

WEYMOUTH CONSERVATION COMMISSION
May 26, 2010
McCulloch Building

PRESENT: George Loring, Chairman
Steven DeGabriele, Vice Chairman
Laura Harbottle, Clerk
Adrienne Gowen, Commissioner-- Absent
Scott Dowd, Commissioner

ALSO PRESENT: Mary Ellen Schloss, Conservation Administrator

RECORDING SECRETARY: Adele Cullinane

Chairman Loring called the May 26, 2010 meeting to order at 7:05 PM in the Conference Room at the McCulloch Building, 182 Green Street, Weymouth, MA.

Minutes for approval and signature

Commissioner DeGabriele makes a MOTION that the minutes of April 14, 2010 are accepted as amended. Commissioner Dowd seconds. The motion is carried UNANIMOUSLY.

186 Main Street – Continued Hearing
Request for Determination of Applicability

Comm. DeGabriele moved to re-open the public hearing. Comm. Dowd seconded.
UNANIMOUSLY VOTED.

This Request for Determination is regarding a wet, depressed area behind and between the properties Mass Electric Building and Supershine Auto Wash. Determination as to whether this is a vernal pool and subject to the Weymouth Wetlands Protection Ordinance jurisdiction. Ms. Schloss and Mr. Bob Gray from Sabatia together, had conducted three timely biological surveys in April and May of the site in question and though three green frogs were found to be living in the area, no evidence of breeding activity was visible. Green frogs do not solely need a vernal pool to procreate. The definition of a vernal pool is that it holds water a minimum of two months but is only designated a “vernal pool” if connected with breeding activity. Mr. Gray goes on to say that what was observed was adult and larvae insects such as mosquito larvae and small crustacean. As the algae dies it starts to decompose and that takes oxygen from the water and releases a low PH which means the amphibian will not breed. No scientific basis found to consider this area a vernal pool habitat.

Comm. DeGabriele asks Mr. Gray if the conditions on the slope were to be stabilized, would this become a better habitat for obligates, etc. Mr. Gray explains that this depressed area in question where water collects is not unlike other urban settings where the small watershed has a lot of developed land contributing to the algae in urban wetlands. To re-claim this land, to put it back

as it was, is a very expensive undertaking. Some slope stabilization has been done. Mr. Gray believes the focus should be more on moving forward and what can be done to restore the area; an opportunity to address how the wetland (if determined to be a wetland) should be managed. Mr. Woodward believes the water collection is a general runoff from the Mass Electric roof.

Mr. Mike Gardner, owner of the carwash property, vehemently states that they are not “back flushing” at the car wash. He replaced the decrepit fence as a safety precaution with highway specifications guard rails. To supplement the edge of the guard rail slope, sand was brought in to help stabilize the slope. Mr. Gardner goes on to say that a better method than the jute mesh usually used to sustain a slope will be used to stabilize and stop erosion regardless of the Commission’s determination tonight.

Comm. DeGabriele would like to go on record that the “plan” received initially was poorly prepared with little to no outlines or consideration for the Board to understand what they were proceeding to do; suggests that going forward, the plan should have sufficient detail, explanations and specifications; very disappointed in the initial report.

Mr. Kelley, P.E. has been asked by Mr. Gardner to work directly with Ms. Schloss in designing an erosion control management plan.

Comm. DeGabriele moved to close the public hearing. Comm. Harbottle seconded.
UNANIMOUSLY VOTED.

A discussion follows as to the definition of the Wetlands Protection Act or the Weymouth Protection Ordinance. Comm. DeGabriele makes note that under the definition of the Town’s ordinance, in the interest of the by-law, under the hydraulic conditions, it is clearly a local jurisdiction only.

A MOTION is made by Comm Harbottle that the area in question located at the rear of 186 Main Street is considered Isolated Land Subject to Flooding under the local ordinance.

Comm. DeGabriele seconded. The MOTION carries UNANIMOUSLY.

Comm DeGabriele makes a MOTION that they determine the water body at 186 Main Street be considered a vernal pool under the Weymouth ordinance.

