

**WEYMOUTH CONSERVATION COMMISSION**  
**May 9th, 2007 Meeting**

**PRESENT:** John Thompson/Chairman, Cmmr. Scott Coven/Clerk, Cmmr. Adrienne Gowen and Cmmr. Jeff Kent

**ALSO PRESENT:** Conservation Administrator, Mary Ellen Schloss

Chairman Thompson called the May 9th, 2007 meeting of the Conservation Commission to order at 7:38 PM.

**Woodcrest Condominiums - Cont'd Violation Hearing**

**Main Street**

Commr. Gowen moved to open the violation hearing for Woodcrest Condominiums.

**UNANIMOUSLY VOTED**

Dianne Carchedi/Horizons Property Management represented the owners of Woodcrest Condominiums along with Michael Lagace/Engineer.

Mr. Lagace informed members that he prepared the drainage modification plan for Woodcrest Condominiums in an effort to correct the drainage issues at the site that were negatively impacting the wetlands and causing the violation. He explained they were proposing to install a system to control the water on the property and prevent runoff on the adjacent land.

Chairman Thompson noted that the Enforcement Order was issued in January requiring the owners to address the runoff problem/drainage issues. In March the Commission received the 'conceptual' plans.

Ms. Schloss pointed out to the members that they had in front of them a 2-page letter and plan from the proponent. She informed members that she received the conceptual plans in March and that the engineer has done additional studies and submitted signed/stamped plans as requested.

Mr. Lagace confirmed that they have done the additional site work and submitted a stamped plan as requested. He went on to say that the work proposed could not be done during the winter months, but now do so because the weather is changing. He further stated that they have decided on the location to percolate the water. They have also determined that the ground water level is quite high and plans call for directing the water elsewhere where it would make more sense. Lastly, he stated that he believed it would be in a better percolating area located higher up, adding this site is noted on the plan.

Chairman Thompson commented that it appeared the trench drainage should greatly improve the situation at the site. He expected they would probably wait until the ground dries out before they proceed and Mr. Lagace agreed, adding possibly in August or September.

Mr. Lagace further described the topography of the land which contains 12" sand and gravel as well as 24" of clay material - and added that the percolating will affect the first 12". He noted that the test pit is at 5 ft., commenting that within 15 minutes the water rose up to 24" of grade. Presently, they have proposed boulders across the perimeter and a cape cod berm to keep the water from infiltrating. Next they are proposing to work on the parking lot with the installation of a trench drain.

Chairman Thompson commented that the direct flow to the drywell is a great improvement to what's presently there.

Commr. Kent said he was concerned because the water table was so high.

Mr. Lagace acknowledged that a lot of water was coming in from 12" above the clay.

Commr. Kent asked if this was a resolvable problem and Mr. Lagace replied that their proposal would give them added capacity and that it also has the ability to be expanded.

Mr. Lagace went on to say that if there continues to be a problem, their plan gives them the ability to create another pit to a leaching field at a later date. At this point he is expecting that this plan will alleviate the problem although, he added, they didn't perform test pits all over the property. He wanted to affirm to the members that they have adequate capacity to handle the water at the property line, emphasizing no water should flow onto the abutter's property.

Ms. Schloss told members that this was a definite improvement. She then asked the applicant 'with regard to the unauthorized catch basin installation, will they be removed when the paving is done?'

Ms. Carchedi replied that only one small basin was there now and plans are to fill it in.

Mr. Lagace further explained that plans are to remove most of the parking lot, and then they will re-pitch and regrade this area.

Ms. Schloss told members that the Commissioners need to issue a second Enforcement Order, clarifying that the owner complied with the first Enforcement Order by submitting the engineering plan (stamped as required) correcting the drainage issues at the site that negatively impacted the wetlands. She went on to explain that the next step calls for confirming the work will be done by a specific date - suggesting November 1<sup>st</sup>, 2007.

Ms. Carchedi informed members that the condominium complex is comprised of 38 homes/80 residents and because of the high occupancy being without a parking area for such a long time would be a big concern. She confirmed that they wanted to comply, but also would like to minimize the expense for an underfunded condominium association.

