

'Town Clerk'

**WEYMOUTH CONSERVATION COMMISSION
McCulloch School - Conference Room
July 21st, 2010 Meeting**

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

ALSO PRESENT: MaryEllen Schloss, Conservation Administrator

Chairman Loring called the July 21st, 2010 meeting of the Weymouth Conservation Commission to order at 7:04 PM.

Minutes: June 9, 2010 for Review and Approval

Cmmr. Gowen moved to approve the minutes of the June 9th, 2010 minutes as amended.

Cmmr. Dowd seconded.

UNANIMOUSLY VOTED

DEP File 81-959 - Great Pond Water Treatment Plant - Public Hearing

Applicant: Weymouth Department of Public Works

Request for an Extension to Order of Conditions (Lagoon Decommissioning)

Cmmr. DeGabriele moved to open the public hearing for File 81-959/Great Pond Water Treatment Plant, DPW applicant re. their request for a one-year extension to their Order of Conditions.

Cmmr. Gowen seconded.

UNANIMOUSLY VOTED

Mike Chiasson, Water & Sewer Superintendent/DPW came before the Commission. He informed members that the project is essentially complete and that the contractor has finished all the 'man work', adding there is still a one-year warranty in effect up to 5/2011. The site inspection is planned for the Spring. He explained that the past contractor built a peninsula replication area - and this will be included as part of DPW's landscaping plan. Additional work will be done next Spring/Summer. He said the only other thing they are waiting for is a 'draft' as-built plan, but he explained; we will need the extension to carry us through to the final inspection.

Cmmr. Dowd asked about the timetable for the landscaping plan and Mr. Chiasson replied this would be done next summer, adding it would be part of the Water Treatment Program, which is separate.

Ms. Schloss interjected that the replication area was requested by DEP as part of their Superceding Order of Conditions for Legion Field, acknowledging that the peninsula was separate (re. off site replication requested under a different Order of Conditions) - clarifying that this work does not affect DEP File 81-959.

Chairman Loring opened the hearing to the public - no one spoke.

Cmmr. Gowen moved to close the public hearing for File 81-959, Great Pond Water Treatment Plant.

Cmmr. DeGabriele seconded.

UNANIMOUSLY VOTED

File 81-959 - Great Pond Water Treatment Plant**Applicant: Weymouth Department of Public Works****Extension to Order of Conditions (Lagoon Decommissioning)**

Cmmr. DeGabriele moved to approve a one-year extension for File 81-959, Great Water Treatment Plant.

Cmmr. Gowen seconded.

UNANIMOUSLY VOTED

DEP File 81-980 - 345 Neck Street - Public Hearing**Applicant: Bryce Grefe****Request for an Extension to Order of Conditions**

Cmmr. Gowen moved to open the public hearing for File 81-980, 345 Neck Street, Bryce Grefe applicant re. his request for a one-year extension to his Order of Conditions.

Cmmr. DeGabriele seconded.

UNANIMOUSLY VOTED

Mr. Bryce Grefe came before the Commission and submitted his abutter notification cards to the Administrator. He explained that his project was for construction of a private dock and pier, and is being done in two phases. Referring to the land-based portion, he said the contractor had problems. He explained that this portion of the project includes (8) pilings with the work to be done by barge from the water. He said that this work will be done as soon as the contractor gets it organized - and at this point it is 70% complete.

Ms. Schloss told members that the Order of Conditions was issued in August 2006 and construction began this winter. She pointed out that no changes from the original plan has been proposed and that the extension is for the water-based portion of the work, adding that the applicant would be constructing the float stops too. In closing she said she was okay with approving the one-year extension.

Chairman Loring opened the hearing to the public. No one spoke.

Cmmr. Harbottle moved to close the public hearing for File 81-960, Bryce Grefe re. a request for a one-year extension.

Cmmr. Gowen seconded.

UNANIMOUSLY VOTED

Cmmr. DeGabriele moved to approve a one-year extension for File 81-980, 345 Neck Street.

Cmmr. Dowd seconded.

