

Town Clerk

WEYMOUTH CONSERVATION COMMISSION  
September 22, 2010 Meeting

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

ALSO PRESENT: Mary Ellen Schloss, Conservation Administrator

RECORDING SECRETARY: Patricia Fitzgerald

Chairman Loring called the September 22, 2010 meeting to order at 7:04 PM in Council Chambers at Weymouth Town Hall 75 Middle Street, Weymouth, MA.

**328 West Street**  
**Tri Q. Nguy**  
**Map 40, Bl 479, Lot 74**  
**Request for Determination of Applicability**  
**Tri Q. Nguy**

Cmmr. Gowen moved to open the hearing. Cmmr. DeGabriele seconded.  
UNANIMOUSLY VOTED

Mr. Nguy told the Commission he only wants to make the backyard level and plant grass.

Cmmr. DeGabriele expressed that his only issue is the very steep slope and feels a wall might be needed. He said one option would be a less steep angle with rip rap; that might help but that would need to be carefully done. The current slope is too steep for just boulders and the suggested rip rap is not safe for children. He said Mr. Nguy is 55 ft. from the wetland area but asked how the grading will be done to prevent erosion.

Mr. Nguy responded by saying with boulders packed he doesn't see erosion. He also stated he would like to put up a fence when he has the money.

Cmmr. Harbottle also commented that it looks very steep.

Mr. Nguy replied that the slope only goes from 29" to 24" and is not steep.

Cmmr. Dowd asked if there was an Order of Conditions.

Ms. Schloss said DEP 81-1053 received a Certificate of Compliance in July 2009. The area Mr. Nguy is trying to level was designated as a lawn area on the plan and was supposed to be flat. The proposal doesn't include any additional impact so far as clearing

vegetation is concerned. The matter of stability (is it finally going to be a stable slope?) is an important question.

Cmmr. Dowd asked if the Original Order of Conditions represented the grade accurately.

Cmmr. DeGabriele stated the plan showed it as a level surface, but it seems like some of the elevation might have been in the Order of Conditions and his only issue is with the stability of the slope.

Cmmr. Dowd questioned if there was language specific to how the slope would be treated. Stabilization is his primary concern, as well.

Ms. Schloss stated that part of the problem was that there wasn't an as-built showing grade and she takes some of the responsibility for that, but looking at plan it was supposed to be a flat, level yard and developer Steve Gosselin didn't do that.

Cmmr. Harbottle verbalized her concern that the Commission never asked for a final plan and final slope.

Ms. Schloss explained it depends on how close to the resource area, how much fill, how steep a slope, the nature of the project and proximity of the resource area. The general guidelines on standard Order of Conditions is: if a slope is 3:1 or less then okay to seed, 3:1 should have erosion control and 2:1 should have physical stabilization, such as rip rap.

Cmmr. Harbottle recommended getting a contractor to do a survey of the slope.

Cmmr. DeGabriele commented that on the plan, it's elevation 154 at the house and 4-6 ft. drop as you get into the transition of the buffer to the wetland. In his view, it's either going to be a 4:1 grade as the condition or, if a more steep drop, a wall or rip rap will be needed, but 'we don't know what the contractor is going to do'.

Ms. Schloss offered that maybe there can be language that either it has to be pulled back, made gentler and stabilized or, if it's not that gentle a slope, a wall or rip rap will be required.

Cmmr. DeGabriele declared he is prepared to go forward with either a 4:1 slope to meet current contours and to provide stability or, if steeper, it needs a wall or rip rap.

Mr. Nguy said he's using all big stones. He said at the adjacent house, the contractor used big boulders in back and then graded, but at his house the contractor did not do anything and his yard has a slope.

Cmmr. DeGabriele commented it wasn't Mr. Nguy's fault, but the final transition from the end of the lawn into the wetland needs to be appropriately sloped or have rip rap or a wall.

Mr. Nguy commented that from the back of the house to the top of the slope is 35 ft. and he will not be working any closer than 55 ft. from the wetland.

