

**WEYMOUTH CONSERVATION COMMISSION  
RECORD OF MINUTES AND PROCEEDINGS**

**Wednesday, March 18, 2015 - 7:00 p.m.  
Council Chambers, Town Hall, 75 Middle Street, Weymouth, MA**

**Present:** Steve DeGabriele, Chairman  
Tom Tanner, Vice Chairman  
Scott Dowd, Clerk  
George Loring, Commissioner  
Anthony Merlino, Commissioner

**Absent:** None

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

Chairman DeGabriele called the March 18, 2015 Commission meeting to order at 7:00 p.m. in the Council Chambers, Town Hall, 75 Middle Street, Weymouth, MA.

**Minutes:**

On a motion made by Commissioner Tanner, seconded by Commissioner Dowd, the Commission voted 5-0 to approve the minutes from the February 18, 2015 meeting as written.

Chairman DeGabriele noted that the minutes indicate that the specific deviations from the original Order of Conditions for 73 David's Island Road should be provided to the new owner and asked Ms. Schloss to provide a letter with the deviations listed or to send the minutes.

**Longwood Road – Request for Extension of Local Order of Conditions  
Map 21, Block 288, Lot 1  
DEP File # 81 -991 (Single-family house)**

Ms. Schloss informed the Commission that the applicant has asked for a continuance to the next meeting on April 8. Due to continued snow coverage, a site visit to view the wetlands coverage is not feasible.

On a motion made by Commissioner Dowd, seconded by Commissioner Tanner, the Commission voted 5-0 to continue the public hearing to the next meeting on April 8, 2015.

**Mass Electric / National Grid – Request for Determination – Public Hearing  
Winter Street, Assessor's Map 29  
*Install underground electrical conduit, manholes, utility poles***

On a motion made by Commission Loring, seconded by Commissioner Dowd, the Commission voted 5-0 to open the public hearing for the Request for Determination of Applicability.

Melissa Kaplan of BSC Group was present to represent Mass Electric Co. / National Grid. Ms. Kaplan explained that Mass Electric is proposing to a 500-ft. underground conduit, manholes, and a utility pole within the 100-ft. buffer to a Bordering Vegetated Wetland. She added that the work is exempt under the (WPA) Wetlands Protection Act because the conduit is under the road and the new pole is 10-ft. back from the road and this project has been filed under the local WPO (Wetlands Protection Ordinance) only.

Commissioner Tanner asked where the poles will be located and Ms. Kaplan responded that the pole will be on the shoulder at the edge of the sidewalk. He remarked that he didn't like the pole on the road side of the sidewalks because of the snow plow.

Chairman DeGabriele asked what the distance from the shoulder to the wetland was and Ms. Kaplan replied that it was approximately 30-ft.

Ms. Schloss asked about the pole depth and if there would be dewatering. Ms. Kaplan responded that the pole will be about 6-8 ft. deep and it is unknown at this time if there will be dewatering but they do have standard operating procedures for dewatering. Ms. Kaplan added that the purpose of the proposal is to increase the capacity. The load is at 90% right now and they need to allow for and have enough capacity for the development at the Navy Air Station.

The Chairman opened the public hearing up to public comment.

**Public Comment:**

Bob Montgomery Thomas, 848 Washington Street, asked if this work was near the detention basin and if they would be repaving, which would require a permit from the Town Council. He was concerned about the excavation and repair work and added that it should be repaved all the way back to the centerline of the street and not just the trench.

Ms. Kaplan responded that she would relay these comments to National Grid.

Commissioner Tanner and the Chairman remarked that the repaving work was not specifically an issue under the jurisdiction of the Commission.

On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 5-0 to close the public hearing.

On a motion made by Commissioner Loring, seconded by Commissioner Tanner, the Commission voted 5-0 to issue a negative III determination with the standard conditions for erosion controls, notification to the Conservation Administrator before, during and after construction.

**35 Regatta Road – Request for Final Certificate of Compliance**

**Rand Currier**

**Map 2, Block 12, Lot 21: DEP File 81-1117**

*Tear down and rebuild of single family home*

Ms. Schloss distributed a letter from LEC Environmental Consultants that reviewed the infiltration system installed in 2014 and determined that the soil was suitable for infiltration. She confirmed that the area behind the house had been stabilized with sod. She recommended issuance of the Final Certificate of Compliance.

On a motion made by Commissioner Tanner, seconded by Commissioner Dowd, the Commission voted 5-0 to issue a final Certificate of Compliance for 35 Regatta Road.

### **90 Libbey Parkway – Request for Final Certificate of Compliance**

#### **Foxrock Properties**

#### **Map 33, Block 433, Lot 4, DEP File # 81-1064**

#### ***Parking lot expansion, wetland fill and replication***

Jason Ward, managing partner of Foxrock Properties, Dan Snyder, head of property management for Foxrock, and Shawn Hardy, Project Engineer were present for the application. Mr. Ward explained that they were before the Commission to try to work through the outstanding items related to the stormwater detention basin and long-term maintenance. Mr. Hardy reviewed the letter from the Conservation Administrator dated December 31, 2014. He stated that they would ask Steve Ivas to come back to review the invasive species near the replication area.

