

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

**Wednesday, April 8, 2015, 7:00 p.m.
Council Chambers, Town Hall, 75 Middle Street, Weymouth, MA**

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

Also Present: Mary Ellen Schloss, Conservation Administrator

Chairman DeGabriele called the April 8, 2015 Commission meeting to order at 7:00 p.m. in the Council Chambers, Town Hall, 75 Middle Street, Weymouth, MA.

Approval of Minutes:

The minutes of March 18, 2015 were reviewed.

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

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

Ms. Schloss informed the Commission the applicant has requested a continuance until May 13 due to snow conditions. She has requested the applicant reflag the wetlands, and a new site visit will have to be scheduled. She will try to schedule this on a Monday and will email the Commission with potential dates.

On a motion made by Commissioner Merlino, seconded by Commissioner Tanner, the Commission voted 5-0-0 to continue the public hearing until May 13, 2015.

**135 Randolph Street – Request for Partial Certificate of Compliance
Paul Mackintire
Map 48, Block 547, Lot 14
DEP File #81-1143
(Single-family House)**

Paul Mackintire, the applicant, was present. Ms. Schloss stated she conducted a site visit on March 31. She provided plans to the Commission and indicated they had received a completion report from the environmental scientist for this property and the adjacent property. A final Certificate of Compliance has been issued for the adjacent lot. The post and rail fence was replaced with vinyl fence with no gate in the back, which was a condition of the modification, and the as-built plan looks accurate. Ms. Schloss indicated Mr. Mackintire would like to come back in the spring with the final landscaping, walkways, and driveway, and she feels this is reasonable. She recommended issuing the Partial Certificate of Compliance.

On a motion made by Commissioner Merlino, seconded by Commissioner Tanner, the Commission voted 5-0-0 to grant a Partial Certificate of Compliance for 135 Randolph Street.

Ms. Schloss noted when the final Certificate of Compliance was issued for the neighboring lot, #81-1142, it referenced the Assessor's reference for the original Lot #14, however, the Assessor's reference has changed to Lot #20. This document will be reissued with the correct Assessor's reference and recorded at the Registry of Deeds.

Public Hearing

Wessagussett Yacht Club – Request for Determination of Applicability

212 Wessagussett Road

Map 4, Block 29, Lot 3

(To install (2) 65' x 14' floating breakwaters)

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

Attorney Frances Fitzpatrick was present to represent the applicant. Also present was Christopher Butts from Wessagussett Yacht Club. Mr. Fitzpatrick stated they have applied for a Determination of Applicability to demonstrate the Wetlands Protection Act is not applicable to this project, and they do not have to file a Notice of Intent or seek an Order of Conditions from the Commission.

Mr. Fitzpatrick provided an overview of the proposed project. This project involves installation of a concrete breakwater wave attenuation system. It is a floating structure measuring 65 x 14 feet. There are two sections currently existing and they would like to install two additional sections which will be held by concrete blocks. The proposed project will not interfere with spawning, feeding, or nursery grounds of shellfish or coastal birds. The breakwater will dissipate wave energy and provide greater erosion and storm damage control. It is designed to protect the docks and fleet and prevent environmental problems and items washing up on the beach. It will be outside any permitted area for shellfish growing and there are no protected invertebrates of any kind in the area. They are subject to the Waterways Act and have pending applications with the DEP and Army Corps of Engineers.

Commissioner Merlino asked how the units will get to the site. Mr. Butts stated they will be trucked from Virginia, unloaded near Long Island by crane, and brought over by barge. Commissioner Tanner asked if they will stay in the water all winter. Mr. Butts responded the structure will be permanent. Commissioner Tanner asked what portion is visible by boaters coming into the area. Mr. Butts stated it will be approximately five feet above the watermark. Commissioner Tanner asked if the structure is illuminated. Mr. Butts stated there will be illuminating tape and cones for winter. Commissioner Tanner asked how often it will be inspected. Mr. Butts stated it is inspected twice a year. Commissioner Tanner asked if they have spoken to the Harbormaster. Mr. Butts stated they spoke to Paul Milone and he is in favor.