Chairman Loring asked if anyone had any comments

Charles Paratore of 350 West Street spoke to the Commission saying he has lived there for 50 years. His only concern is stabilization of the slope and dirt flowing into the wetlands. He has never been able to grow grass on the west side of his house because the water comes down West St. and washes everything away. Drainage on West St. is 'lousy'. He expressed that what Mr. Nguy is doing 'is great'. That's my only concern. 'Builder did not do a very good job'.

Cmmr. Harbottle moved to close the public hearing. Cmmr. Dowd seconded.  
UNANIMOUSLY VOTED

Following the vote there was a discussion amongst the Commission members:

Ms. Schloss said Mr. Nguy was told to come before the Commission if more fill or rip rap was coming to the site. She said she thought the rip rap was a good idea to stabilize the bottom.

Cmmr. Harbottle asked if filter fabric under the rip rap would help soil stay in place.

Cmmr. Dowd asked if language could be included to protect the resource as long as the slope is not allowed to go into the wetlands.

Ms. Schloss suggested an inspection before the erosion controls are removed, that the area be seeded and that no trees be removed.

Mr. Nguy replied that no trees are being taken down.

Ms. Schloss recapped the special conditions:

- Create a stable slope of 4:1 or less, or place rip rap or a wall.
- Erosion controls need to be maintained until site inspection confirms stabilization.
- No fill around trees.
- Installation of a fence around the yard is okay.
- If rip rap is used, filter fabric needs to be placed between top of fill and rip rap.

Cmmr. DeGabriele moved to issue a Negative 3 Determination with Special Conditions for 328 West St., seconded by Cmmr. Gowen. UNANIMOUSLY VOTED

**81-1055 234 King Philip St., Amend Order of Conditions – Hearing  
Roy V. Nelson & Sons, Inc.**

Cmmr. Harbottle moved to open the public hearing on (81-1055) 234 King Philip St.  
Cmmr. DeGabriele seconded. UNANIMOUSLY VOTED

Present were Attorney Matthew Wattsky and owner Brian Nelson.

Atty. Wattsky turned in green cards confirming abutter notifications to Ms. Schloss. He explained there is an existing Order of Conditions issued to allow for construction of driveway access for a single-family house lot. The DEP insisted that in order to have a 401 Water Quality Certification issued, more wetland replication was required to satisfy DEP requirements. They had to come back before the Commission to seek approval to allow some additional wetland replication. The basic project is the construction of the road, installation of utilities and size of the culverts which are all staying the same; the only real change is providing for the additional replication.

No one from the public had any comments.

Cmmr. Harbottle moved to close the public hearing for 234 King Philip St., Cmmr. DeGabriele seconded. UNANIMOUSLY VOTED

Ms. Schloss discussed the Amended Order of Conditions:

- It needs to cite the revised plan that shows the additional wetland replication areas.
- Ms. Schloss and Rob Gaskell (wetland scientist) made a site visit last week and looked at trees, hoping to save some in the replication area, plus some land has to be saved around the trees. Ms. Schloss and Mr. Gaskell will do a site walk prior to replication of flagged trees. Brian Nelson was also at the site visit.
- Revised plan did not show erosion controls between the wetland line and replication area; it's a good idea to have those erosion controls installed.

Ms. Schloss stated the Amended Order will be the same as the existing Order of Conditions with the following changes: citing the new plan, marking the trees to be saved prior to replication and installation of erosion control at the wetlands replication boundary.

Cmmr. Harbottle moved to amend Order 81-1055 with Special Conditions as mentioned, Cmmr. DeGabriele seconded. UNANIMOUSLY VOTED

Ms. Schloss stated that work is going on there under the existing Order of Conditions; work under the new Order of Condition's replication area may not begin until next Spring. Water hydraulic improvements will be done this year.

Mr. Nelson said it was too late in the season to do replication.

**81-911 Commercial St., Canoe Launch - Certificate of Compliance**

Cmmr. Harbottle moved to issue a Certificate of Compliance, Cmmr. DeGabriele seconded. UNANIMOUSLY VOTED

**Canoe Launch, Commercial St. - Notice of Intent – Hearing  
Town of Weymouth Map 16, Bl 199, Lot 1 – DEP File # 81-1079**

Cmmr. Harbottle moved to open the public hearing, Cmmr. DeGabriele seconded. UNANIMOUSLY VOTED

Mr. Shawn Hardy, P.E., representing the Town of Weymouth Planning Dept., appeared before the Commission. Mr. Hardy explained this is a proposal for a new ramp, new canoe launch area, pedestrian walkway, parking and vehicle access. The proposal is a modification to a proposal that was approved in 2003 as part of the MBTA mitigation for Greenbush rail project. The existing site is adjacent to the parking lot for the MBTA Greenbush line.