UNANIMOUSLY VOTED

Rt. 53 and Middle Street Roadway Improvements - Public Hearing**MA Dept of Transportation****Map 29, Block 376****DEP File #81-1075****Notice of Intent**

Cmmr. DeGabriele moved to open the public hearing for DEP File 81-1075, Roadway Improvements at Washington St. (Rt. 53) and Middle Street.

Cmmr. Gowen seconded.

UNANIMOUSLY VOTED

Tom Currier, Mass. Dept. of Transportation (DOT) came before the Commission introducing himself and Kurt Jelenik, PE from Nobis Engineering, Inc./sub consultant for the project as well as Jessie Wilson/DOT.

Mr. Jelenik made the presentation to the Commission. He began by referring to (2) site plans that included the intersection of Washington/Middle Streets, clarifying that Washington Street/Route 53 was a state road. In summary the roadway area proposed improvements include infiltration of a portion of the runoff, upgrading the catch basins and removing an open roadway grate that drains directly into the Mill River culvert. He told the members that at this point the project was at the 70% design stage. .

Mr. Jelenik went on to say that the plan is to extend it 500-800 ft. He further explained that the project includes replacement of the pavement, traffic signals, sidewalks (which help to improve safety), as well as, some drainage work. Further they will replace all catch basins with new ones that will include 4' deep sumps. Overall the work will include adding 19,000 sq. ft. of impervious surface. The work also calls for (2) infiltration wells that cover 12,000 sq. ft. He wanted to point out that they have limited space to work and it is their hope that the 12,000 sq. ft. will be adequate.

Mr. Jelenik went on to describe the area as having a stream that runs through the project area, describing it as being located under Washington Street with the stream ending in Whitman's Pond. Presently part of the area includes a chain link fence which is unsafe - this will be replaced with a new one that meets current standards. He then referred to a discharge pipe into Mill River/stream which he said needs to be increased in size from 12" to 18", pointing out that it is located within the Riverfront area. Additionally pipe sizes on Washington Street will be increased to handle the drainage/runoff.

Cmmr. Harbottle stated that she walked the site to review the changes. She said she understood that the changes will improve traffic flow, but she thought the new DOT initiative "Green DOT" is responsible for handling the storm water in a different manner. In regard to the trees by Stop & Shop, she was concerned about the number that would be affected/cut down - and their replacement.

Mr. Jelenik referred to utilizing "Low Impact Development" and the use of impervious pavement, which has been used in road and sidewalks, but he explained it is not meant to be used for heavily traveled roads because of a big maintenance issue which is costly.

Mr. Currier then spoke reiterating that they are adding (2) infiltration chambers, which have over 1,000-1,200 cu. ft. capacity = .06 cu. ft. He noted it would take around 15 hours to drain (looking at a 2-year storm event).

Chairman Loring commented that he viewed it as a net gain for the Town.

Jeff Bina/DPW Engineer wanted to note that they also added a catch basin by Mill River, abandoning the present one for a new deep sump catch basin.

Mr. Currier interjected that they were also providing 'hoods'.

Cmmr. Dowd asked if any of the work would affect the fish passage; such as, a change in grade.

Mr. Currier told members that it would not affect the culvert at all, adding that they are also replacing (2) 12" pipes with 15" pipes. Further any debris would be removed - and will have shielding to minimize any debris falling in - but if this does happen the contractor will have to remove it.

Cmmr. DeGabriele asked about their timetable.

Mr. Currier reviewed the timetable:

- they plan to advertise the end of September
- 2-3 months later award the contract

- the work should proceed around November/December (commenting the work is a problem in the Spring)

Overall he expected it to be a one-year project.

In reference to the removal of trees, Ms. Schloss said that in her discussion with DOT, she was told some trees that they remove would be restored.

Mr. Currier said that is what he thought too, but told members if that was a concern they could add trees.

Cmmr. Harbottle asked about replanting some of the trees on the Stop and Shop property.

Mr. Currier referred to the planting in the 'right of way', commenting that it would be a safety issue. He offered to provide more details on the landscaping plans, which he said was a component of the project.