Commissioner Tanner asked if there are any similar breakwaters in this area. Mr. Butts stated they have the existing two sections and Spinnaker Island just installed 150 feet. Commissioner Dowd asked when they will be starting installation and how long it will take. Mr. Butts stated they hope to do this sometime in May. It will take a day to install the blocks, and the entire project will only take two days. Commissioner Loring expressed concern about herring and smelt. Commissioner Dowd stated there are migratory fish that come by the area. Commissioner Loring stated there is a herring run in the Fore River. Ms. Schloss stated she will look into the time of year restriction and check with the Massachusetts Division of Marine Fisheries.

Commissioner Loring asked if there is a future use intended for the proposed structure, such as using it to tie boats up. With regard to future seaward expansion of the breakwater, Mr. Fitzpatrick stated the Army Corps of Engineers would not allow this due to the restriction of the channel. Commissioner Merlino asked if there is a bond required in case the structure breaks loose. Mr. Butts stated they are fully insured for liability and are looking at replacing the insurance with a bond.

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

On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 5-0-0 to grant a Negative 2 Determination with condition to check whether the Division of Marine Fisheries feels there should be time-of-year restrictions.

Public Hearing

Meredith Woods – Request for an Extension of Order of Conditions

Map 21, Block 284, Lots 4 & 28-37 and Block 285 Lots 3 & 129-142

DEP File #81-1025

(21-Lot subdivision with 17.6 acres open space)

On a motion made by Commissioner Tanner, seconded by Commissioner Loring, the Commission voted 5-0-0 to open the public hearing under local ordinance.

Carl Erickson of Bristol Brothers Development was present. He stated they are requesting an extension to the existing Order of Conditions for Meredith Woods, which expires May 16, 2015. They have paid the extension fee and filed abutters' notices. He provided an update on the project, which consists of 21 new homes on 25 acres. Seventeen acres will remain as open space, nine homes have been sold, three are under agreement, and nine remain to be sold. Roadway buffer plantings and mitigation plantings along lots 16, 17, and 18 are done. Their engineer went to the site but was unable to do a complete drainage report due to snow cover. On April 3 Mr. Erickson, the engineer, and site supervisor met with Ms. Schloss to discuss her concerns. Some of the controls they had in place along the upper end of the site were damaged when working on Lot 8 and not reestablished. They have reinstalled a gravel berm at the entrance to the material stockpiles, and have installed straw wattles around some of the catch basins to direct water into them.

Mr. Erickson stated the whole site was protected in the beginning, and as work begins again they have to reassess the erosion controls and fix them before any foundation work is done. He stated the open space can be deeded to the town or have a permanent conservation restriction. Ms. Schloss noted a meeting would be set up with the Town Planner and Town Solicitor but she does not have a date yet. Ms. Schloss stated she visited the site today and saw the work that has been done. She noted there is an area on Lot 17 where the silt sock is broken and hay bales should be placed there to prevent runoff into the buffer zone.

Chairman DeGabriele stated he is concerned they have had to issue two Orders of Noncompliance for stormwater management. He stated they have considered a higher level of enforcement and encouraged the applicant to stay on top of the soil stockpiles. He is hopeful there will be no further issue with stormwater management. Mr. Erickson stated they take this seriously and appreciate the violation letter as opposed to more serious enforcement.

Ms. Schloss stated she would like a certification for the drainage system to indicate it is built according to the approved plan. She stated she would like to see as-built plans for the detention area behind Lots 1 through 4, showing the swale. Residents on Springvale Circle are concerned about water and she received a call from a resident. She showed the Commission a photograph provided by the resident. She stated she has not seen large quantities of water but wants to ensure it is built according to plan. She stated the as-built plan should be provided before they request a Certificate of Occupancy for Lot 4.

There was no one present from the public who wished to speak.

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

On a motion made by Commissioner Tanner, seconded by Commissioner Merlino, the Commission voted 5-0-0 to grant the Extension of the Order of Conditions for one year.