Mr. Hardy summarized the proposal:

- A 25 ft. wide bituminous concrete access from a curb cut on Commercial St. Pave the 8% slope to allow vehicle access to a gravel parking area.
- A modification to the previously approved plan is that the pedestrian pathway, which connects to the existing path by the MBTA parking lot, was pulled further away from the existing coastal bank retaining wall.
- A 10 ft. wide, 44 ft. long, precast concrete plank canoe ramp will be constructed and a section of granite block wall will be removed.
- There are (3) existing concrete blocks that will be removed and taken from the site.
- Existing gravel will be scraped and removed and wild life seed mixture will be planted, which will result in an approximately 6,700 sq. ft. increase in vegetated area (an 18% increase) which is a significant improvement.
- On the beach, silt curtains will be anchored to the wall to prevent sediment from getting into the water.
- At the base of the ramp, a 50 sq. ft. gravel pad will be installed to prevent erosion.

Cmmr. DeGabriele asked about the existing parking area that is not shown on the plan.

Ms. Schloss explained it was the MBTA construction lay-down area.

Cmmr. Dowd asked how many cars the parking lot would accommodate.

Mr. Hardy replied there would be room for approximately (8) cars.

Cmmr. Dowd asked if commuters could be dissuaded from parking there.

Mr. Hardy answered not that he knew of, but if it became a problem Planning could work with the Police Dept. to address it.

Cmmr. Harbottle asked why the hay bales didn't continue around.

Mr. Hardy said there is an existing hay bale line shown and they will marry into that.

Cmmr. DeGabriele asked about the sequence of construction for putting up the wall and putting in the planks.

Mr. Hardy said he didn't include it because a contractor will have to determine that but erosion controls have to be put in first.

Cmmr. DeGabriele asked how long it would take and how long erosion controls need to be in place.

Mr. Hardy responded it would take a couple of weeks, and added Marine Fisheries would put restrictions on the time of year it could be done (because of spawning).

Ms. Schloss explained the Public Access Board Dept. of Fish and Game will put the project out to bid. Hopefully, it would start in November or December and be done over the winter.

Ms. Schloss mentioned, as the work is below mean high water, Marine Fisheries will have to provide their comments. There can be no in-water or silt-producing work between March 1<sup>st</sup> and May 31<sup>st</sup>.

Ms. Schloss also reported:

- DEP has provided the file number.
- Ch. 91 permit has been obtained.
- The Public Access Board person has recommended the possibility of installing some boulders or a guardrail for the ramp, to keep people from driving over the slope.
- The mitigation agreement stated that the Town would lease the land, but the Town is exploring the possibility of getting it deeded to the Town.

Cmmr. DeGabriele asked who is responsible for the maintenance to which Ms. Schloss replied the Town would be, even if it is leased.

Bonnie Mitterand of 55 Park Ave. West asked how the parking would be policed.

Ms. Schloss said if a problem arises it can be referred to the Planning Dept. and the Police Dept.

Cmmr. Gowen moved to close the public hearing on the Canoe Launch,  
Cmmr. DeGabriele seconded. UNANIMOUSLY VOTED

Ms. Schloss stated Order of Conditions needs to include:

- Time of year restriction needs to be cited.
- Boulders or guardrail may be placed at top to prevent access.
- Restoration of former gravel areas outside parking area.
- No damage to vegetated coastal bank.
- If ramp is done first, there should be some erosion control at the top of the ramp.
- On site meeting prior to any work.
- An as-built with grades, topography and the area of restoration.

It was suggested by Ms. Schloss that the Standard Order of Conditions for Commercial/Industrial projects be used with the above additions.