Ms. Schloss said that ongoing maintenance was a big concern to her and the members. She was referring to cleaning the catch basins on a regular basis, but added overall she saw it is a net improvement. She explained to members that since it is a 'redevelopment project' there are specific standards, adding that she had met with the Town's engineering department and in reviewing the project she believes that this project met all the standards.

The hearing was opened to the public.

Dan Buchanan, 206 Lake Shore Drive spoke and asked if the runoff would increase the flow into Mill River and Mr. Jelenik replied that 7,000 cu. ft. would be added to the runoff, but in reference to any affects from the runoff, he said it depends on where it enters the river.

Mr. Buchanan then asked if it would increase flow to Mill River and Mr. Jelenik replied 'yes'.

Mr. Buchanan stated that last Winter the water rose 2 ft - 3 ft.

Chairman Loring didn't feel the small amount of increase would make much of a difference - pointing out that even though the replacement pipes are much bigger, the culvert remains the same size. He explained it was just a 'quicker' flow.

Mr. Jelenik said overall it would actually be less than 1 cubic foot per second.

Mr. Currier informed Mr. Buchanan that if they didn't increase the pipe size they would have flooding on the roadway.

Cmmr. DeGabriele moved to close the public hearing for DEP File 81-1075, Rt. 53/Middle Street Road Improvements - Applicant: DOT.

Cmmr. Gowen seconded.

UNANIMOUSLY VOTED

Rt. 53 and Middle Street Roadway Improvements

MA Dept of Transportation

Map 29, Block 376

DEP File #81-1075

Order of Conditions

Ms. Schloss addressed the proposed/special conditions for this project. She was recommending "Standard Conditions for Commercial & Industrial Projects" - plus some special conditions.

Ms. Schloss then went on to discuss her draft conditions (she distributed a handout of the draft conditions to the members/applicant). She told members that there might be some irrelevant ones that could be eliminated. She then reviewed them one by one with the Commission. She wanted to include a condition that would require the applicant to submit part of the contractor's plan as well as their Landscaping Plan. She also wanted to add reference to the 'demolition of headwall/pipe'.

The applicant specified the protective measures to be taken.

At this point Ms. Schloss asked the applicant to comment on any of the proposed conditions they found questionable or not feasible.

Mr. Currier told the Administrator that all information asked for this evening would be given to them in a big package, with Cmmr. DeGabriele recommending to save the members time in reviewing all that data, that the applicant just give them the pertinent 'excerpts' only.

Ms. Schloss wanted to know who would be responsible for the long-term maintenance, adding 'probably the town of Weymouth'. She said she would like to know these specifics, a maintenance timetable and asked that they have the info broken down - particularly in regard to the infiltration system.

Mr. Bina/DPW referred to the maintenance - and said the DPW schedules this type of work for once a year.

Cmmr. DeGabriele acknowledged this, but wanted to add to the 'maintenance' condition - 'as often as necessary to maintain the system'. He also wanted to be clear about the catch basin design.

Mr. Currier reminded the members and Administrator that this information was all included in the details of their filing. In response to supplying some of the requested information, he said that the designer would give the electronic files to the Administrator - and also wanted to note where the pipes were running off to would be clarified.

Ms. Schloss did not feel that the fence design prevented the wind blown trash from getting into Mill River, and suggested a chain link fence.

Mr. Currier responded, "that's a great idea" to prevent debris, adding they could put the new chain link fence behind this.

Cmmr. DeGabriele referred to the landscaping plan, and suggested it include "replacement of any lost mature trees to the extent practicable".

Mr. Currier took a moment to refer to the Notice of Intent and noted that it included info that 29 trees would be removed, but they would also be replacing them with 24 trees as well as plants.

Cmmr. Harbottle wanted to include a special condition requiring that a specific number of trees be replaced, in case of future budget cuts.

After much discussion about the trees, Mr. Bina/DPW recommended that the Condition just refer to the number noted in the applicant's construction plans.

Cmmr. DeGabriele moved to issue a Standard Order of Conditions for File #81-1075, Rt. 53 and Middle Street Roadway Improvements/MA Dept of Transportation, plus the special conditions proposed by the Administrator and amended/added by the members.

Cmmr. Gowen seconded.

