

'Town Clerk'

**WEYMOUTH CONSERVATION COMMISSION
McCulloch School - Room 12
June 9th, 2010 Meeting**

PRESENT: George Loring/Chairman, Steve DeGabriele, Scott Dowd and Laura Harbottle

ALSO PRESENT: MaryEllen Schloss, Conservation Administrator
Nikole Bulger, PE/STV Incorporated representing Mass. Dept. Of Transportation

Chairman Loring called the June 9th, 2010 meeting to order of the Weymouth Conservation Commission at 7:04PM.

APPROVE OF APRIL 28th, 2010 AND MAY 12th, 2010 MINUTES

Cmmr. DeGabriele moved to approve the minutes of the April 28th, 2010 minutes as written.

Cmmr. Harbottle seconded.

UNANIMOUSLY VOTED

Cmmr. DeGabriele moved to approve the minutes of the May 12, 2010 minutes as amended:

- P.2, 2nd paragraph/3rd sentence: add to the end of the sentence that begins with 'Cmmr. DeGabriele is happy with etc. - the following: 'if plans associated with the Order of Conditions or the Superceding Order of Conditions cannot be found'.
- Page 4, 3rd paragraph - change the word overseeing to "oversight"

Cmmr. Dowd seconded.

UNANIMOUSLY VOTED (Cmmr. Harbottle abstained as she was not present for this meeting)

PRESENTATION BY MA.DOT ON THE FORE RIVER BRIDGE REPLACEMENT PROJECT

Nikole Bulger, PE from the firm of STV Incorporated, representing Mass. DOT, came before the Board. She took a moment to introduce other representatives from the DOT involved with the plans/project for the new Fore River Bridge, which included Michael Furlong, Joanne Harris and Kelly Kippenberger.

(It was noted that this presentation was being offered as a courtesy as a formal filing is not required.)

Next Ms. Bulger referred to a PowerPoint presentation outlining the plans for the proposed Fore River Bridge, which began with a picture of the original bridge, built in 1936 as well as the proposed permanent bridge informing members that this project was being coordinated by the state with all involved agencies/municipalities. She reviewed the preliminary scope of the work, which she noted was at the 10% stage and explained that tonight's presentation would be a step toward the 25% design-build stage. She informed the Board that this work/process began on October 29th, 2008 with an expected completion in the Spring of 2011. The physical completion of the constructed bridge is expected in 2015.

Ms. Bulger then went on to review the key issues before them; such as, community input, environmental concerns, channel clearance and span type selection. She explained that the NEPA process called for the largest permit process for environmental assessment. She noted that the US Coast Guard is a cooperating agency in this process. From this point they will move on to the public comment period. She explained that the NEPA process covers many aspects; such as, analyzes alternatives, assesses existing conditions, identifies potential impacts, proposes mitigation and documents public outreach. She added that the project includes the Transportation Bond Bill Exemption, which includes Chapter 91/Wetlands Protection Act, provided the new structure is near the old one and does not change the level of service. (State bridge projects that repair or replace existing bridges and bridge approaches are 'exempt' from the WPA, etc. - see MACC Handbook/Page 199). In regard to the approvals needed for the project, they included the Army Corps of Engineers, CZM/Coastal Zone Management, DEP/MA. Dept. of Environmental Protection and the USCG/US Coast Guard.

Next Ms. Bulger referred to the Data Collection Analysis - and this included the Bathymetric survey, DEP file review, environmental soil borings as well as sediment sampling. She wanted to note that a review of the Vertical Lift Bridge showed less impact to the environment and was the bridge of preference as compared to the Bascule Bridge. She then referred to the Hydraulic Models/Scour Results, which included the 500-year storm; i. e., tidal currents and contraction of the bridge. She informed members that the scouring effects - the removal of material around the bridge piers. She explained that they dig 100-ft. below the surface to the bedrock and are sensitive to how this work is performed. She noted that what was she was showing them was very conceptual and based on 100 yr. and 500-year storm events.

Cmmr. DeGabriele asked if all the material they used would be 'new' and Ms. Bulger confirmed this was correct.

Ms. Bulger further explained that the old pilings are cut off 5 ft. below the mud line. She also wanted to point out that the channel would be made wider - and they plan to install a fender system on the sides of the piers. She also spoke about what was involved with the DEP file review, which would be the first step in this part of the process. She informed members that there are 70 Mass. Contingency Plan sites within a mile of this site - with two near the Weymouth approach.