Cmmr. Harbottle moved to issue a Standard Order of Conditions with Special Conditions mentioned tonight. Cmmr. Dowd seconded.  
UNANIMOUSLY VOTED

**65 Park Ave. West  
Dana Morgan  
Map 45, Bl 488, Lot 9  
Violation Hearing**

Cmmr. Harbottle moved to open the violation hearing. Cmmr. Dowd seconded.  
UNANIMOUSLY VOTED

Ms. Morgan submitted to Ms. Schloss a Town of Weymouth 'on-line property viewer' printout dated 9-22-2010; this was marked as Exhibit 1.

Ms. Schloss stated that a Cease and Desist order dates back to Nov. 2009 because fill had been brought onto the property within 100 ft. of wetlands without Conservation approval. Shortly after that, Cmmr. Loring and Ms. Schloss made a site visit to require erosion controls be installed but, as the ground was frozen, the original lawn area could not be seen.

In April 2010, Ms. Schloss sent the applicant a Notice of Violation informing her that the existing lawn area needs to be determined, because if they go beyond that they must pull back and restore the conditions to what they were. Also found was woody debris, trees had been cut on the slope on the other side of the lawn and wood from that area was dumped into the wetlands. Woody debris needed to be taken out to come into compliance and that work has been done. Machines have been out to the site to try to identify where the original lawn was.

Photos were passed out by Ms. Schloss who went out to the site on 9/22/10 to see where the fill had been removed. She spoke to machine operator Peter Anderson about where the existing grade was and the change in soil color. She said material needs to be pulled back.

The two options available are:

- 1.) Pull it back and restore it to what it was adjacent to the wetland or file something and get approval for it.
- 2.) Slope or trees cut - pull back the fill, stabilize and seed before the end of the growing season in October.

Cmmr. Dowd asked which option they are leaning towards.

Ms. Morgan stated she did not know she had wetlands. Realtor or surveyor did not mention wetlands. From the photo it can be seen that it is 100 ft. to the house fence and 35 ft. to wetlands and they filled only about 15 ft. over the fence. She said her property is very wet so they couldn't bring in machinery. When they tried to do the work themselves, the neighbors would complain about the equipment. She said this has delayed things considerably as they only have Sundays off. She said she cannot afford the \$10,000.00 in surveyor or professional fees the Commission could expect her to pay. She stated she wants to:

- Pull back the dirt and plant conservation-type grasses and trees or bushes to contain and hold all the dirt.
- Close in her yard because she has coyotes coming into her yard and is concerned for her dogs.
- Pull back the dirt the least expensive way possible because they don't have the money.

Cmmr. Dowd asked Ms. Morgan to confirm she was not requesting to do anything in the wetlands, to which she replied 'No'.

Cmmr. Harbottle said she accepted that they did not know about the wetlands but they have a big grade change and, if they were to move it back, they would be dealing with a great deal of fill. Cmmr. Harbottle expressed her desire to see a professional prepare the plan.

Ms. Morgan was crying at this point. She stated she paid \$950.00 for a surveyor and felt it was unfair. She told the Commission that neighbors had threatened to kill her dogs and that she was trying to do the right thing. She said she cannot afford to hire anyone so friends are helping to try to put things back. She asked Ms. Schloss to call her neighbors to ask them to stop calling the police.

Cmmr. Harbottle commented the Commission is trying to help the home owners, not trying to upset them.



Cmmr. DeGabriele suggested the issues could be broken into a (2) part process:

- 1.) Comply with the enforcement order, which they've done.
- 2.) Establish where the former lawn was and pull it back and they'll be in compliance.

Cmmr. DeGabriele offered that, in the long term, there are other complaints; they need to deal with the steep slope and it seems like they need to file a Notice of Intent. The Enforcement Order should be dealt with first and suggested what is needed is to comply with the Order.

Ms. Schloss corrected Cmmr. DeGabriele by saying it is a Notice of Violation, not an Enforcement Order.

Cmmr. DeGabriele continued by saying they're on their way to restoring the original lawn and there is more to talk about regarding their future plans.

Mr. Gallery commented that now is the time of year to address this situation.

Cmmr. DeGabriele added that now is the time to seed.

Ms. Morgan asked the Commission if they could see where it was pulled back to the 35' buffer zone.