Sherrick's Farm Road Subdivision – Request for Final Certificate of Compliance

Richard Burns

DEP File #81-788

(Subdivision roadway, wetland crossing, stormwater basin)

Richard Burns was present. He stated he is not prepared this evening due to illness.

Chairman DeGabriele provided background information. He stated the Order of Conditions was issued in 1999 and no Certificate of Compliance was issued. The Commission began discussion in January 2014, has issued several letters, and requested additional information. Most recently they scheduled a discussion on the Certificate of Compliance in February and sent a letter on January 29, 2015. Mr. Burns requested a continuance to March 18, 2015. The Commission agreed to this continuance and indicated it was critical that he and the engineer come prepared to discuss the issue so progress can be made on the Certificate of Compliance. A letter was issued on March 6 outlining in detail the information required, however, no information has been provided. Mr. Burns requested a continuance until April because he was not prepared and needed additional time and the Commission agreed to this continuance.

Chairman DeGabriele stated he feels there is no excuse for Mr. Burns not being prepared, given the vast amount of information the Commission provided him. He stated they are not making progress and there has been delay after delay and it is time to take more formal action. They have consulted with Town Counsel and the Commission feels it is appropriate to issue an order, with deadlines, requiring him to provide the information.

Mr. Burns stated his engineer is not very helpful and he promised this will get done. Chairman DeGabriele stated a copy of the March 6 letter was sent to Mr. Burns' engineer, Scott Arnold.

Chairman DeGabriele recommended that the Commission instruct Ms. Schloss to prepare an Enforcement Order, require the information requested be submitted in writing by the deadline for submissions, and schedule discussion for the next meeting. The Commission was in agreement with this action. Ms. Schloss stated the materials would have to be submitted by Monday, May 4 for discussion at the next meeting.

On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 5-0-0 to issue an Enforcement Order that information be submitted by May 4, 2015 and they be prepared to present at the May 13, 2015 meeting.

Ms. Schloss stated they will file with the court for a noncriminal hearing regarding Mr. Burns' appeal of the fines relative to the dumping of sediments. She stated she stopped issuing fines when there was a large snow cover and now that the snow was melted she could reinstate the fines. Chairman DeGabriele recommended implementing the daily fines again.

136-138 Bridge Street – Request for Minor Modification

Anthony Nota

DEP File #81-1152

Map 6, Block 62, Lot 13

(Addition of rear walkway)

Ms. Schloss stated this is a request for a walkway in the rear of the building. This is a commercial building being reconstructed at the coastal bank. This will be a four-foot wide pervious paver walkway. Chairman DeGabriele stated that even though this is intended to be a walkway he is concerned it would be easy for someone to pull their truck up on the walkway. He asked if there can be a restriction to prohibit vehicles from the area. He recommended metal posts with concrete, boulders, or some type of obstruction.

On a motion made by Commissioner Tanner, seconded by Commissioner Merlino, the Commission voted 5-0-0 to issue a Minor Modification, with a condition that vehicles be restricted from accessing the back area.

Ms. Schloss stated she will be meeting on site with the Woods Hole Group and the coastal bank contractor, and will ensure no soil work is done before the contractor is available, so there is no erosion.

Mass DOT Route 18 Widening – Discussion

Revised Variance Plans and Response to Comments

Ms. Schloss provided the Commission information about the Mass DOT project. She met with Jim McGrath, Assistant Town Engineer, on March 30. They received from Mass DEP an extension for comments until the end of April. She has reached out to Mass DOT's consultants and requested additional information. Mass DOT's consultants had looked at constructing a pipe along Pond Street to the cross-culvert under the railroad tracks in Abington, and she was not clear why this alternative was discarded. One of the two detention basins at the South Shore Savings Bank was eliminated. Chairman DeGabriele stated they should inform Mass DOT that they continue to be concerned about the stormwater impact in that area and are concerned one basin will not be sufficient.

Ms. Schloss stated she reached out to Abington about the concrete facility located adjacent to the Weymouth/Abington town line and the Commission's interest in determining whether there is a

blockage in the swale at this location. The facility recently filed a Notice of Intent and Weymouth did not get a copy. She is intending to go to Abington to review their file.