Re. Soil borings - Ms. Bulger stated that they did (4) soil borings as well as monitoring of the wells - with one located on the Quincy side. They found arsenic, which she wanted to point out originated in 1936 - and quickly added that they will manage this during construction.

Ms. Schloss asked about 'coal ash' and Ms. Bulger told her they found a little on the Quincy side re. the timber piles - and noted that if this ends up being disturbed during construction they would manage it appropriately. She then spoke about the sediment and Benthic sampling - noting that it was performed last November and she wanted to acknowledge that they found moderately stressed organisms. She said they were looking at conceptual storm water management and explained that the bridge would not have an open deck like the original one built in 1936. Further the new bridge would have a closed collection system - in addition it would provide a variety of improvements. She wanted to confirm that the Vertical Lift Bridge is the model selected by DOT (again as opposed to the other bridge that was under consideration the Bascule Bridge). She then showed a picture of a

similar bridge located on Chelsea Street and invited members to take a look at it.

In closing Ms. Bulger urged members to email her any questions they might have to:
nikole.bulger@stvinc.com

Representatives were asked what would be the disposition of the commuter boat when construction begins and Ms. Bulger responded that they might require a temporary channel closures, but they definitely would be making accommodations for the commuter boat.

Cmmr. Dowd asked about channel closures and Ms. Bulger explained that the Vertical Lift Bridge gives them the ability to construct the bridge off site, but when it is brought into the Fore River they might need to close the channel for 1-2 days.

Cmmr. DeGabriele asked about the contaminated soil/dredge material and Ms. Bulger explained that they discovered two types of hazardous material - one being sediment in low concentrations located on the river bottom that they may need to dredge. Once removed it will be put on barges then taken by truck to an approved landfill site.

Cmmr. DeGabriele asked if it got tested/managed under the Ma. Contingency Plan and Kelly Kippenberger replied 'yes', explaining that the landfill site won't accept the material unless it meets certain test levels.

Ms. Bulger then referred to Boring #3 located at the end of the Weymouth abutment, pointing out that they discovered arsenic in the soil there. She next referred to Boring #4 - this is located near the parking area on the Weymouth side, where they didn't find anything of note.

Cmmr. DeGabriele asked if there was any other disturbance of soil beside the yellow-lined area noted on the plan and Ms. Bulger replied 'no', adding that they are looking at taking some easements outside of the yellow line. She explained they performed the borings in order to know in advance what areas to avoid, emphasizing that they didn't want to place the bridge pier in that location.

Cmmr. DeGabriele asked if there was any other activity beyond the original footprint and Ms. Bulger replied 'no', reminding members that the exemption applies to the project as a whole. She said they expect to be taking an easement for grading work on the Weymouth side, but it will be less than 2 ft. in size. She added that once it is established they will want to speak with the Commission about it.

Cmmr. Harbottle asked if the walkway would be brought back after the bridge construction is complete, also wanted to know if there would be any more encroachment.

Ms. Bulger explained that the new bridge would not be any lower than the present temporary bridge, noting the DOT has signed a "restoration' commitment re. public amenities. She assured members that they would put the path back although it might be in an alternate location.

Mr. Furlong told members that once the contract is finalized it will go out to bid and construction will begin as the design work is being performed - adding in accordance with contract it will be coordinated with the Town/Commission.

Ms. Schloss asked about any time of the year restrictions and Ms. Bulger said that they are between 2/15 and 9/15. She noted there would be three separate overlapping restrictions, which prohibit silt-producing activities, and that drilling of the shaft is not considered silt-producing; but they would be installing a submarine cable.

Cmmr. Harbottle asked 'why' and Ms. Bulger said it was in regard to the fish spawning and migration.

Kelly Kippenberger/DOT said the fish they were referring to included smelt, herring or winter flounder - explaining they didn't want to use the river at that time of year in an effort to protect them.

Ms. Bulger informed members that this was in keeping with the Ma. Div. of Marine Fisheries regulations and others. She noted that a lot of analysis goes into that.

Kelly Kippenberger/DOT said that the timetable is included as part of the mitigation requirements of the project.