Comm. Dowd seconded. The MOTION carries with three yeas’ (Loring, DeGabriele, and Dowd) and one nay (Harbottle). The MOTION carries.

45 and 25 Mathewson Drive – Continued Violation Hearing
Map 35, Block 444, Lots 26, 8

Comm. DeGabriele moved to open the public hearing. Comm. Dowd seconded.
UNANIMOUSLY VOTED.

Anthony Esposito, a certified Professional Engineer in the State of Massachusetts has been asked by the Trustees of the property in question (represented by their children, Steven and Peter Varasso) to address the letter sent to them dated 4/2/10 which discusses some non-documented fill at the rear of said property. Hoyt Land Surveying has been hired to show what the property

line plan looks like today. The retention basin at 25 Mathewson Drive is currently owned by Rockland Trust (due to foreclosure). This area is overgrown and there is debris that needs to be removed; however, the Trustees of 45 Mathewson Drive are willing to clean up this basin but there is hesitancy because they do not own this property. The Town's agent found some pavement debris near the outlet on the plan done by Youngquist and this may be on Town property. Mr. Esposito summarizes stating that the trustees of 45 Mathewson Drive are anxious to get started in cleaning and clearing up this retention basin.

Ms. Schloss would like to see an Enforcement Order for 45 Mathewson Drive. Phase one would be to understand what is there; Phase two would be an explanation of how they are going to clean it up based on the Youngquist plan of 1992; and Phase three being the actual conduct of the work and try to get a Certificate of Compliance for it as well. The Superseding Order of Conditions by the D.E.P. would regulate what the plan would be going forward. The outlet needs to be cleared out and the slope stabilized by the trustees of 45 Mathewson Drive. The actual dredging of the basin should be for the owners of 25 Mathewson Drive.

Ms. Schloss agrees to Mr. Esposito's request to combine phase one and two. Mr. Esposito re-states that the owners are willing to comply and do whatever is necessary to address and correct the violation. Mr. Esposito asks to be put on the next meeting agenda of June 9th, and to get done what is possible in two weeks to present the plan for approval.

Mr. Esposito asks for a **recess** to confer with his clients; the Board goes on to the next agenda.

Rear 71 Mutton Lane / 1163 Washington Street – Continued Hearing Request for Determination of Applicability

Comm. DeGabriele moves to re-open the public hearing. Comm. Dowd seconded.
VOTED UNANIMOUSLY.

Robert Delgallo, property owner of 71 Mutton Lane, Factory Collision and Restoration (FCR, Inc.) is planning to remove an existing wooden garage (25' x 20') and replacing it with a new metal building (40' x 75'). Ms. Schloss passes out a sketch of how the catch basin system will look for the new building. The leaching field will stay where it is but the catch basin will be moved. Ms. Schloss found that the outlet for this small wetland system travels under the road and discharges and exits at the Elks Hall. This is not listed on our drainage map but if indeed it is piped from one wetland to the other, this would make it a BVW (bordering vegetated wetland) and not an IVW (isolated vegetated wetland).

The Request for Determination is to move the solid catch basin structure and infiltration structure about 5' to a different location at the time that they are constructing the new building. Given the vegetation back there, Ms. Schloss believes this to be a positive move as long as this is not contaminated water.

A MOTION to close the public hearing is made by Comm. DeGabriele; Seconded by Comm. Dowd. MOTION carries UNANIMOUSLY.

Ms. Schloss starts off the discussion stating that she believes this would be a negative three (3) determination with conditions regarding the erosion controls and the retrofit hood with an oil / water separator.

Comm Loring would like to see a MOTION to issue a negative 3 determination with the special conditions mentioned here tonight. A MOTION was made by Comm. DeGabriele; Seconded by Comm. Dowd. UNANIMOUSLY VOTED.