Chairman Thompson suggested Ms. Carchedi discuss the timetable further with her engineer/consultant. He told her the Commission would be happy if the work could be done next week, but he commented, your consultant is the expert. At this point he was looking for a motion that would call for a November completion date.

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

Commr. Coven moved to issue a second Enforcement Order to Woodcrest Condominium requiring that the corrective drainage work be completed by November 1, 2007.

UNANIMOUSLY VOTED

Ms. Schloss stated that when the project is completed, she wanted a letter for the file confirming exactly what work was done and that it was completed.

Mr. Lagace agreed to provide this letter.

#### **Woodbine Road - Public Hearing**

#### **Ryder Development/Applicant**

**Map 30, Bl 291, Lot 1 & Bl 390, Lot 1**

**DEP File 81-1013**

Commr. Gowen moved to open the public hearing for Woodbine Road, File 81-1013.

UNANIMOUSLY VOTED

Mr. Al Trakimas/PE from SITEC, representing the client, came before the Board. He first noted that the abutter notification receipts had been submitted to the Administrator. He said the proposal before them this evening was for construction of a cul-de-sac at the end of Woodbine Road, which was part of the definitive subdivision plan which lies within the Watershed Protection District. He stated they were proposing to subdivide the property into three (3) lots and construct the cul-de-sac, but wanted to emphasize that they were only before the Board this evening for the roadway/cul-de-sac.

Mr. Trakimas went on to explain that the Storm Water Management System collects water from the cul-de-sac and takes it to the treatment unit and then discharged. He said they propose an overflow outlet Whitman's Pond. He stated that the 100-ft. buffer zone encompasses 10-ft. maximum width of cul-de-sac - and that the remaining part would be constructed out of the

100-ft. buffer zone, with the exception of one outfall. At this point the water would collect in the catch basin and flow into an underground recharge system.

Mr. Trakimas told members that they performed a test and created a design system to accommodate a 100-year event. Further, with the drain outfall, they want an emergency overflow. If it fails, he said, they would have an outlet in controlled fashion. Also, he described the topography has having a depressed area in the southern corner. He explained that when the cul-de-sac is constructed this area will be cut off, so they will have installed a pipe to allow the flow to continue to Whitman's Pond. He told members that the plan was designed to conform to DEP Storm Water Treatment unit and meet the TSS (80%) requirement.

Mr. Trakimas noted that he received some comments from Ms. Schloss with regard to the grading and he replied to the comment stating that the grading has been revised so there will be only a minimal impact to the buffer zone. Additionally, they tightened up the grade for construction of the cul-de-sac and pulled the grading out of the buffer zone with the exception of the north side of the cul-de-sac. At this point he felt they have addressed and mitigated the storm water impacts. In closing, he said if they are required, they would revise the grading once more to further minimize its affect to the buffer zone.

Chairman Thompson asked what the difference with regard to the reduction in grade.

Mr. Trakimas referred to 100 ft. buffer zone in Lot 2, where they were proposing a silt fence and erosion control measure (back of the buffer zone), stating it was approximately 20 ft. away from the buffer zone. He said they previously wanted more grading in that area, which was approximately 50 ft. into the buffer zone.

Ms. Schloss told members that the applicant had responded to her initial comment by pulling back the grading. The drainage emergency outfall is located at the property line between Lot 1 and Lot 2. She said she would like the outfall and easement area staked and minimally altered, and that they should note the trees in that area.

Mr. Trakimas noted that DMH #2 has been staked out at the end of the riprap at the outfall.

At this point Chairman Thompson commented to the many people present, that the hearing would need to be continued.

Ms. Schloss wanted to point out that the DPW still needs to review the drainage design and calculations. Additionally they need to accept the road as they will be responsible for its maintenance. Additionally they still need to wait for their response/ comments. She wasn't sure if two weeks would be enough time for them to have all the information ready for the members (prior to the meeting) for the next hearing. She also wanted to know what trees would be removed and have those trees marked on the plan. She wanted it to be clear that when the homes are eventually built, they would need to come back before the Commission for individual public hearings. Next she wanted to know how the proposed grading would affect the new property owners.

Mr. Trakimas referred to the recharge area within the cul-de-sac, stating they designed it for additional capacity - taking into consideration the new homes/driveways.