UNANIMOUSLY VOTED

206 Lake Shore Drive - Hearing

Daniel Buchanan

Map 30, Block 385, Lot 2

Request for Determination of Applicability

Cmmr. DeGabriele moved to open the public hearing for a Request For Determination for 206 Lake Shore Drive, Daniel Buchanan Applicant.

Cmmr. Gowen seconded.

UNANIMOUSLY VOTED

It was noted that this application was for permission to construct a farmer's porch on the front of an existing house - within the inner riparian area of the Riverfront area - between 90-100 ft. from the Mean Annual High Water.

Mr. Buchanan told members that he began construction of a Farmer's Porch last Fall, including the post for the footings. In speaking with the Building Inspector he told him that he needed a permit for the exterior work. At that point he had to file for a new Variance with the Building Inspector and refile with the Conservation Commission, adding his work was in the setback from Mill River. He said that all work stopped in early June due to the need to re-file. At this point the footings have been re-dug and poured and the porch constructed, with the residue from the footings being hosed down in the work area. He added that he would do the same for the walkway.

The hearing was opened to the public. No one spoke.

Cmmr. DeGabriele moved to close the public hearing for Daniel Buchanan, 206 Lake Shore Drive.

Cmmr. Dowd seconded.

UNANIMOUSLY VOTED

Cmmr. DeGabriele moved to issue a Negative 2 Determination for Daniel Buchanan, 206 Lake Shore Drive at the Administrator's recommendation.

Cmmr. Gowen seconded.

UNANIMOUSLY VOTED

47 Pheasant Hill Road - Hearing

William Krall

Map 64, Bl 647, Lot 60

Request for Determination of Applicability

Mr. and Mrs. Krall, applicants, came before the Commission. He informed members that he wanted to construct an above ground pool in his backyard for his family.

It was noted that the pool would be located approximately 36 ft. from the Bordering Vegetated Wetland.

When asked how he would be draining the pool, Mr. Krall replied that they would not be draining the pool; they would be covering it in the Winter, with Mrs. Krall adding that if they ever need to drain the pool they would be using a water company to do it.

Mr. Krall commented that this would only be done if there were a problem.

Ms. Schloss asked about a pool filter and Mr. Krall said they have a sand filter, which is a closed system - and it backfills through itself.

Ms. Schloss stated that they usually issue Standard 'Pool' Conditions for this type of an application - and this will be done in this case.

Cmmr. DeGabriele moved to close the public hearing for William Krall, 47 Pheasant Hill Road.

Cmmr. Dowd seconded.

UNANIMOUSLY VOTED

Cmmr. DeGabriele moved to issue a Negative 3 Determination for 47 Pheasant Hill Road, William Krall/Applicant.

Cmmr. Harbottle seconded.

UNANIMOUSLY VOTED

At this point the Administrator took a moment to explain the process to Mr. and Mrs. Krall and said that the Negative Determination would be completed as soon as possible to enable the Krall's to use their pool at the earliest convenience.

169 Randolph Street - Continued Violation Hearing

John Eliffe

Map 48, Block 547, Lots 18 & 19

Cmmr. Gowen moved to open the Violation Hearing for John Eliffe, 169 Randolph Street.

Cmmr. DeGabriele seconded.

UNANIMOUSLY VOTED

Mr. Eliffe came before the Commission.

Ms. Schloss took a moment to give the history of this violation, stating that an Enforcement Order was issued in March 2008 which required Mr. Eliffe to prepare a mitigation plan because he had cut vegetation in the Buffer Zone near the Mill River without speaking to the Administrator/Board - but the mitigation plan was never received by the Administrator, despite many attempts by the Administrator to reach him.

Then in the Fall of 2008 the Commission approved a Request For Determination re. the mitigation/restoration planting. This was another attempt by the Board to get the work done - again nothing was done.

In April 2010 Mr. Eliffe told the Administrator he might be able to get a plan to them. At that point Ms. Schloss sent him a list of plants that he could use that meet the Conservation Commission requirements (6/1/2010) - but again nothing was done. Now it is planting season, so Ms. Schloss called Mr. Eliffe in to see what could be done - again no response. This was followed up by a vote of the Commission to have Mr. Eliffe come before them on 6/23/10, but he never showed up.