Ms. Schloss stated the slope is going to be tricky.

Cmmr. DeGabriele expressed that with the fill there it is hard to see exactly where the grade was, but he wants it to be a gradual grade.

Cmmr. Loring surmised that it is probably the same slope as the neighbors.

Ms. Morgan stated she wants to bring the slope down.

Cmmr. DeGabriele suggested the first step should be to settle on the area that was filled and get a grade that is similar to the neighbor's. It would be more stable and less likely to affect the wetland area.

Cmmr. Dowd asked if they had road motorcycles; Mr. Gallery responded 'yes'.

Cmmr. Harbottle suggested that from the appearance of the site, the equipment looks like something they need to be familiar with and hopes everything works out okay.

Mr. Gallery said that in the middle of everything they were asked to stop and move the fill. He explained that his friend is a landscaper but when asked by Cmmr. Harbottle if he was operating the equipment he answered 'yes'.

Ms. Schloss said this will need to be continued and a site visit needs to be made before seeding is done. Equipment operator Peter Anderson said he uses a hydro seed, which is a conservation-type mix. Ms. Schloss said she wanted to look at the specifications first. She also said that she, and probably the Commission, would want to see the grade first, before any seeding is done.

Ms. Schloss commented she would like to see this in (2) parts:

1. Notice of Violation and what needs to be done.
2. A date for the work to be completed.

Cmmr. DeGabriele asked what the time frame would be for this.

Mr. Gallery replied “(4) Sundays”.

Cmmr. Harbottle asked if there are any barriers.

Ms. Schloss explained there were hay bales where the Commission had asked them to be placed.

It was discussed by what date the grading and seeding needed to be completed.

Ms. Schloss said she could see the grade on Monday.

Cmmr. DeGabriele asked if something could be done about the soil on the hill.

Ms. Morgan responded that they could pull it back.

Cmmr. Loring mentioned erosion control to prevent any further destabilization.

Ms. Schloss commented it was destabilized now and would move in a big storm.

Ms. Morgan said they are trying to move it to the front yard.

Ms. Schloss asked how much fill will be needed for a stable slope.

Ms. Morgan commented they’ll put something down so it does not erode.

Cmmr. DeGabriele listed the steps as:

1. Restore the slope.
2. Stabilize the material that is out there.
3. Plan how it will be done. The fill needs to be pulled back on the lawn and they need to determine what the condition is of the rest of the soil.

Ms. Schloss commented that the main issue was that it does not erode into the wetland. She doesn’t think anything will happen over the winter.

Ms. Schloss said she would put something in writing, then reiterated what was needed:

1. Fill needs to be pulled out of the area adjacent to the wetlands and be ready for inspection no later than Oct. 22<sup>nd</sup>.
2. The degree of the slope needs to be determined.  
Cmmr. DeGabriele added we don't know what the original slope is.  
There was a discussion about the base and slope and it was determined that the (2) large trees are at the top of the slope.
3. Seed mix specifications are needed for Administration approval.  
Seeding needs to be completed by Tuesday Oct. 26<sup>th</sup>.

Cmmr. Harbottle stated everything needs to be done before any more grading.

Ms. Schloss told Ms. Morgan she may not have to come back before the Commission if all work is done properly.

Cmmr. DeGabriele asked if, in order to do the rest of the work, a Notice of Intent needs to be filed.

Ms. Schloss answered that the Commission should not be approving new work through the Notice of Violation.

Cmmr. DeGabriele asked how formal the Commission's expectations should be.

There was a discussion as to the continuation of the grading.

Ms. Morgan explained she wants to grade to make the side yard nice. They moved the hill to the front yard then had to stop, which left them with a shelf. She stated that up until this weekend "none was loose at all" and that the shelf was not eroding.

Cmmr. Harbottle said they would like to see erosion controls before anything else is done.

Ms. Morgan stated erosion controls are being placed, especially in the 25 ft. buffer zone.

Cmmr. Loring announced that, even though this is not a public hearing, people present would be allowed to speak.