In response to item # 1 regarding the detention basin, Mr. Hardy explained that they are looking to replace the forebays with one or two structural water quality units, such as a Stormceptor or a unit made by Hydroguard International. In response to item # 2, regarding the long-term maintenance for the stormwater management system, Mr. Hardy stated that Foxrock is committed to long-term maintenance and provided a copy of their maintenance contract. He noted that Foxrock is seeking to acquire the adjacent parcel on which the detention basin is located. In response to item # 3 Mr. Hardy said they will revise the O&M plan once they have a final design. In response to item # 4 regarding the OOC, general condition for the stormwater system compliance statement, Mr. Hardy said that this would be completed and submitted after the O&M is updated. In response to item # 5 regarding the stormwater maintenance contract, Mr. Hardy said that he submitted an interim proposal to the Commission this evening. The O&M contract will be amended to include new elements. In response to item # 6 regarding the items to be addressed prior to the Final Certificate of Compliance, Mr. Hardy said that he will prepare a final as-built plan and will make the necessary revisions and add the notes and inspect the 15-inch pipe. He added that the erosion controls will be removed this spring.

Commissioner Tanner asked if the system was electrically powered and Mr. Hardy responded that it was not electrical.

Chairman DeGabriele asked about the timing for this work and Ms. Schloss informed the applicant and Commission that the Department of Public Works should have at least three weeks to review the material once submitted.

On a motion made by Commission Tanner, seconded by Commissioner Dowd, the Commission voted 5-0 to continue this to the Commission's May 13, 2015 meeting. The plans and material should be submitted by April 22, 2015.

**Mass Bay Transportation Authority – Violation Hearing  
East Weymouth MBTA Station, riverbank erosion  
DEP File # 81-881**

Holly Palmgren and Kevin Biggins from the MBTA, along with Eric Monkiewicz and Meredith Avery of VHB, were present for the violation hearing. Ms. Palmgren updated the Commission on the MBTA's recent efforts. She informed the Commission that they have hired VHB to design a permanent fix for the riverbank erosion and intend to create a design that will permanently repair the riverbank and would like to construct before June 15. She added that they will remove the sediment that has eroded into the river.

Chairman DeGabriele asked how the Commission can be assured they will meet these deadlines. Ms. Palmgren asked that this be continued to the May 13, 2015 Commission meeting to allow them time to meet with Ms. Schloss and to present a final design. She further added that the previous designs were not engineered designs and now they have hired VHB to come up with a professionally engineered solution. Chairman DeGabriele asked that a preliminary design be provided to the Commission by mid-April.

Commissioner Dowd asked if the tides during the construction work have been considered. Mr. Biggins responded that the construction is expected to be 7-10 days and will address tidal cycles.

Ms. Schloss commented that VHB could reach out to her to review and recommended that the work be completed in July and August would be ideal because of the outmigration of the herring. She also added that the issue of the shut-off valve at the stormwater system outlet should be resolved.

Chairman DeGabriele asked that they put together a design, submit a preliminary in mid-April, and present the final proposal to the Commission at their May 13, 2015 meeting with work expected to commence in mid-June through September and construction estimated to be two weeks.

**Sherrick's Farm Road Subdivision – Request for Final Certificate of Compliance  
Richard Burns  
DEP File # 81-788  
*Subdivision roadway, wetland crossing, stormwater basin***

Ms. Schloss informed the Commission that Mr. Burns has asked for a request to continue this to the next meeting on April 8, 2015.

Chairman DeGabriele stated that the agreement to continue to the April 8, 2015 meeting was based on the applicant being fully prepared for this April meeting.

**169 Park Ave. West – Certificate of Compliance  
Thomas Tanner  
DEP File # 81-864**

***Single-family house, wetland and floodplain fill and replication***

Commissioner Tanner recused himself from this case as a Commission member and stepped into the role of the applicant for 169 Park Avenue West.

Mr. Tanner explained that he built the one-story ranch home in 2001. The 2001 Order of Conditions (OOC) included approval for 1,700 Sq. ft. of wetland and floodplain fill and a wetland replication and compensatory flood storage area related to the construction of the house. He further explained that he received a foundation permit from the building department and the replication area was seeded with a wildlife mix and is generally dry. A Certificate of Occupancy was issued by the building department and was signed-off by the previous Conservation Administrator. He is now looking to refinance and the lender notified him that he needs the Final Certificate of Compliance, over 13 years after the OOC was issued.

Mr. Tanner provided the Commissioners with the following supporting materials:

- a letter from Scott Arnold, P.E. to Mr. Tanner dated March 17, 2015 regarding services provided, including preparation of an as-built foundation plan;
- a letter from David Ericson, of J.F. Price Co., to Mr. Tanner, dated March 12, 2015, regarding construction of the replication area;
- a copy of the Building Department Certificate of Occupancy;
- a photograph and on-line viewer screen shot of the replication area;
- a letter from Dana C. Myers, Esq. to Mr. & Mrs. Tanner, dated March 16, 2015, regarding the deadline for loan refinancing; and
- a copy of the approved Order of Conditions plan.