Mr. Eliffe then responded. He stated that he has had no money and his house, which is being renovated, is not finished. He talked to someone about planting. He explained that the violation took place because his land was overgrown so he cut it, not knowing the rules. He acknowledged that there was cutting done in front of the house and in the rear - and he was told that it would grow back. He went on to say that unforeseen things have happened in the meantime in his personal life, but he did speak to a landscape person about what needs to be done. He also spoke with his neighbor who has a pool and wants privacy. He wanted to plant evergreens and block out the view/sound of the traffic. Presently he is still doing other work around the house, but at this point he has no money. He said he was unable to come up with a way to give his neighbor the privacy he asked for or block the sound of street traffic. He still needs to put siding on his house but again finances are a

problem. Additionally his son had a bad accident and is currently in a wheelchair. Overall there are many things going on.

Mr. Eliffe went on to say that he needs to winterize his house first before he does any plantings and he knows that he also needs to supply a mitigation plan to the Commission. He said "I apologize, I'm just trying to pay my mortgage right now".

Chairman Loring reiterated that the Commission just needs a plan of some sort right now and Mr. Eliffe replied that he spoke to someone who knows something about plants - and if he is able to get to it, he will do it before Winter, but he can't make promises that he can't fulfill.

Chairman Loring suggested he do a little now and then some more in the Spring. He explained that the Commission needs to look out for the Town's best interests - and protect the resources. He further stated that it is not our intent to send you to the poor house. We need the buffer zone to prevent debris from entering into the river.

Mr. Eliffe replied, "I value the land, water resources and I walk the reservoir a lot". He said he could do a black silt fence.

Chairman Loring told him that once you get started it would get easier.

Mr. Eliffe asked if he had the right to clear the upland area, adding he sees a lot of wildlife there.

Chairman Loring said first the Commission wants to see what he plans to do with his property (re. mitigation plan), then he said we could discuss it further.

Cmmr. DeGabriele spoke next informing Mr. Eliffe that he first must understand law and its requirements. He emphasized that the Conservation Commission has made an extraordinary effort to work with him. He then took a moment to recap what had taken place with Mr. Eliffe and the history of the violation:

- On 09/18/2007 a Cease & Desist Order was issued, with the requirement that Mr. Eliffe submit a plan that would mitigate the violation that took place - emphasizing that he needs to adhere to the 25 ft. No Disturb Zone
- On 3/20/2008 an Enforcement Order was issued because Mr. Eliffe continued activity on his property and at that time was required to file a Restoration Plan, including the reinstallation of erosion controls - this was not done.
- On 3/17/2010 a new letter was sent to Mr. Eliffe specifically recommending certain plantings, but again nothing was done - members then assumed the plantings would take place in June.
- On 4/26/2010 the Administrator sent another letter - once again no response

Cmmr. DeGabriele went on to say to Mr. Eliffe that he tells the Commission that all his money will go to his house and he was aware that Mr. Eliffe has been working on his house. He couldn't understand why Mr. Eliffe hasn't complied, so he told Mr. Eliffe, based on the regulations/legal repercussions you could be subject to penalties in civil court - or under criminal law the police could become involved. At this point he intended to pursue these avenues if he doesn't start complying immediately.

Further he reminded Mr. Eliffe that he said all of his money goes into the house and he'll get to the plantings when he can. He told him that he was here as a Commissioner to protect the wetlands. He said when it rains the debris goes into the brook when the vegetation is removed. Bottom line - you have made no effort to comply so we'll seek enforcement action if you don't comply immediately.

Ms. Schloss told members that she spoke to Town Counsel and he said that the Commission has "21D" authority/Weymouth Code of Ordinances - Section 109 that states a fine of \$50 could be issued in a Violation Hearing.

Cmmr. DeGabriele asked if that fine could be issued on a daily basis - if the violation is not taken care of right away and Ms. Schloss told him that first a Violation Hearing would have to be held in order to issue a fine re. short term.