45 and 25 Mathewson Drive – continued

Mr. Esposito, P.E., after reviewing the issues with his clients believes June 9 may be too brief a time to accomplish all that we spoke about and would like to address both phases on one plan submitted to the Commission on June 16th so that everyone has time to review them for the meeting on June 23rd, 2010.

Chairman Loring will entertain a MOTION to issue this enforcement rule of combining phases one and two, to be submitted on a plan being sent to the Commission on June 16th for review for the meeting continuation on June 23rd. MOTION made by Comm. DeGabriele; seconded by Comm. Dowd. UNANIMOUSLY VOTED.

Washington St. / Middle St. / Winter St. Intersection Improvement Project – Hearing MA Department of Transportation Request for Determination of Applicability Filed under the Wetlands Protection Act

Chairman Loring will entertain a motion to open the Public Hearing by Comm. DeGabriele; Comm. Harbottle seconded. UNANIMOUSLY VOTED.

Mr. Tom Currier, Project Manager with Mass Department of Transportation (MA-DOT), Ms. Jess Wilson, Environmental Analyst with MA-DOT and Mr. Kurt Jelinek, Environmental Consultant. Mr. Jelinek will explain the project to the Commission. The reason we are here tonight in front of the Conservation Commission is because of the proposed work to be done at the intersection of Washington/Middle and Winter Streets. A creek (the Mill River) runs under this intersection to the twin box culvert flowing west to east. No construction will be done in this area; however the guard rail that is over the culvert needs to be replaced. Also, they need to replace parts of the current catch basin with a hood and some sidewalks. About a total of 3000 square feet (600 square feet in each direction) will be improved. We are only at 25% design at this moment.

Mr. Barry Invernizzi, 651 Middle Street, has concerns regarding the asphalt paving proposed regarding the catch basins that already overflow; fears the landscaping, what little there is of it, will be taken away with the increase in more concrete and asphalt and no beautification being done.

Mr. Currier explains the drainage system will be designed to accommodate the impervious areas. It is a limited redevelopment project. It will improve air quality and traffic flow.

The Town of Weymouth asked the MA-D.O.T. approximately 18 months ago to design and pay for the design (because Weymouth ran out of funds) for this project. We are under a “time-constraint”; the Federal Government, providing we submit plans in a timely manner, will fund 80% of this project and 20% will be paid for by the MA-D.O.T. This project is basically for road improvement by Transportation Mitigation, Air-Quality funding.

Ms. Schloss recommends the need to make a determination but with more information regarding the catch basin discharge into the river and the fencing that is being replaced.

A MOTION was made by Comm. Dowd to close the Public Hearing; Seconded by Comm. Harbottle. UNANIMOUSLY VOTED.

A MOTION was made by Comm. Harbottle to issue a positive three (+3) Determination of Applicability thereby requiring a Notice of Intent. Comm Dowd seconds this. UNANIMOUSLY VOTED.

Five minute recess

Review of Proposed Aquatic Vegetation Management Plan for Whitman's Pond Submitted Under DEP File #81-1041

A quick synopsis by Keith Gazaille from Aquatic Control Technology, Inc. informs the Commission and the Public that they have been hired by the Town to do a Study of Whitman's Pond and to develop a chemical treatment management plan to be utilized over the years (beginning in 2009) to control the invasive aquatic plants. They are proposing the use of a chemical called SONAR that would be distributed throughout the main body of Whitman's Pond (exclusive of South Cove and West Cove) late May, early June, 2010, to attack the young plants prior to their maturing in strength and numbers. However, the herring spawning season coincides with the exact same time frame until approximately June 15. An alternative plan of pellets to be used during the spawning period is suggested by Aquatic and the liquid herbicide form thereafter. The herbicide prevents the plant from photosynthesizing so that it dies.

Comm. Harbottle questions the time frame of avoiding early applications and pushing it off to June 30th referencing a report from the Division of Marine Fisheries that came out today, May 26, 2010. Keith explains that the initial dose of the SONAR is critical in destroying the fanwort in its infancy; if we wait until June 30th, the fanwort will be fully mature and the plants will not absorb the herbicide like it would in its early growth cycle; therefore, the SONAR would not be effective.

