

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

**Wednesday, July 22, 2015, 7:00 p.m.  
Council Chambers, Town Hall, 75 Middle Street, Weymouth, MA**

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

**Not Present:** Anthony Merlino, Commissioner

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

Chairman DeGabriele called the July 22, 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 June 3, 2015 were reviewed. Chairman DeGabriele asked that the motion on page six regarding 944 Middle Street include a statement indicating that the work was never done.

*On a motion made by Commissioner Tanner, seconded by Commissioner Loring, the Commission voted 4-0-0 to approve the minutes from the June 3, 2015 meeting as amended.*

**Kibby Property Pathway Extension from Abigail Adams State Park  
Notice of Intent, Public Hearing  
Town of Weymouth  
0 Bridge Street, 279 R. Neck Street, 0-Off Neck Street  
Map 23, Block 13, Lots 6, 14, and 8  
DEP File #81-1165**

*On a motion made by Commissioner Dowd, seconded by Commissioner Tanner, the Commission voted 4-0-0 to open the public hearing.*

James Clarke, Weymouth Planning Director, stated the intent is to preserve the Kibby property and to work with the Department of Conservation and Recreation (DCR) to connect it to the Abigail Adams State Park. He stated there is very little development planned for the area. They will be working with DCR, who will be maintaining the area as this moves forward. Once permission is received from the Commission they will do the improvements.

John Ryther, Landscape Architect, provided an overview of the proposed plan. He stated most of the area is filled with artificial banks. The first bank has riprap and is in poor condition, with tires and concrete. They are trying to protect the area and prevent the dumping that is going on

presently. He stated most of the dumping is organic material, shrubs, clippings, and a lot of plastic pots. They will close off the area with fencing so people can no longer drive into the area. There will be no tree removal and no disruption to the grading.

The proposed plan includes a walkway circling the lawn, with benches. The walkway will be pervious so water can infiltrate. Underneath there will be an open, graded base, with uniformly graded stone. This will allow maximum water storage while the water is being absorbed by the earth. They are going to maintain the walkway at a maximum grade of 5 percent for handicapped accessibility and to allow the base to work more efficiently. They are going to include measures to prevent runoff and there will be a rain garden with grassy meadow which will be maintained periodically. Mr. Ryther stated there are a lot of invasives in the area. They are going to get rid of the Japanese knotweed prior to construction by spraying and removing the plants and all the roots during construction. It will take three to four years to finally eradicate them. They are going to remove invasives from the waterfront bank and replace them with lower growing plants indigenous to the area. There will be minor pruning of vegetation to allow for views.

Commissioner Tanner asked if the first bank with the tires will be addressed. Mr. Ryther stated they cannot go in there with machines so they are going to hand clean the area under the direct supervision of Ms. Schloss.

Chairman DeGabriele stated the first bank with the tires and debris creates a situation where the park is being pulled away from the river front. He stated the area is pretty ugly and he wondered if this is an attractive nuisance and if there should be concern about people walking along and falling off the banking. He asked, if there were another funding source, would it make more sense to consider removing that material and letting the area revert to a natural state. Mr. Ryther stated there could be an earth bank planted. Chairman DeGabriele asked, if it can be contemplated that this is a short term approach, that nothing be done to interfere with future work to create a soft bank.

Mr. Clarke stated they are concerned with the banking material and they do not want to get into a major project, but will remove what is loose. He stated at a later time they may want to review getting the material out, which would be a bigger project, and said this project does not prevent them from looking at that in the future.

Commissioner Tanner asked if they need to post something, such as "Use at Your Own Risk", in case someone gets hurt. Mr. Clarke stated he does not see this as a dangerous site and they do not do this at other parks.

Chairman DeGabriele opened the hearing up to public comment.

Jeff Potter, North Weymouth Civic Association, stated they are in favor of this project.

Marian Briggs, Board of Trustees for Saltwater Creek Condominiums, stated they are in favor of this project. She stated Mr. Kibby would be proud that this is now a park. She asked if there will be fencing along the parking area. Mr. Ryther stated there will be posts to prevent vehicles from entering. She asked if it will be posted that this is private property. Mr. Ryther stated this can be posted. She asked about dedicating a bench to Mr. Kibby, which had been discussed

when he passed away. Mr. Clarke stated they spoke with his family and, at the fenced area near Abigail Adams State Park, they are going to install signage identifying the property as the former Kibby property to memorialize the location.