Commissioner Tanner recalled there was a structure under the railroad near that location that is blocked. Ms. Schloss stated there was a cross culvert in Weymouth that was discontinued by the MBTA during construction of the Old Colony line and now there is one in Abington and the water has to travel farther. When the cross culvert was removed it apparently created a problem and work done to solidify the track bed also reportedly slowed the flow of water. She stated she has to do some due diligence and if there is something blocking it that can be fixed it would make a big difference. She will follow-up with Abington and will write a letter to the property owner and conduct a site visit. Chairman DeGabriele recommended asking Abington not to issue anything further until Weymouth has had an opportunity to review this.

Ms. Schloss stated Mass DEP wants Mass DOT to address increases in runoff rates at specific outfalls and to explain how it will impact localized flooding. She does not think Mass DOT's response addressed these issues and will ask additional questions. She stated relative to the Derby Street mitigation there was a question of dredging the sediment channel. Jim McGrath believes the culvert underneath the railroad has sediment that needs to be removed. Mass DOT does not want to accept any responsibility for repairing the collapsed headwall behind the American Legion. Jim McGrath thought the town may not want to pursue this; Ms. Schloss will confer with Kenan Connell on this. Chairman DeGabriele recommended this could be a great mitigation measure.

Ms. Schloss questioned what else can be done regarding TSS removal. Mass DOT wants to do another basin at Route 3 and Derby Street. Old Swamp River is in that location, however, there may be somewhere else where improvement may be more beneficial. She thinks they should coordinate with Weymouth on the mitigation so it will be in an area which has the greatest benefit.

Ms. Schloss stated she has until the end of the month to respond to this information and she will send a draft to the Commissioners via email.

Compliance/Enforcement

Ms. Schloss stated she is doing a site visit, along with Chairman DeGabriele, at Weymouth Salvage. A status report was due on March 31 and they did not respond. She has not yet heard from the EPA and will follow-up. She sent an email to the EPA stating they want Weymouth Salvage in compliance with a stormwater permit. Chairman DeGabriele recommended sending a second email to EPA and if they do not get a response to write a letter to the regional administrator. Ms. Schloss stated she will call David Gray to discuss this. Chairman DeGabriele stated the solution to this problem is EPA's permit, and there is nothing else Weymouth can do short of going to court.

Ms. Schloss stated she is meeting with the MBTA tomorrow. They gave her a plan which is not all that different than the original plan. There may be a site visit around noon tomorrow, if any member of the Commission is interested in attending. Chairman DeGabriele asked about the rise and drop-off at the walkway and how water would runoff. Commissioner Loring stated he wants to discuss with them not having the runoff going into the river. Commissioner DeGabriele stated a letter outlining their concerns can be sent prior to the hearing.

Other Business

Ms. Schloss stated the Commission needs to sign the final Certificate of Compliance for 139 Randolph Street, as discussed earlier.

Ms. Schloss stated she got a request from a college student at Merrimack College to do volunteer work for the Commission this summer. Chairman DeGabriele stated this would be worthwhile.

CPC Update

Commissioner Loring stated he had to work and could not attend the CPC meeting.

Conservation Report

Commissioner Loring announced the Herring Run cleanup is being held on Saturday, April 11.

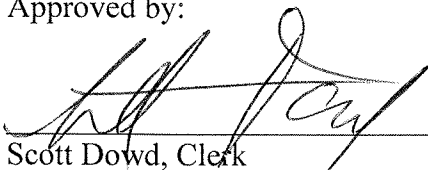
Adjournment:

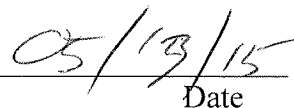
On a motion made by Commissioner Loring, seconded by Commissioner Merlino, the Commission voted 5-0-0 to adjourn at 8:50 p.m.

Respectfully submitted by,

Patricia McDonnell
Recording Secretary

Approved by:


Scott Dowd, Clerk


Date