Mr. Furlong acknowledged this, adding that the Town of Weymouth is included on their mailing list and further that copies could be found throughout the Town including the library, Historical Commission and the Mayor's office. He also wanted the Board to know that it is their goal to keep the documents 'user friendly'.

It was noted that their next meeting on the Permanent Fore River Bridge would take place at the Abigail Adams School, Monday June 21st at 6:30 PM.

Cmmr. Dowd who is employed by the N. E. Aquarium noted that he was also interested in the work schedule on behalf of his employer who would be utilizing area on the Quincy waterside. He wanted to know more specifically about the timetable for the Quincy Shipyard side and Ms. Bulger offered to send this information to him as well as the New England Aquarium.

Ms. Schloss asked about staging and Ms. Bulger told her that the DOT doesn't provide additional room for staging, but do provide room within the Right of Way.

Cmmr. DeGabriele also asked about their schedule and Ms. Bulger replied the work was scheduled to take place between 2011 and 2015. The Design-Build contract is scheduled to begin in the Spring of 2011, and then at that point the Design-Appraisal process will begin.

Mr. Furlong wanted to note that in accordance with the transportation bond timetable the work must be done by 2016 - that was their final deadline, at that point the funding runs out.

Ms. Schloss asked about the drilling.

Ms. Bulger said the bridge replacement calls for coffer dam construction for the dolphins not the bridge. This will allow them to work there during the 'fish window'. She further stated that they would have a more traditional cofferdam structure, adding they would potentially look at silt curtains, which would be another way to look at mitigation.

Ms. Schloss informed Ms. Bulger that the power company was using them.

The meeting concluded.

CONT'D PUBLIC HEARING - DEP FILE #81-1073

AUTUMN LANE/SUMMER WOODS, LOT 2

Cmmr. DeGabriele moved to open the continued hearing for Autumn Lane/Summer Woods, Lot 2 - DEP File 81-1073.

Cmmr. Dowd seconded.

UNANIMOUSLY VOTED

Ms. Deborah Keller/McKenzie Engineering Group, representing the applicant, came before the Board.

Chairman Loring noted that the Board received their new revised plans, commenting that it appeared all questions by the Commission/Administrator had been addressed.

Ms. Keller stated that it was a complicated site/project and summarized the items that were addressed in the revised filing, which included:

- the erosion control line
- retaining wall
- delineation of the trees 6"+ in diameter
- impacted line of work within the 25 ft. No Disturb Zone

Ms. Keller further summarized that after submitting the updated information Ms. Schloss found one tree that still needed to be marked - and this will be addressed. She went on to review the new plan including the trees that were marked and clarified erosion control measures - adding that they will be using New England wetland plant mix, and there would be the addition of shrubbery seeds to benefit the slope. Ms. Keller told members that she worked with the applicant's construction manager with expanding the schedule for the purpose of inspection and certification purposes. She said she would also be focusing on structural engineering issues and the requests of the Building Dept.

Ms. Keller went on to say that this would have inspection of the retaining wall, including the re-bar to ensure the retaining wall is built as designed. She told members that she spoke with Ms. Schloss in regard to the schedule re. Days 2 and 3 when they will be installing the erosion control barriers - and the monitoring of the project. She said they are looking to mimic what needs to happen re. the NPDES permit (not the inspector inspecting his own work - weekly or storm event inspections) encroachments.

Ms. Keller said this scheduled for every (7) days.

Cmmr. DeGabriele replied 'I thought there would be 'daily' responsibilities; specifically the construction supervisor should at all times verify no work has taken place in the No Disturb Zone - due to it being a tight site - and which he felt they are tempted to do.

Ms. Schloss wanted to point out that they usually have 'pre-construction' meetings, suggesting that possibly the general contractor should be responsible for that.

Ms. Keller responded 'we can add that to our construction sequence'.

Cmmr. DeGabriele added that the Commission would also include this in their Order of Conditions.

Ms. Keller explained that they prepare a construction supervisor checklist and maintenance schedule that included the monitoring of the erosion control barrier -and they need to sign off on this, as well as, write up in detail any work done re. repairs, etc.

Cmmr. DeGabriele told her that he would like to see her include each new subcontractor, requiring them to also address the sign-off list daily - emphasizing the importance of the "No Encroachment/No Disturb Area". He added that this also would be included in their Order of Conditions.