Ms. Schloss said they possibly may want to look at the impacts of the proposal to wildlife, commenting that this was one of the last undeveloped areas around the Pond.

Chairman Thompson told her that the Commissioners could do that when the new homes/applicants come before them.

The hearing was opened to the public.

The first speaker was Arthur Mathews/Town Councilor - who asked if they would clarify why they chose that area for development.

Chairman Thompson wanted to clarify the applicant was only before them this evening for the rood work and not the homes. He clarified that tonight the applicant was here to explain how the roadway would drain and function on site and to specifically address Conservation related issues only.

Mr. Mathews referred to the cul-de-sac stating his concern was with the access road, noting that Woodbine Road was only 20 ft. wide and the area for surrounding homes/driveways was limited in size. Due to space limitations, many of the residents have been forced to park on the street. Because of that size/placement of the cul-de-sac would make it difficult for emergency vehicles to get down into that area. Additionally, he noted that the area was mostly ledge and the present topography in this area was like a steep slope. He said he would like the Commissioners to walk the site to understand what he was referring to.

Chairman Thompson wanted Mr. Mathews to know that the Commission is still waiting to hear the comments from the DPW and that they rely a lot on them because they are the experts in the engineering area. He noted that the applicant is also obligated to go before the Planning Board and they also comment.

Mr. Mathews asked if they would be returning to the Commission when future development is proposed and he replied 'yes'.

Mr. Jim Duffy spoke next for his mother who lives at 21 Woodbine Road. He said he appreciated the Administrator's concern regarding the trees. He then asked about the elevation drop and if they would be using new fill or existing fill.

Mr. Trakimas noted that the area had been previously altered - and that their plans call for grading the road downward, so that the drainage would continue to flow onto their property.

Mr. Duffy pointed out that there was a big drop there and wanted to be sure the runoff would not go onto his family's property.

Mr. Trakimas also wanted to point out that they did three test pits within the storm water recharge system and did not hit any ledge.

Mr. Henry Williams, 29 Woodbine Road, asked if they were going to dig up the road to put the pipes in and Chairman Thompson interjected that was a Planning Board issue, not for Conservation.

Mr. Trakimas stated that plans call for a hydrant at the end of the cul-de-sac and they would be digging up Woodbine Road to put in utilities, with Chairman Thompson pointing out once more 'that is a Planning Board issue'.

Maryann Lindsay, 25 Woodbine Road, was also concerned about the fill and change in elevation, although she acknowledged that the only time she got water on her property was in October.

Chairman Thompson commented that the addition of fill would change the elevation. He also wanted to point out that the DPW Engineer would be checking any negative affects to the abutters/neighbors. He noted to those present, that the applicant was aware that the work must be done in accordance with the rules and regulations, and his project cannot produce any negative affects to the abutters, especially in regard to an increase in runoff.

Trisha Pries, 15 Woodbine Road - felt they were putting the cart before the horse, stating first the Commission should need to know if there would be any affects to the neighborhood with regard to the construction of new homes - emphasizing this should be addressed before the road goes in.

Chairman Thompson explained the way proper procedure emphasizing that the manner this project was being addressed was the proper approach, with the proposal being submitted in accordance with DEP and local regulations.

Ms. Pries felt that the wildlife was being affected and she wanted to be sure they were taking a holistic approach.

Suzanne Helmar - had questions about the ledge, noting that when the town houses behind them were being constructed there was a lot of blasting because of the ledge they found there. She said the blasting lasted for an entire weekend and it was a terrible experience for those who lived there.

Chairman Thompson reiterated that the applicant found no ledge, but if any is found and there is to be blasting the Fire Department would oversee it - and that they must meet specific safety requirements/regulations.

Mr. Henry Williams requested that the Commission make a site visit, adding there was a lot of fill going in there.

The Chairman said they would be reviewing it.

Ms. Lindsay asked if the width of the road was a conservation issue and the Chairman replied that it was a Planning issue.

Mr. Mathews told members that originally when the area was being developed, fill was taken from the back to the front and he called the Administrator about it.

Chairman Thompson reconfirmed that if ledge is found, it would be handled appropriately.