Donna O'Sullivan, 50 Shore Drive, asked that it be confirmed there would be no signage stating there will be access to Saltwater Creek. Mr. Clarke stated they have no intention of promoting vehicular access from Neck Street to her property.

Victor Pap, 267 Neck Street, asked if there will be signage from Abigail Adams State Park entering their property, indicating it is private property. He is concerned with people leaving water bottles or trash. Mr. Clarke stated there could be a sign posted that this is private property. He asked if this area is going to be closed dusk to dawn. Mr. Clarke stated it is the town's policy that parks are not used dusk to dawn and this can be noted on the sign for the Kibby property.

Sandra Peters, North River Civic Association, stated she likes the plans. She advocated for having another egress so people can walk from Neck Street and not have to go through traffic areas, and a pathway to get to CVS and the other parks. She asked if it is a policy of the Commission not to take down trees. Chairman DeGabriele stated it is not an absolute, but they try to maintain natural habitat as much as possible. Some projects do require removal of trees but they try to minimize this and in some cases seek mitigation.

*On a motion made by Commissioner Tanner, seconded by Commissioner Loring, the Commission voted 4-0-0 to close the public hearing.*

Commissioner Tanner asked about timeline. Mr. Clarke stated once the Commission votes they will sit down with DCR and then solicit people to do work. He would like to do this in the fall. Commissioner Tanner asked if some of the work can be done on cleanup weekends, or would this be a liability. Mr. Clarke stated a local resident with a construction company took the building down, and they have had good support for this project, so this is something he could look into.

Chairman DeGabriele stated he supports this project. He would like to have a better riverfront and would like to find a resource to deal with the first river bank, as it would benefit the entire park.

Ms. Schloss stated they will need to include in the conditions that a variance has been granted for work within 25 feet of a coastal bank. She stated that the Order of Conditions can refer back to the NOI plans and narrative regarding major project elements.

*On a motion made by Commissioner Tanner, seconded by Commissioner Dowd, the Commission voted 4-0-0 to issue an Order of Conditions for this project, with conditions discussed, codifying what was presented this evening.*

**Lovell Playground Renovation, Notice of Intent, Continued Public Hearing**  
**Town of Weymouth**  
**1250 Commercial Street**  
**Map 23, Block 253, Lot 26**  
**DEP File #81-1141**

Chairman DeGabriele stated the applicant has additional information to provide the Commission and has requested an extension until the Commission's August 12 meeting.

**Legion Field Renovation, Request for Partial Certificate of Compliance**  
**Town of Weymouth**  
**880 Commercial Street**  
**Map 18, Block 239, Lot 1**  
**DEP File #81-1140**

Chairman DeGabriele stated the applicant has additional information to provide the Commission and has requested an extension until the Commission's August 12 meeting.

**Broad Street, Lot B1 (Subdivision of #487) – Notice of Intent, Public Hearing**  
**John Lamparelli, K.M.L., LLC**  
**Map 22, Block 291, Lot 29**  
**DEP File #81-1159**  
*Single Family House*

**487 Broad Street, Lot B2 – Notice of Intent, Public Hearing**  
**John Lamparelli, K.M.L., LLC**  
**Map 22, Block 291, Lot 7**  
**DEP File #81-1160**

Chairman DeGabriele stated these two hearings will be continued to August 12, as the applicant did not provide the necessary information by the deadline given.

**60 Ocean Avenue – After-the-Fact Request for Determination, Public Hearing**  
**Thomas L'Heureux**  
**Map 4, Block 49, Sheet 4**  
*Retaining Wall & Patio*

*On a motion made by Commissioner Loring, seconded by Commissioner Tanner, the Commission voted 4-0-0 to open the public hearing.*

Thomas L'Heureux addressed the Commission. He stated the earth kept washing out under his deck and due to safety concerns he built a wall, however, he did not seek the necessary permission to do this work.

Ms. Schloss stated she visited the property. She has no concern with the work that was done and any impact on the environment. There was no impact to the coastal bank and he stabilized his

property and a deck that was falling down. She asked him to file an After-the-Fact Determination and notify abutters in order to legitimize the work that was done without a permit.