Ms. Schloss asked 'who does the checklist go to?'

Ms. Keller responded that she prepares it for the applicant/developer and they are responsible for passing it on to the appropriate party - unless the applicant wants her to personally follow through with the contractor.

Ms. Schloss said she/Board would like to see the list too. She then asked how often is it signed off and Ms. Keller replied that it is the developer's responsibility to hire a person to be responsible for that. She felt the Pre-Construction meeting is the appropriate place to address that.

Ms. Schloss recapped the Boards' requests and commented that the checklist would also be for the third party (monitor).

Cmmr. DeGabriele reiterated that the contractor supervises the construction activities and the 3rd party verifies the erosion controls are in place, etc. - adding, "that's reasonable".

Ms. Keller acknowledged that Ms. Schloss saw the ledge and large boulders at the site, and based on her comments Ms. Keller spoke with the construction supervisor and he confirmed that Lot 3 did have large boulders on it. She said they have been moved over to one area and covered with loam and seeded. Additionally it was confirmed there would be no blasting. Further they will be using a hydraulic hammer to break the rocks up.

Chairman Loring noted that on the site plan it showed the area drained to one corner where erosion had taken place - and asked if that would affect the neighbor?

Ms. Keller said they could have an outlet for it, level the area off - or re-establish the area (it was noted that the location was on the north side of the property).

Ms. Schloss told Ms. Keller that there was a huge pile of leaves there where people were dumping their yard waste.

Chairman Loring said he was referring to the area 'by the hydrant' and Ms. Keller acknowledged this - confirming they were both speaking about the same general area.

Ms. Keller noted that she identified it on the plan, adding the applicant can try to re-establish it if it is a concern. She said that she didn't see it being impacted anymore, but they could reinforce the area to insure there would be no wash out.

Ms. Schloss addressed the 'draft' Order of Conditions that she prepared for the Board's consideration as well as for Ms. Keller's review and comments. She said they include additional protective measures in addition to addressing more specific issues.

The hearing was opened to the public.

Mr. Karl Scottron of 8 Autumn Lane asked about the start date and Ms. Keller said she didn't know for sure yet as they were still two design phases pending.

Mr. Scottron asked he thought the work would take place in August, September, October - and Ms. Keller thought this was a reasonable estimate.

Cmmr. DeGabriele moved to close the public hearing for DEP File #81-1073 - Autumn Lane/Summer Woods, Lot 2.

Cmmr. Dowd seconded.

Discussion:

In response to a question from the abutters, Ms. Schloss took a moment to explain the finalization of the N O I process and timetable.

UNANIMOUSLY VOTED

DEP FILE #81-1073

AUTUMN LANE/SUMMER WOODS, LOT 2

ORDER OF CONDITIONS

Members reviewed the proposed Order of Conditions for Lot 2, Autumn Lane.

Cmmr. DeGabriele referred to Condition #2, commenting that the wording would need to be reworked in regard to the responsibilities of the construction supervisor who would be monitoring the site on a daily basis - and the concerns re. encroachment as well as third party erosion control inspection schedule - and any other negative impacts; i. e., silt up to 3" having to be removed.

Ms. Schloss also wanted to include that the Conservation Commission is to receive a copy of the check list - and that the general contractor/construction supervisor also be given a copy of the Order of Conditions.

Other concerns were voiced by the members with Ms. Schloss pointing out that these types of issues are already covered in the Commission's Standard Order of Conditions.

Cmmr. DeGabriele moved to issue a Standard Order of Conditions as well as the revised and new additional Special Conditions proposed by the Administrator and discussed by the members this evening.

Cmmr. Dowd seconded.

UNANIMOUSLY VOTED (Cmmr. Harbottle abstained as she was not present for the first hearing)

DEPT FILE 81-1045

83 COTTAGE LANE

REQUEST FOR A CERTIFICATE OF COMPLIANCE

Cmmr. Harbottle moved to issue a Certificate of Compliance as approved by the Administrator for 83 Cottage Lane/DEP File 81-1045.

Cmmr. Dowd seconded.