Chris Semmelink, 55 Park Ave. West (which is east of the site) commented that, historically, this is a natural promontory on the edge of the wetlands that is the high ground and their house sits on top of that. All the properties slope down and in 1939 those areas were subdivided and trees were planted along the property lines and that hill or slope is where the roots for those trees are. If that hillside is cut down it will affect the trees on his property so he wants clarification that there will be no affect on

the roots of his trees or destabilization of the ground. He is concerned about the erosion and affect on his trees.

Another question is - will there be restoration of the wetlands? Trees were pushed in, equipment has been in and out and trees have been flattened; are there plans to restore the buffer zone?

Noise is an additional concern; listening to equipment every Sunday and motorcycles. If they knew there was a schedule, with a start and stop time, that would be wonderful; but equipment is running at all hours. The other noise is the motorcycles - this summer has been very quiet but now they're starting to hear noise again.

Lastly, he explained the reason he called the police was because he thought the work had been stopped and he hadn't been told it was starting up again.

Ms. Schloss told him she will make sure debris has been removed from neighboring property.

Cmmr. Harbottle moved to close the violation hearing. Cmmr. DeGabriele seconded.  
UNANIMOUSLY VOTED

### **Weymouth Club**

#### **Discussion re: Certificate of Compliance (81-770)**

Ms Schloss gave a history of DEP# 81-770 and request for a Certificate of Compliance. This was an expansion of the Weymouth Club's existing facility, existing parking and existing detention basin area. This file relocated a stream, a wetland area, so it required a replication area, a new detention basin and new parking area. Plans were filed and an Order of Conditions was issued. Back in 2006, the applicant filed for a Certificate of Compliance. The Commission issued a partial COC for the parking lots and tennis courts, but there were several outstanding issues noted so it was not issued. There was a letter questioning the detention basin not being constructed as shown on the plans (not having a forebay). At that time, the wetland replication area did not have all the plants it should have had; those have since been planted (a plant count was done a couple of years ago). Other issues were noted in Ms. Schloss' Dec. 19, 2006 letter. The Weymouth Club got back to the Commission in May 2009. Correspondence was also received from Green Environmental; Jen Turcotte, the engineer, came in with a response and the new as-built plan. The May 26, 2009 letter mentioned some drainage calculations and the big issue then was that some wetlands had been filled. There was a new Notice of Intent filed, DEP #81-1065, to restore that wetland area.

So, where we are today is, the owner wants to discuss what to do about the forebay that is not there.

Cmmr. Loring said the main issue is that the Commission was told what was going to be done and something different was done instead.

Present was Jennifer Turcotte, PE, of Green Environmental. Ms Turcotte stated that was correct. The original plan was to construct the forebay in effort to expand the Weymouth Club.

Ms. Turcotte has been involved in the project since 2004. The original expansion was filed in 1998 and approved in 1999; final approval was done by others. In 2006 they filed and received a partial Certificate of Compliance under 81-770. There were a few conditions associated with that which they addressed and came back in 2009. Because it had been so long, the wetland line needed to be reestablished. There was an area that was inadvertently filled in that was addressed in 81-1065. They fully restored the wetland area, and owed the Commission a planting report at the end of the growing season. What happened was the detention basin was constructed without a sediment forebay. It's been stabilized and vegetation has been growing there for (10) years. Ms. Turcotte questioned whether it's more invasive to go back and reconstruct it or whether the Commission has some other solution they could agree with. They could either sample the outflow location to determine that the TSS removal has been achieved or the 80% TSS removal that is required by storm water management or if there is some other solution rather than going in there with equipment in a well established wetland area that this detention basin has become.

Cmmr. Loring commented detention basin looks nice but it is not as it was designed to be. It's supposed to trap all the sediment so it can be removed and not go into the wetlands.

Ms. Turcotte responded by saying that is what the forebay was supposed to do but Cmmr. Loring stated that they do not have a forebay.

Cmmr. Loring continued saying the Commission is looking (20) years down the road when this is filled in and all the runoff goes right into the wetlands.

Ms. Turcotte replied that is not happening today.

Cmmr. DeGabriele stated the detention system is not being maintained and, potentially, the water will go right through.

Cmmr. Dowd added the engineering that was called for wasn't followed so, in terms of the Certificate of Compliance, it seems pretty far from compliant.