*On a motion made by Commissioner Tanner, seconded by Commissioner Loring, the Commission voted 4-0-0 to close the public hearing.*

*On a motion made by Commissioner Tanner, seconded by Commissioner Dowd, the Commission voted 4-0-0 to issue an After-the-Fact Negative 3 Determination.*

#### **45 Elm Street – Notice of Intent, Public Hearing**

**Scot Hennessey**

**Map 42, Block 498, Lot 15**

**DEP File #81-1164**

***Regrade Lawn in Flood Zone***

*On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 4-0-0 to open the public hearing.*

Shawn Hardy, engineer for the applicant, addressed the Commission. He stated this property is adjacent to the Old Swamp River and there is a flood plain on the property. They are proposing to fill around the foundation to ensure the residence is out of the flood plain. The intent is then to go to FEMA to show they are out of the flood plain. They will be making a 10 cubic yard cut on the property. There is existing vegetation and they will not be increasing impervious surface.

Commissioner Tanner asked how they are going to stabilize the soil once the cut is made. Mr. Hardy stated they will plant grass.

Ms. Schloss stated she visited the site, and provided photographs to the Commission. She asked what will be done with the two existing doors on the house. Mr. Hardy stated there is a foundation under the doors and they will be changed to windows. She asked about the cut and what the grade will be on the other side of the erosion controls. Mr. Hardy stated the erosion control will be brought out beyond the 103 elevation contour, toward the river. Ms. Schloss stated she will add this to the Order of Conditions. She asked about trees on the side of the house. Mr. Hardy stated the trees will remain. She asked if they need to build a tree well. Mr. Hardy responded this is not needed. Ms. Schloss asked that the trees be protected with tree wrap during construction.

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

*On a motion made by Commissioner Loring, seconded by Commissioner Tanner, the Commission voted 4-0-0 to close the public hearing.*

*On a motion made by Commissioner Tanner, seconded by Commissioner Loring, the Commission voted 4-0-0 to grant the application for 45 Elm Street, Block 498, Lot 15, and issue a standard Order of Conditions with special conditions discussed this evening.*

**3 Canacum Road – Notice of Intent, Public Hearing****Peter Barlow****Map 3, Block 1, Lot 8****DEP File #81-1163*****Single Family House***

*On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 4-0-0 to open the public hearing.*

John Cavanaro, Engineer representing the applicant, addressed the Commission. He stated this is an existing single family residence which fronts on the Fore River. The existing dwelling will be removed and replaced with a new dwelling rotated away from the bank. Most of the work will be outside the 100 foot buffer zone. There will be 2 to 3 foot retaining walls with steps to allow gradual slope and create stabilization. There are some dilapidated structures on the coastal bank, a shed and a timber walkway. The plan is to eliminate the shed and replace it with a new shed outside the 50 foot buffer zone. They would like to put a small deck on sonotubes.

Mr. Cavanaro stated the bank has a lot of trash and debris with invasives. This will be cleaned by handwork and they will revegetate. He reviewed the landscape plan, which includes landscape bands which will slow down the runoff. He provided the Commission with a new plan and provided an overview of the changes from the original plan based on Ms. Schloss' comments and the site visit. The deck has been pulled back a couple of feet and they will replace the stairway and platform to eliminate encroachment on neighbor's property, as well as clean the bank.

Chairman DeGabriele clarified they were going to clear vegetation on the side of the property, but not remove trees. He stated he is glad they are addressing the coastal bank. Ms. Schloss expressed concern that there is a lot of planting proposed but only two species. She recommended adding a third or fourth species, like bayberry, which would be coastal tolerant. She stated she can include in the Order of Conditions that she will work with the landscape architect on this. She stated a variance will be needed for the deck. Chairman DeGabriele felt the deck is minimally invasive, and Commissioner Tanner was in agreement.

Ms. Schloss asked if they will need additional sonotubes for the steps on the banking. Mr. Cavanaro stated they would have to demolish what is there and decide what type of foundation work is needed. Chairman DeGabriele recommended a condition that Ms. Schloss be notified when it is determined what work is needed, in case extensive work may need further review. Ms. Schloss stated this should be done prior to filing for a building permit. She stated excavated material will have to be brought back up the bank to the site.

Commissioner Tanner asked what material will be used to construct the stairs. Mr. Cavanaro stated concrete. Commissioner Tanner asked what the foundation will be under the shed. Mr. Cavanaro stated sonotubes.

Commissioner Loring asked about roof drainage. Mr. Cavanaro stated the roof would drain onto the lawn. Commissioner Loring expressed concern that on the east side there is a slope and drainage may affect abutter. Mr. Cavanaro stated dry wells or redirection can be done.