UNANIMOUSLY VOTED

OTHER BUSINESS

WHITMAN'S POND - HERBICIDE APPLICATION

Cmmr. Harbottle spoke about the Whitman's Pond Herbicide application, informing members that she attended the Weymouth Community Preservation Committee meeting and they were unaware of the Commission's denial - and were very surprised. Town Councilor Ed Harrington was also present. The Chairman of the CPC Committee, Walter Flynn, was somewhat upset when he found out about it. Cmmr. Harbottle told him that she would ask the Administrator/Commission if they would be willing to talk about how they could help keep the project moving forward - and possibly invite the DPW Director, Bob O'Connor to attend a meeting to discuss this further.

Ms. Schloss told members that she spoke with Mr. Clarke about it and he suggested that they invite the stakeholders, with Cmmr. Dowd suggesting they also invite the Ma. Dept. of Marine Fisheries.

Ms. Schloss suggested they also invite the Whitman's Pond Committee as well as the DPW. She said that she personally spoke with DPW Director Bob O'Connor about providing fish passage to Great Pond and he said he was fearful about this, stating 'there are many specific requirements'.

Cmmr. DeGabriele stated that when you treat the Pond with an herbicide that might help the problem, but then there is additional concern about its affects on the herring - adding he realized it was a tough decision. He agreed with the suggestion of meeting with more state/local boards. In regard to the Herring Alliance - it was agreed that they are interested in protecting the habitat.

Chairman Loring informed members that the Fish Wardens meet in February in Plymouth and discuss these types of issues.

Cmmr. Harbottle pointed out that the letter also addressed 'moving forward'.

Cmmr. Dowd stated that the Division of Marine Fisheries letter spoke to the direct affect on the fish/larvae. He felt the contractor could speak to the subject of sonar/life of fish. He felt it possible that their response might be 'my product doesn't affect the fish'.

Cmmr. Harbottle commented that the letter to Director O'Connor was great, but she would like to add to the letter (to be signed by Chairman Loring) about the idea of holding a meeting with the stakeholders - and invite him with the intent of keeping him apprised. In closing she said I think that would be a good idea.

Cmmr. DeGabriele thought it should recommend a more thorough full/complete analysis of all options open to them - their concern about damaging the herring, which were also a priority. He acknowledged that they do need a solution as well as funding to help - possibly through CPC. He felt the next step should be a full meeting with all involved parties discussing a full exploration of their options.

Cmmr. Harbottle felt they would want to keep the focus on Whitman's Pond.

Cmmr. DeGabriele replied that he felt people need to get out of the box, adding that a possible solution could be more radical - with Cmmr. Harbottle reiterating she felt they should emphasize Whitman's Pond now.

Ms. Schloss told members that she was involved with the RFP (Request for Proposal) that anticipates no treatment allowed until after June 15th - but then was told by ACT/Aquatic Control Technology that the treatment date should be earlier, at which time she became involved in a conference call. She said she spoke with ACT and was told it wouldn't work unless they do it earlier.

Cmmr. DeGabriele commented "I think we were diligent", adding the letter says how important the Commission thought it was - and if people gave up that would be the worst.

Ms. Schloss said she would make the changes as discussed and follow up on it.

OTHER BUSINESS

169 RANDOLPH STREET VIOLATION UPDATE

Cmmr. DeGabriele emphasized that the owner of 169 Randolph Street did not comply with the Commission's directive to replace the disturbed area, adding he saw a massive pile of soil on the property, which he felt, was probably going into the brook. He then referred to Plan B, again restating the property owner did not comply - even with Ms. Schloss' follow up letters that gave him a June 1st deadline in regard to the planting of 7 trees and 12 shrubs.

Ms. Schloss said the owner previously told her he didn't have the money and said he would call - but he never did. She called and spoke to him again - and again he said he didn't have the money. At that point she suggested he meet with the Commission.

Cmmr. DeGabriele recapped the situation - when he first made the disturbance he was told to stop - but he didn't - then there was a quiet period. Now he has heard from the abutters that he is going 'great guns' on construction again!

Chairman Loring said they need to call him in - but if he doesn't come in he wasn't sure how they should proceed.

Cmmr. Harbottle asked about a 'non-criminal disposition', with Ms. Schloss responding they could issue a 'fine' - explaining first offense is a \$25.00 fine and it progresses from there. She didn't feel there was support for this with the Town Officials.

Chairman Loring suggested speaking with Mayor Kay about it.