Cmmr. Harbottle asked if there was any operation and maintenance plan.

Ms. Turcotte responded it was part of the original Order of Conditions.

Ms. Schloss commented that it was just on the plan.

Cmmr. Harbottle questioned if there were records of any maintenance being performed.

Ms. Turcotte replied that there is and added that the catch basins are cleaned quarterly as well as the stormceptor.

Cmmr. Harbottle asked if that was being overseen by a professional, to which Ms. Turcotte replied 'yes'.

Cmmr. Harbottle asked if mowing is mentioned on the plan.

Cmmr. DeGabriele stated the maintenance plan for the detention basin was not followed; there was supposed to be mowing and the detention basins were supposed to be inspected. He agrees they have created a wetland of sorts.

Cmmr. Dowd commented it is not okay to tell the board you're not going to do something and that you're going to do something else instead.

Cmmr. Harbottle stated she would be open to having a consulting engineer take over to review it. Weymouth Club would pay for it, but the PE would be working for the town

Cmmr. Dowd said a sampling could be done today but he would worry about issuing a Certificate of Compliance and then finding out in (10) years it wasn't designed to perform this function long term.

Ms. Turcotte stated drainage calculations were provided and it does demonstrate the volume of the detention basin is sufficient in all design storms, with the exception to storm water management that the project, in it's as-built state, doesn't provide the 80% TSS removal because the sediment forebay wasn't constructed the way it was supposed to be.

Cmmr. DeGabriele suggested that the volume of the detention basin is being taken up partially by plants now and eventually by sediment and other materials. Maintenance that was contemplated was not done and now it is a wetland area. It started to vegetate and turned into a wetland so is what you're asking now is to just let it be a wetland?

Ms. Turcotte said the solution proposed would be to achieve the TSS approval and restore the detention basin to its original design.

Cmmr. Harbottle expressed she would like to see a maintenance fund set up.

Ms. Schloss explained that the Standard Order of Conditions has language requiring a maintenance contract.

Ms. Schloss said they have to figure out the plan already in place and would like to find out about original ledge issues.

Cmmr. DeGabriele stated he would like it to be restored and what wasn't done be done, and they need to come in and request a change. He's not sure if ledge prevented the forebay.

Ms. Turcotte asked if the Commission would consider the installation of a water quality inlet as opposed to a sediment forebay as a project change. She stated it would do the same thing.

Cmmr. Harbottle stated she would like to see a consulting Engineer look at it.

Cmmr. DeGabriele added if it can be demonstrated that it is as an equivalent solution he is not philosophically opposed to it.

Cmmr. Loring proposed that whatever it takes to make it work.

Ms. Schloss stated that the Commission does have the authority to hire a peer review engineer for a Certificate of Compliance review, at the expense of the applicant.

Cmmr. Dowd added if there was a change, he would want it formally reviewed.

Ms. Turcotte asked the Commission what it would like to see.

Ms. Schloss responded the Commission needs to discuss how to protect the downstream resource area and wants to see something in writing that describes that.

Ms. Turcotte said that they usually put silt sacks in all the upstream catch basins during construction so all the sediment gets held in order for run-off to be clear.

Cmmr. Dowd asked what would happen downstream.

Ms. Turcotte answered that is what the silt sacks prevent.

Ms. Schloss said if there's a rainstorm and you're digging in the detention basin the sediments, which have been disturbed, will go out the outlets so something needs to be downstream.

Ms. Turcotte suggested putting a plug in the outlet in the basin so no water comes through.

Ms. Schloss stated language was needed. The Order of Conditions has expired long ago and a Letter of Approval needs to be issued. They don't have an active Order of Conditions at this point, but they will try to bring them into compliance.

Cmmr. DeGabriele asked if someone doesn't have an Order of Conditions (and has never received a Certificate of Compliance) can it still expire.

Ms. Schloss explained the Order of Conditions is only good for (3) years.

Cmmr. Dowd asked if it enters a violation if it's after (3) years.

Ms. Schloss said then they are out of compliance and it is up to the applicant to keep their permit updated, but she would rather bring them into compliance; they've done all the work they just need to rectify it.