Cmmr. Harbottle told Mr. Eliffe she understood his financial dilemma, but that was not what the Commission was there for. She told him he must have erosion controls in place to protect the brook.

Cmmr. Dowd agreed with Cmmr. DeGabriele and Cmmr. Harbottle.

Cmmr. Gowen stated that she also agreed with them.

Ms. Schloss told the Commission that they had some options; i. e., issue a fine (based on 21D) - the maximum would be \$50, but if compliance does not take place they could issue another fine. She stated they should see erosion controls in place before their next meeting (8/18/2010). With regard to the work done at the site, she noted that they issued a Determination of Applicability in 2009. She said that she knew there was a driveway on the right, but was not sure the work on the left would affect the erosion control.

Mr. Eliffe replied that he couldn't see himself paying \$1,000 again. He said he would put up the black sheet and would draw up plans. He said that Tom Barry told him this must be done through the Commission. He reported that the only work done was the construction of the footings and nothing has gone into the river, adding he has bales there - and that the only thing there now is dirt and gravel. Also he understands about wetlands. He told members that Ms. Schloss knows there was a bad accident in the family and after that happened he lost interest. He asked to come back to a future meeting with erosion controls in place and with a plan.

Chairman Loring told him that is the route they all would like to take.

Cmmr. DeGabriele said he would like to work with him if he complies with the following:

- 1) get erosion controls up immediately, commenting that he has seen walls going up there
- 2) they would need for him to make a commitment to have the plantings in this year
- 3) they would need to know what construction he is planning for the property

Cmmr. DeGabriele went on to say that if they could have a commitment for these things, he would be willing to wait one more meeting for a definitive plan before taking any action.

Cmmr. Dowd agreed, and asked Mr. Eliffe if he was willing to commit.

Mr. Eliffe agreed to commit to all of the above by the 8/18/2010 meeting at which time he would be present.

It was also agreed that the Administrator would work with him and Chairman Loring, who reminded him about the No Disturb Zone, adding it has now increased from 25 ft. to 30 ft.

Chairman Loring said he would visit him at his property on Sunday 8/1 at 9 AM to reconfirm the erosion control line.

Cmmr. DeGabriele moved to continue the Violation Hearing for John Eliffe to 8/18/2010.

Cmmr. Harbottle seconded.

UNANIMOUSLY VOTED

Lot 24 Neck Street - Hearing**John McCaffrey****Map 5, Bl 13, Lot 24****DEP File # not available****Notice of Intent**

Cmmr. DeGabriele moved to open the public hearing for Lot 24 Neck Street, John McCaffrey.

Cmmr. Gowen seconded.

UNANIMOUSLY VOTED

Ms. Schloss told members that the applicant has asked for a continuance to the next meeting.

Cmmr. Harbottle moved to continue the hearing for John McCaffrey, Lot 24 Neck St. to 8/18/2010.

Cmmr. Dowd seconded.

UNANIMOUSLY VOTED

OTHER BUSINESS:**King Phillip Street****DEP File 81-1055**

Mr. Rod Gaskell came before the Commission along with Brian Nelson, property owner of the proposed single-family home on King Phillip Street. Mr. Gaskell informed the Commission that they were before them this evening to discuss a change to the plans from their original Notice of Intent. He reminded members that his Order of Conditions from the Commission included (70) conditions. He updated members stating they received certification from MEPA and at that point thought all was okay, but the neighbors asked for more changes and at this point they are before the Conservation Commission looking for their assistance. He explained that the work proposed for the house and the road remain the same - and were approved. He then referred to the requested 1:1 replication, explaining they didn't go through with that as they rethought it and felt it was better to leave the land intact. He added that they spent money on flood control measures at the request of the neighbors - but DEP couldn't see their way out of that. Additionally they have a Water Quality Certificate from DEP. They now have a new plan dated 6/11/2010. Again he wanted to emphasize there are no real changes in what they propose to do, just that they are dealing with more replication area (referring to all three plans). He said Sheets 1 and 3 were accepted, but now they have required them to come back before the Weymouth Conservation Commission for approval of the change.