Comm. Dowd is very concerned about the phytoplankton and the herbicide and the herring eggs. Where Whitman's Pond is a KEY spawning area for the migratory herring in this Northeast location for the surrounding fisheries, his concerns are for their initial early development. Comm. Dowd's dream would be to open up a way to Great Pond which he believes is where the herring ultimately want to go.

Ms. Schloss reiterates to everyone that there is an existing Order of Conditions for vegetation management in Whitmans Pond, DEP File #81-1041, (amended). In 2009, this chemical treatment was performed in the West Cove. This management plan needs to be an on-going effort or ongoing year after year effort to stay on top of the invasive aquatic plants. It can not be a plan for year one and if we run out of money, pause for a couple of years. This will be with the Town of Weymouth for the rest of our lives and hopefully, we may be able to get funding from the CPC. Ms. Schloss is very concerned about the delay date of June 30th to apply the herbicide because at that point, it won't be effective. So instead of getting 5 years out of these treatments, looks like it may be only one year. Ms. Schloss asks if there is an alternate plan we could use

other than chemical. The report has recommendations of a Study being done even prior to treatment.

Keith inquires if the commission would be amenable to a PILOT plan with an alternate date or if there is some flexibility, other than what the Division of Marine Fisheries has stated. Keith explains that the need for a Pilot plan will take time.

Comm. Harbottle asks if Sonar is the least damaging yet best effective or is there something else out there we could possibly use.

Keith explains that Sonar has the best profile out there to effectively manage the fanwort which was their main objective in determining which chemical method to use for Whitman's Pond.

Councilor Mathews (who happens to be in the audience because he is also a resident on the Pond) is asked by Comm. Dowd if the funding for this project can be carried over to the next fiscal year or does it disappear. Councilor Mathews explains that if the scope of the original contract is altered, the Chief Financial Officer will not sign off on the funding; you would have to start over from square one.

Ms. Schloss asks what effect there would be if we were to wait a year or two to do the treatment where we have been inundated with the fanwort and invasive aquatic plants now for many years anyway.

Keith states that the options become narrower if we were to wait a year or two but not that dramatic that we couldn't devise a management plan that we all could work with. He also states that if not done chemically, the program would have to be done on an annual basis and the fanwort would multiply dramatically. Keith then asks how long it would take to get passage for the herring to Great Pond.

Comm. Dowd and Chairman Loring explain that the herring are there now...just waiting for free passage. Marine Fisheries has monies to possibly fund this. Ms. Schloss comments this is something to look into going forward.

Councilor Mathews believes that "spot" treating approximately 15 acres of the pond just in heavily vegetated areas around the perimeter of the 160 acre pond is a better plan for now than not to do anything. Regarding the concerns for the herring larvae, Mr. Mathews also believes there is enough area left untreated for the fish to eat and grow. He states that the longer we wait to act, the less effective the product will be. He goes on to explain why and how the herring are blocked from getting to Great Pond: a 10' high, rock, block wall behind Shaw's Plaza was put in place as a flood control prevention to stop the water in case it ever comes out of that culvert from damaging other properties in the area.

Chairman Loring sums up the discussion saying that this plan is a good deal for everyone...everyone except the herring... and he does not feel it is worth the risk of losing them...and if we lose the funding, believes there will always be more money found somewhere. Chairman Loring's recommendation is to deny the project.

Chairman Loring will now entertain the MOTION to DENY this particular MANAGEMENT PLAN presented. Comm. DeGabriele moves this and Comm. Dowd seconds it. PASSES UNANIMOUSLY.

ADJOURNMENT

Motion to adjourn was made by Comm. DeGabriele at 11:20 PM and seconded by Comm. Harbottle. VOTED UNANIMOUSLY.

The June 9, 2010 meeting will begin at 7:00 PM at the McCulloch Building, Room 12.

APPROVED _____

Conservation Commission Clerk

Respectfully submitted,

Adele Cullinane, Recording Secretary