Cmmr. Dowd asked if they are in compliance or violation.

Ms. Schloss said she will look into it further.

Ms. Turcotte explained it was her understanding that with an Order of Conditions, if no work is done within (3) years then it expires, but if the work is started within (3) years it is valid.

Ms. Schloss summarized the remaining issues. The outlet goes over a steep slope and over unstable gravel in a muddy swale. The outlet is eroded and they need to create a stable outlet. In replication area #81-770, mowing should not extend as far into the replication area. Ms. Schloss took a look at the restoration area for #81-1065, unauthorized fill, and a report is needed from a wetland scientist. She doesn't think they were out there when the restoration area was originally graded. Most plants have survived and if some changes need to be made, some regrading may be done. A wetland scientist report should have been done in Spring and Fall and she would like to do a site visit with a wetland scientist. Some changes may be required; some of the grasses seem like upland grasses.

Cmmr. DeGabriele expressed concern about the (2) ft. difference between the new restoration area and the existing wetland area.

Ms. Schloss clarified the difference is between 1 - 2 ft., saying the plan did not have great survey or elevation. Language states grade of restoration wetland area to be reduced to approximately the same, or slightly below, the elevation of the adjacent Bordering Vegetated Wetland and said, again, that they need a wetland scientist out there.

Ms. Turcotte said John Zimmer, their wetland scientist, was out at the site when the grading was done and made periodic inspections.



Ms. Schloss added, in Oct. 2009 Mr. Zimmer did provide a report saying that it was 'approximately 6" too high'.

Ms. Turcotte offered that there are (2) separate issues:

- #81-770 plan needs to be modified from the original Order of Conditions.
- #81-1065 restoration: wetland/planting report by Dec. 15<sup>th</sup>.

Cmmr. DeGabriele said another issue is a better understanding of maintenance.

Cmmr. Harbottle stated she would like to see the maintenance contract.

Ms. Schloss asked when this issue will be back on the agenda – she suggested the Oct. 27<sup>th</sup> meeting.

Ms. Turcotte asked if they could get back to the Commission.

Steve Goldman remarked that he will take responsibility and wants to make this right and get a Certificate of Compliance.

Cmmr. Dowd explained that's what the purpose of the Order of Conditions is.

Cmmr. DeGabriele stated the wetland area did not get built as it should have been.

### **Other Business/Conservation Report**

Ms. Schloss reported fig trees have been planted at 169 Randolph St.

Cmmr. DeGabriele expressed that Mr. Eliffe was asked to plant 'native' trees and recommended another fine, to which Cmmr. Dowd agreed.

Ms. Schloss said she will send a letter saying 3-4 native trees by Oct 27<sup>th</sup>.

### **Whitman's Pond**

Ms. Schloss reported on the Mayor's meeting: "things are better". They talked about having a science-based meeting with Fish and Wildlife, DCR Lakes and Ponds Program, Marine Fisheries and NOAA. She has drafted a letter inviting these people to a meeting, or a lunch, to brainstorm (to see where we go from here) and would like to get that done in October.

There was a discussion as to what type of meeting it would be. Ms. Schloss said it would be a small staff meeting to brainstorm.

Cmmr. Dowd asked if it would be a workshop format and expressed his desire to identify funding sources to help the pond, as its importance needs to be ramped up. He elaborated that the herring are directly related to the northeast fisheries and as Weymouth is maintaining the herring, perhaps the Town can involve the Federal Government and NOAA. In addition, maybe the state would want to partner with the Town in going after Federal funding.

Ms. Schloss said, hopefully, she and Cmmrs. Loring and Dowd will be able to draft everything within (3) weeks.

Cmmr. DeGabriele commented it is a local, state and national issue.

Cmmr. Harbottle suggested it would be nice if all could get the meeting information, even if they aren't involved.

### **Adjournment**

Cmmr. DeGabriele moved to adjourn the meeting at 10:00 PM and to meet again on Wednesday Nov. 10, 2010 and Dec. 8, 2010. Cmmr. Dowd seconded.

VOTED UNANIMOUSLY

Respectfully submitted,

Patricia Fitzgerald

APPROVED

---

Laura Harbottle, Clerk

Date