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

*On a motion made by Commissioner Tanner, seconded by Commissioner Dowd, the Commission voted 4-0-0 to close the public hearing.*

Ms. Schloss reviewed the Order of Conditions. Chairman DeGabriele noted vegetation removal on west side of property will not include removal of trees. Commissioner Loring asked that if they encounter problems to come before Conservation prior to making changes because if the as-built plan is different they may have to remove items.

*On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 4-0-0 to issue a standard Order of Conditions with general conditions and those stipulated tonight.*

**Alexan at Arbor Hill – Discussion of Vernal Pool Information  
DEP File #81-1046**

Carl Erickson, Bristol Brother Development, addressed the Commission. Present with him were Donald Schall, John Perry, Tom Godfrey, and James Bristol, III.

Chairman DeGabriele stated the Commission asked the applicant to come in for a status update. He stated the Order of Conditions allowed filling of wetlands D and E and proposed a stormwater vernal pool mitigation. This was to discharge into a more valuable vernal pool. He stated Ms. Schloss has seen breeding in the two vernal pools that are proposed to be filled in. The Commission would like to understand what they will have, at the end, for vernal pools and to discuss stormwater discharge and whether vernal pools affected by stormwater are as valuable to habitat.

Mr. Erickson stated the filling is consistent with what was permitted. Donald Schall stated he has been involved with this project since 1999. He provided an overview of the wetlands areas and vernal pools on the site. He stated it has not been demonstrated that these two areas have been holding water for 60 days. He stated wetland E has been receiving stormwater runoff. He stated Ms. Schloss observed area D was dry on May 28 and he visited on July 10 and there was no water at all in area D. He stated area E had 2 to 3 inches of water, one day after 2 inches of rain. He stated he has not been able to find the outlet pipe but he is convinced it is there. He stated this is designed to provide a seasonal pool of standing water.

John Perry provided an overview of the drainage plan. He stated some runoff comes from parking lots. By the time this is discharged the runoff is 95 percent clean, "it is a very robust system."

Chairman DeGabriele stated if the two smaller vernal pools are marginal and to be eliminated, the mitigation will be a stormwater collection basin. He asked where the mitigation is for those two small vernal pools. He stated that discharge of highly treated stormwater into wetland C is something that may not be desirable, based on information received from Natural Heritage.

Mr. Schall stated part of the plan was an operation and maintenance plan for monitoring the basin construction and maintaining the forebay and monitoring of the outlet.

Chairman DeGabriele asked if there is a better place to discharge. Mr. Perry stated this is a logical place as everything flows in that direction downstream. He stated there is ledge next to the wetland and there would be quite a bit of excavation. Ms. Schloss asked if they could discharge to the emergency overflow area. Commissioner Tanner expressed concern that changing the direction of the flow would not end up in the wetland. Mr. Perry expressed concern that this would dry out the existing vernal pool.

Commissioner Tanner stated if D and E are marginal pools, and if they are filled, the same rainfall is going to go in the same direction. Chairman DeGabriele stated Natural Heritage has indicated the discharge of stormwater from the dual basin into wetland C could pose serious impacts to amphibians. Ms. Schloss stated Natural Heritage was concerned because science has shown the fluctuations that come from stormwater create temperature changes and impact vernal pool species. They have seen a die off following heavy rainfall events. She stated this basin also takes runoff from construction. Commissioner Dowd asked how the forebay will be constructed. Mr. Perry reviewed the forebay pool area and stone check dam. Mr. Schall asked if Natural Heritage has seen the detailed plan. Ms. Schloss stated it would be great if they could review it.

Tom Godfrey, Bristol Brothers, reviewed the findings under the original Order of Conditions. Under finding 9, Wetland C was identified as a potential vernal pool and as having some value. Mitigation is being provided by protection of approximately 12 acres of land as permanent protected open space. The Commission originally stated that the changes to hydrology would not affect wetland C. Godfrey provided an overview of the 12 acres of developable land that is being provided as mitigation.

Commissioner Tanner asked if there is a way to protect the area from severe runoff from the construction area. Chairman DeGabriele stated there is also concern about after construction, not just during construction. Commissioner Dowd asked if use of salt, herbicides, or pesticides is addressed. Mr. Perry stated the operation and maintenance plan outlines in detail how these items are addressed. Commissioner Dowd stated spotted salamanders burrow and a rubber lined structure cannot be considered an offset for a vernal pool. He stated he would like a more accepted status to categorize the vernal pools, rather than using the term "marginal."