Again Mr. Gaskell restated that the project has 70 conditions, commenting that they give more than enough control for this project; i. e., a single-family house. He stated that Brian Nelson would like to address the flood control first. Lastly he acknowledged that the 'amended conditions' process would require a hearing and abutter notification.

Mr. Nelson told members that the neighbors/abutters were 100% in favor of the project because he planned to reduce flooding in the area.

Mr. Gaskell emphasized that the area flooding was the neighbor's primary concern. He said he also understood that it was the Commission's charge to protect the wetland.

Ms. Schloss noted that the Commission issued Mr. Nelson's Order of Conditions in September of 2009, and at this point Mr. Nelson was now requesting a change in the plan - calling for an additional 5,000' of replication. She said that DEP says this can be done under the existing Order of Conditions and she also doesn't think a new Order of Conditions is required. She cited Wetlands Policy 85-4; i.e., if the proposed changes will have less impact or relatively minor impact a new filing is not required - and she felt the proposed change fell into this category, adding she was confident an amended Order of Conditions was the way to go.

Mr. Gaskell said he was not sure if they could legally do that.

Cmmr. DeGabriele said he agreed with the Administrator's point of view - adding the scope allows it.

Mr. Gaskell noted that they complied with the Water Quality Certification requirement by mailing this request to the Conservation Commission and putting it all in writing. He acknowledged that the Administrator/Commission are now in favor of having them go forward with an amended Order of Conditions.

Ms. Schloss noted that 2,400 sq. ft. is approved and 5,000 sq. ft. is not.

Mr. Gaskell noted you want us to request an amended Order of Conditions - and to comply we just need to notify the abutters in writing and install erosion controls for the narrow areas. He commented that the best time to do this work is now because it is dry. He told the members that he was very comfortable with the neighbors, who want them to move forward. He said they could flag the wetland area for the Administrator/Board. He clarified that now they would be getting 5,000 sq. ft. more of wetland replication.

In closing Ms. Schloss again reminded them that all they needed to do now is:

- notify the abutters
- pay the fee
- advertise the public hearing in the newspaper.

It was agreed that they would be coming back before the Commission on 8/18/2010.

DEP FILE 81-1069

4 Healy Road

Request for a Certificate of Compliance

Cmmr. Dowd stated that he visited the site today to reconfirm the contours followed what was agreed to and found the embankment ended abruptly with no stabilization, adding the perimeter grade came up abruptly. He then asked if the silt fence/sock were removed.

Ms. Schloss said they would slice it open, took out the stakes/burlap, left the mulch.

Cmmr. DeGabriele suggested they hold off on approving the Certificate of Compliance.

Ms. Schloss said in the past when there was a problem, they sent a letter - but she said the Administrator could vote to issue a Certificate of Compliance and hold it until the erosion control blanket is there and seeded, with the Commission's approval.

Cmmr. DeGabriele asked 'how well established does the vegetation have to be?'

Ms. Schloss replied usually an inch, but with a blanket it's different.

Cmmr. Harbottle moved not to issue a Certificate of Compliance for 4 Healy Road until the erosion control blanket is in place and the vegetation is established.

Cmmr. DeGabriele seconded.

UNANIMOUSLY VOTED

DEP FILE 81- 1024

45 Colonial Road

Request for a Certificate of Compliance

Ms. Schloss reported that the project involved a garage with a room above within the flood zone. She noted that the Department Heads have approved it. Lastly she said the Commission required plantings and this has been done.

Cmmr. Harbottle moved to issue a Certificate of Compliance for 45 Colonial Road based on the Administrator's recommendation.

Cmmr. DeGabriele seconded.

UNANIMOUSLY VOTED

Conservation Report:

Ms. Schloss distributed a handout on the updated Open Meeting Law. (Members signatures were required validating they received it.)

Next Ms. Schloss reported that she met with Jim Clarke and TC George Lane regarding enforcement. The topic will be on the 8/18/2010 agenda. She said that Town Counsel is confident the Commission has the authority of issuing fines based on '21D'.

Cmmr. DeGabriele commented that a one-time only \$50 fine did not seem adequate. He then referred to the ordinance language, which states: Mayor Kay and Town Counsel Lane shall file civil action.