Chairman DeGabriele clarified that a Certificate of Occupancy may have been issued by the building department and signed by the Conservation Administrator but that is very different than a Certificate of Compliance issued from the Conservation Commission to close-out an OOC. The Certificate of Compliance review needs to compare the current conditions to what was approved by the Commission. He added that he believes the replication area may have been constructed but this cannot be verified without a site visit and the area is covered in snow at this time. The Chairman explained that without a site visit the Commission cannot confirm the replication area's size and whether it is working properly. He added that he would like to see the replication area when it was not covered in snow.

Chairman DeGabriele said that the wetland area is flagged on the approved plan but the 25-ft. no-disturb area is not shown. He asked if the driveway was constructed as shown. Mr. Tanner responded that the driveway is squarer and that two sheds were constructed. The Chairman commented that it looked like the two sheds are located in the 25-ft. no-disturb area. Mr. Tanner replied that the sheds were permitted from the building department and the Chairman reiterated that a building permit does not waive the Conservation Commission's jurisdiction.

The Chairman stated that he was concerned that there are two structures that are apparently in the no-disturb area and were not approved by the Commission. He would be willing to support a Partial Certificate of Compliance for the house location only, based on the as-built plan. He did not support a Final Certificate of Compliance until a site visit can be performed.

Mr. Tanner asked what would be reviewed at the site visit. The Chairman responded that a site visit would verify the size of the wetland and see if it is a healthy, functioning wetland.

Ms. Schloss commented that the OOC did not contain site specific requirements, but referred to the Wetlands Protection Act performance standards for wetland replication. Typically an as-built plan is required, but the original OOC did not specifically require an as-built plan be submitted.

Ms. Schloss and Chairman DeGabriele further added that only a Certificate of Occupancy from the building department was issued and never a Certificate of Compliance from the Commission.

The Chairman asked if the other Commission members had any further comments and there were none. He then asked if someone would like to make a motion for a Partial or Final Certificate of Compliance.

On a motion made by Commissioner Merlino, seconded by Commissioner Dowd, the Commission voted 3-1 (Commissioner Merlino, Dowd, and Loring voting in favor, Commissioner DeGabriele voting against) to issue a Final Certificate of Compliance.

#### **Mass DOT Rte. 18 Widening – Discussion, Revised Variance Plans DEP File # 81-1135**

Ms. Schloss informed the Commission that Mass DOT (Massachusetts Department of Transportation) provided the Commission a new letter and new set of plans that respond to DEP's comments on the Route 18 widening "variance plans". She added that DEP is accepting comments through the end of March but the town will ask for more time to review the plans and to provide comment. The Derby Street drainage and Pond Street flooding were the major areas of concern. The Chairman commented that he would like Mass DOT to fix the problem and provide mitigation. Ms. Schloss explained that DEP is handling the permits but the Commission and the Town can provide comments.

#### Public Comment:

Bob Montgomery Thomas asked if the area around the stream adjacent to 1255 Main Street would be improved.

Commissioner Dowd volunteered to help review the plans and reiterated that the flooding downstream on Pond and Derby Streets were the areas of major concern. He asked that this be further discussed at the next meeting.

#### **Coastal Erosion Commission Report – Discussion**

Ms. Schloss updated the Commission that the Coastal Erosion Commission is a new state Commission that submitted a report and is looking for comments and feedback from coastal communities. Ms. Schloss said that she will prepare a draft letter for the Commission's review so that a letter can be submitted by the April 7 deadline.

**Compliance / Enforcement**

Commissioner Dowd asked for an update on Sherrick's Farm Road. The Chairman responded that the Certificate of Compliance is under review and was continued to the next meeting. The enforcement actions for the dumped material that has not been cleaned up are a separate issue. Ms. Schloss added that the owner appealed to the District Court on the fines issued by the Commission.

**Public Comment:**

Bob Montgomery Thomas, 848 Washington Street, commented that the property owner has a history of noncompliance and asked the Commission to consider increasing the fine at the next meeting.

**Other Business**

Ms. Schloss reminded the Commission members that the online ethics training is due at the end of March for those who have not already completed it and she will resend the link to the members. She informed the Commission that the abutter appeal of the East Bay Broad Reach ANRAD was dismissed for lack of standing, Lovell Field plans have been submitted for preliminary comments, and that she had been contacted by a weed control diver that is interested in doing a demonstration of diver-assisted suction harvesting (DASH) in Whitman's Pond.

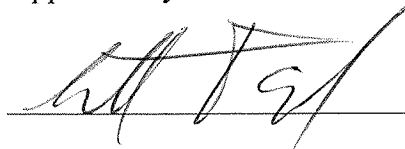
**Community Preservation Committee Report** – Commissioner Loring's update was distributed to Commission members.

On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 5-0 to adjourn at 9:00 PM.

Respectfully submitted by,

Abby McCabe  
Recording Secretary

Approved by:



Scott Dowd, Clerk

05/13/15

Date