Chairman DeGabriele asked how the Commission would like to proceed. Mr. Godfrey stated the original Order of Conditions and findings should be reviewed. Chairman DeGabriele stated if the Commission receives additional information it can raise concerns. He stated they were not looking to reopen a decided case, but want to do their due diligence. Mr. Godfrey stated this issue was studied and discussed prior to the original decision.

Commissioner Dowd asked when the first eggs were found. Ms. Schloss responded in 2013 when she visited the site. It was recommended that Mr. Schall contact Jacob Kubel from Natural Heritage and review the plans with him. James Bristol, III provided a history of this project and the site. He stated they could make a minor modification and reroute the discharge to the emergency overflow area.



Chairman DeGabriele state this discussion will be continued until August 12. He asked the applicant to consider how elimination of the two vernal pools, as well as the discharge, is being mitigated.

### **Weathervane Orders of Condition (DEP File 81-756; 81-963), Status Update**

Carl Erickson addressed the Commission. He stated the Order of Conditions expired in March. He provided an update of the project. The golf course has been planted and there are replantings needed. Offsite mitigation is a trail and long-term maintenance needs to be worked on. Lot 25 on Golden Bear Lane is done. A permit for Lot 30 was issued in October 2014. The lot has a force main to tie into the sewer and erosion control would be in place during active construction. The clubhouse is not complete. The foundation is complete and a building permit has been filed. He asked the Commission to consider an extension of the existing Order of Conditions.

Chairman DeGabriele asked about the process. Ms. Schloss stated under the local ordinance there has to be abutter notification and the Commission can only allow a one-year extension. She discussed this with the attorney, who stated the Commission could extend an expired order, but are not required to. Ms. Schloss stated she is not sure the applicant needs to extend both Orders of Condition. She stated Lot 30 and the club house were likely not part of the original Order. Mr. Erickson stated he would prefer to extend both orders.

*On a motion made by Commissioner Tanner, seconded by Commissioner Dowd, the Commission voted 4-0-0 to authorize the applicant to come before the Board for an extension.*

### **186 Main Street, Local Only Order of Conditions, Performance Guarantee**

Ms. Schloss stated the performance guarantee was never finalized. In December they received a draft Letter of Credit with a date of December 15, 2014 which has an expiration date of three years. She wrote to Mr. Gardner in December and did not hear back until he was told they could not do work near the pool unless the guarantee was finalized. She stated the signed statement indicates he will not be released until he gets a Partial or Final Certificate, however, the Letter of Credit does expire on December 15, 2017. She got back to Mr. Gardner and told him she would like a Letter of Credit dated July 2015 for three years, with an option for a fourth year.

Ms. Schloss stated the Town's new attorney added a third paragraph to the signed statement and she had provided the revised language to Mr. Gardner. Chairman DeGabriele stated the new paragraph is open ended, as it gives no timeline. He stated there should be a performance deadline. Commissioner Tanner suggested they should wait to see if Mr. Gardner signs the statement.

Commissioners agreed that the revised statement, and a revised Letter of Credit with current dates, were acceptable performance guarantees for the project.

### **Other Business**

Ms. Schloss stated there is a joint meeting with the DPW on August 6 regarding raising the sea wall at Fort Point, or building a lower sea wall and raising the foundations of the houses. If this

option is chosen the Town will have to put together a grant program, which is reimbursed 75 percent by FEMA. She stated they would probably start with five houses for the first year and these houses may have to come before Conservation.

Ms. Schloss stated that on July 31 she is meeting with Dr. Jahoda at 20 Autumn Lane, if any Commissioner wants to attend. She will email the details.

**CPC Update/Conservation Report**

Commissioner Loring stated there is no report because there have been no meetings.

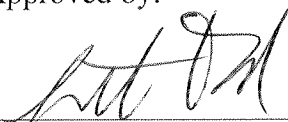
**Adjournment:**

*On a motion made by Commissioner Loring, seconded by Commissioner Tanner, the Commission voted 4-0-0 to adjourn at 10:00 p.m.*

Respectfully submitted by,

Patricia McDonnell  
Recording Secretary

Approved by:

  
\_\_\_\_\_  
Scott Dowd, Clerk

  
\_\_\_\_\_  
Date