This subject will be discussed further at the next meeting.

45 Mathewson Drive Violation

Ms. Schloss reported that the project is moving forward and that the DEP was there on Friday (7/16/2010).

Ms. Schloss Schedule

Ms. Schloss informed members she would be out of the office on 7/15, 7/16 and 7/19.

Next Ms. Schloss reported that the MWRA started their project located by King Cove Beach Road. Most of the work will take place underground re. lining the sewer.

Ms. Schloss then informed members that some Conservation Commissions set aside time on their agenda/meeting schedule for a Question & Answer period, adding that some people have asked about this Commission doing that.

Enforcement Matter

Ms. Schloss reported that there is a float stored on tidal land/salt marsh, which should have been removed but it is still there - and she would like to bring the party before the Board, possibly put it on the August agenda.

Pumping In South Cove

Cmmr. Dowd wanted to address the pumping in South Cove and asked a resident to come forward to speak about it.

Tricia Pries, 15 Woodbine Road came before the Commission. She said she received a call informing her that the level of Whitman's Pond was dropping dramatically and additionally there were a lot of dead herring in the Pond. At that point a meeting was set up with Phil Lofgren/Asst. Shellfish Warden and Mary Parsons and they went to the Pond and saw all the dead herring.

Cmmr. Dowd noted that South Cove is the Town's secondary drinking water supply - and no motorized craft are allowed in there. Further there is a sluice gate to eliminate contamination from motorized craft, but the sluice gate has failed. Additionally pumping from South Cove has impacted the body of the Pond and fish ladders. Now there are thousands of dead herring in the ladders. He told members that he discussed this situation with the Chairman and Administrator and they agreed they need to pursue/protect the well being of Whitman's Pond.

Ms. Schloss agreed, adding that the gate is not functioning. She informed the Commission that the DPW received money to move ahead with the design/permitting for repairs. She said they met last year and at that time the DPW knew it was not working, adding 'pumping is an issue'. She noted that it was pumping 5-10 days around July 4th, when there was a break in the transmission pipe. It was repaired and tested by way of pumping. She informed the Board that it didn't pump at all last year. She realized this was an issue.

Ms. Pries asked if there was protocol for testing the pump and Ms. Schloss replied there are no restrictions re. the pumping from South Cove - and that no permit is required from the Commission. She noted that there was an Order of Conditions for the pump/gate.

Mr. Lofgren said he thought it reverses the direction of that stream, adding "I've observed it in excess of its inflow". He said it reduced the water level 5" in 7 days when it was pumping. He told members that he thought reversing it was in violation of the Rivers Act. He felt there should be minimum flow rates established, adding that some towns were appealing the minimum flow rate.

Cmmr. Dowd said that they had voted not to go forward with the Herbicide Treatment, then asked 'where are they now?'

Ms. Schloss said they needed to speak to those high up in the Division of Marine Fisheries about it. She told Cmmr. Dowd that they could meet and discuss it further.

Cmmr. Dowd pointed out that pumping is a big component.

Ms. Schloss said if they meet re. Aquatic Vegetation Management, she would be leery about that.

Ms. Pries commented that the varying the level of the Pond dramatically could be dangerous.

Ms. Schloss said that the Commission could put in writing that pumping out more than what is entering should not be permitted.

Chairman Loring stated that there was some dewatering going on last week, adding the he has opened up this discussion again with the DPW.

Mr. Lofgren asked if the flow was being monitored - why didn't you open it up, lower the balance at Whitman's Pond and let the water go down the stream. It was noted that it's a perennial flow.

Ms. Schloss commented 'maybe they don't understand as much as they should'.

It was agreed that the Commission should begin setting up the Whitman's Pond stakeholders meeting.

ADJOURNMENT

Commissioner Dowd moved to adjourn at 10:15 PM and to meet again on Wednesday, August 18th, 2010 at 7PM.
Cmmr. Gowen seconded.

UNANIMOUSLY VOTED

Respectfully submitted,

Susan DeChristoforo
Recording Secretary

APPROVED: _____

Laura Harbottle, Clerk