Cmmr. DeGabriele said he met with Mayor Kay and spoke about their lack of enforcement and she told him that she was supportive of putting something in place and moving forward. He wanted to point out that the Commission does have authority and he planned on working with Ms. Schloss on it when they have time.

Chairman Loring asked how the rest of the Commission could help.

Cmmr. DeGabriele replied that he thought they might first want to look at what other towns are doing. He felt they first could assess a fine - adding if the owner doesn't act on the Violation Notice then they definitely would assess a fine.

Ms. Schloss explained that what they have to act on is more like a 'ticket'.

Cmmr. DeGabriele stated that DEP (where he works) has the ability to go to court, but they also have other options.

Ms. Schloss confirmed that she would send a letter to him requiring that he appear before the Conservation Commission. She also wanted members to know that there were other similar cases in the Town.

ANNUAL ELECTION OF OFFICERS

Chairman Loring noted the next agenda item called for the election of officers, adding that he would like to remain as Chairman with the Board's support.

Cmmr. Harbottle moved to nominate **George Loring as Chairman**.

Cmmr. DeGabriele seconded.

There were no other nominations.

UNANIMOUSLY VOTED

Cmmr. Dowd moved to nominate **Steve DeGabriele as Vice Chairman**.

Cmmr. Harbottle seconded.

There were no other nominations.

UNANIMOUSLY VOTED

Cmmr. DeGabriele moved to nominate **Laura Harbottle as Clerk**.

Cmmr. Dowd seconded.

There were no other nominations.

UNANIMOUSLY VOTED

SUMMER MEETING SCHEDULE

Ms. Schloss informed members that the summer schedule, as in the past, is usually once a month in July and August - dates proposed July 21st and August 18th.

CONSERVATION REPORT*** ROUTE 53/MIDDLE & WASHINGTON STREET UPDATE**

Ms. Schloss told members that she spoke with the Ma. Department of Transportation regarding Middle/Washington/Winter Streets and they would file an Notice of Intent for the July 21st or the August 18th meeting.

*** MEETING RE. IDLEWELL BLVD WITH DEP**

Ms. Schloss reported that the Ma. Dept. of Environmental Protection informed her there would be a meeting in regard to the Superceding Order of Conditions for Idlewell Blvd. on June 22nd. All members are invited to attend, adding that it usually takes place in the morning at the site. She will be sending out reminders. She reminded members that the concern was in regard to the mean high water.

*** 1340 WASHINGTON ST.**

Ms. Schloss informed the Board that the project is now before the ZBA (Zoning Board of Appeals) where they are requesting to increase the use of the dwelling from a 2-family to a 3-family. She said it would remain with the same footprint as with the smaller number of units. She felt the applicant would probably be requesting to pave the roadway, describing the location as behind Weymouth Eagles/Washington Street. If approved by Zoning Board of Appeals they would probably come before the Commission for an amended Order of Conditions. She told members that the Planning Dept. wants to know how the Commission feels about the proposal.

Cmmr. DeGabriele reminded members that the Commission approved the project on a 3 to 2 vote, commenting 'it was a squeaker'. He noted that the demolition work has been completed and they could make a site inspection.

*** 90 LIBBEY PARKWAY**

Ms. Schloss noted that she had been in discussions with the applicant regarding the Performance Bond for the wetland replication work and interpreted the Orders to require the Bond be kept in place until a Certificate of Compliance was issued for the replication or the full report.

The Commissioners agreed.

WOODBINE ROAD

Ms. Schloss reported that the homeowner's have decided to tear down and rebuild the structure and have asked whether they can proceed under the Negative Determination for the addition. The Commissioners agreed that a new Notice of Intent should be filed.

MISCELLANEOUS ITEMS

Other items mentioned included an Eagle Scout project, the need for a "Friends of the Park" group for the Torrey Bird Sanctuary area, scheduling a site visit to the Great Pond Water Treatment Plant, and identification badges.

NEXT MEETING DATE

The next meeting will be held on June 23, 2010 at 7 PM at the McCulloch Building Conference Room.

ADJOURNMENT

Cmmr. DeGabriele moved to adjourn at 9:45 PM.

Cmmr. Harbottle seconded,

UNANIMOUSLY VOTED

Respectfully submitted,

Susan DeChristoforo
Recording Secretary

APPROVED: _____

Laura Harbottle, Clerk