is always an issue and there needs to be a compromise between protecting the resource area and satisfying the owner. He mentioned a new program in Falmouth (Stump Sprout Management) that is having pretty good success: year-old saplings

(like Tupelo) are cut low and the growth of subsequent suckers is managed to encourage tall, shrubby growth to provide wildlife habitat.

Mr. Manganello said he talked to Stan Humphries, and he has suggested beach grass plantings.

Ms. Schloss asked if Virginia Rose will be used in the new plan; Mr. Manganello said that they plan to use Virginia Rose and some bayberry.

This discussion was continued until April 25, 2012. Mr. Manganello said that he and Mr. Currier will be at that meeting.

**Lower Central Interceptor - Closed Hearing – Issue Order of Conditions
DEP File #81-1093**

Commissioners reviewed draft conditions prepared by Ms. Schloss. Ms. Schloss said she met with DPW to get their comments, and offered to review the changes.

Cmmr. Loring asked about Condition #54: is it a given that DPW or the contractor notify Con Comm in the event of a malfunction of a sewer line or bypass line?

Ms. Schloss said that the wording comes straight from the DMF comments and they should notify Con Comm.

Cmmr. Loring also asked about Condition #60.

Ms. Schloss stated that stumps will be removed if needed but, if it's only for access and they're not worried about the growth, they can be left there. Environmental Partners said that they would avoid removing any stumps if it will cause instability issues of coastal bank. She will revise # 60 to indicate 'stump left in place if necessary for integrity of the sewer line'.

It was agreed to leave Condition #73 as is.

Cmmr. DeGabriele recommended taking photos of current conditions to ensure things are restored as they should be.

Ms. Schloss said that pictures are part of the proposal and the conditions, adding that it may be the responsibility of the contractor. She said she will add wording about 'post-construction photos' to Condition #73.

Ms. Schloss said she added a condition to provide for an on-site visit with the wetland scientist, the landscape company and Con Comm, prior to the start of planting. Also added was language prohibiting storage of docks or floats in the resource area.

Cmmr. Dowd asked if unpermitted structures will be rebuilt by the Town; Ms. Schloss confirmed that the Town cannot rebuild an unpermitted structure.

Cmmr. Dowd moved to issue the Order of Conditions with Special Conditions mentioned, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

Further discussion of 35 Regatta Road followed:

- Cmmr. DeGabriele asked if fines would be appropriate and if an Enforcement Order should be issued.
- Ms. Schloss agreed with issuing an Enforcement Order, adding that a Violation Hearing would be necessary if fines were to be imposed. Members agreed to schedule the next discussion as a Violation Hearing.

93 Grant Street – Continued Violation Hearing

The applicants requested a continuation as their survey plan was not ready; they said they would appear April 11th; Ms. Schloss told them Con Comm needs to see the plan by April 4th.

Cmmr. DeGabriele signed the certification that he listened to the audio recording of the Feb. 8th Violation Hearing.

*Cmmr. Dowd said he may not be in attendance April 11th.

Cmmr. Dowd moved to continue the hearing until April 11th, seconded by Cmmr. DeGabriele.
UNANIMOUSLY VOTED

Other Business/Conservation Report

- Cmmr. Loring announced Clean-up Day is April 7th.
- Ms. Schloss met with the Weathervane wetland scientist and surveyor to review the as-built plans; there has been encroachment on the golf course.
- Whitman's Pond Working Group is meeting on April 2nd in the Mayor's office; the contractor for the Vegetation Management Plan is ESS Group.
- Wessagusset Road drainage project: There is an expired OOC, modifications have been made to the storm drain and flapper valves have been installed. A manhole in the marsh will be converted to an open catch basin - this work will take one day and won't require an actual filing.

- 125 Fort Point Road: a request has been received for a 2'-3' ft. 'dipping pool' that is in a coastal flood plain. The grade will be changed and (100) sq. ft. will be altered. Ms. Schloss said she has steered them toward an NOI.
- Proposed new member, Mr. Shanahan, will be reviewed at the April 2nd Town Council meeting.

Adjournment:

Cmmr. DeGabriele moved to adjourn the meeting at 9:05 PM and to meet again on April 11, 2012 at the McCulloch Building on Green St., seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

Respectfully submitted,

Patricia Fitzgerald

Approved:

Laura Harbottle, Conservation Clerk

Date