Ms. Pries asked about blasting and the Chairman once again stated that there is certain protocol the applicant must follow to be in compliance and suggested she check further with the Fire Department, adding the hearing would need to be continued to June.

Commr. Kent suggested the applicant take test borings in the cul-de-sac to see if the elevation might change and Mr. Trakimas replied that they would look into that.

Commr. Coven moved to continue the hearing to June 13th, 2007.

Commr. Kent seconded the motion.

UNANIMOUSLY VOTED

Commr. Kent asked the applicant to have a set of plans/drainage calculations for each member well in advance of the hearing so that the members would have adequate time to review the information.

#### **60 Davids Island Road – Public Hearing**

**Charles Joy/Applicant**

**Map 5, Bl 13, Lot 28**

**DEP File 81-1014**

**Notice of Intent**

Commr. Coven moved to open the public hearing for Charles Joy, 60 Davids Island Road.

UNANIMOUSLY VOTED

Mr. Shawn Hardy/PE representing the applicant, who was also present, came before the Board. Mr. Hardy explained that the Notice of Intent before them was for a proposed dock to be located at the rear of Davids Island Road. He described the site as having a retaining wall which extended out 6' x 25' and rested on steel I-beam posts, with a gangway and free floats.

Chairman Thompson asked about protecting the shellfish beds.

Mr. Hardy stated that he has filed for a Chapter 91 permit with the Ma. Division of Marine Fisheries and is hoping their layout will be acceptable. He felt the construction proposed would be tweaked, but was waiting for the Commission to act first before they went before any other Boards.

Chairman Thompson said their main concerns would be the protection of the shellfish beds with the float they have proposed. He felt that having something under the float should be the area of concentration.

Mr. Hardy told members that he was trying to negotiate with them on this.

Commr. Kent wanted to point out that presently there are no regulations on floats. He commented that currently the float was lying directly on the mud, but he didn't feel they needed to require additional protection until it becomes law, because he viewed it as being more trouble than it was worth.

Mr. Hardy replied that Commr. Kent was right, but added they are still trying to minimize the impact. At this point he handed out pictures to the Board.

Mr. Joy described the float as 'post-in-ground' on the upper side where the clam beds begin. He told members that he has taken the time to ride around the Back River area to see what others looked like for comparison purposes but was unable to find any elevated floats.

Chairman Thompson commented that he grew up there and never saw any either. He said he hears now that the affects of 'suction' from this type of float actually hurts the clam beds.

Mr. Hardy stated that he would appreciate it if the Conservation Commission allows them to move forward with their plan, contingent on DEP and Chapter 91 approval.

Chairman Thompson noted that the Commission has previously approved a pier with floats/lifts - adding that that the owner volunteered to do this.

Ms. Schloss referred to 345 Neck Street, which has float stops. She noted that the Commission required the applicant pay for a consultant who recommended use of the 'float stops', which is noted in their Order of Conditions. She commented that it is located in the same Cove as this one, noting that although it is much longer than this one it's in a more productive area.

Mr. Hardy told members that he was being generous when he described it as a 100-sq. ft. disturbance and wanted to reaffirm that they were definitely trying to minimize any negative affects.

Ms. Schloss told the applicant that she would like the detail on how they plan to connect to the wall, asking if they would be using some kind of posts to attach to their existing sea wall. She also wanted more detail on the impact of the float to the salt marsh/buffer zone to the salt marsh.

Mr. Hardy replied that his figures were based on DEP maps.

Ms. Schloss added that she would like to see more follow-up.

Mr. Hardy wanted to point out that he was very conservative with his figures; i. e., 100-sq. ft. that sits on floats.

Ms. Schloss and the Chairman asked for more detail on what sits on the flats.

Chairman Thompson felt having this information might solve any unresolved problems.

Mr. Hardy told members that they would have access to the water at mid-tide.

Mr. Joy commented that may possibly just keep a dinghy there.

Cmmr. Coven moved to continue the hearing to May 23, 2007.

Cmmr. Kent seconded.

UNANIMOUSLY VOTED

#### **Vegetation Management - Hearing**

**Abigail Adams State Park, off Bridge Street**

**Connell Memorial Pool & Ice Rink, Off Broad Street**

**Northern Tree Service for Ma DCR**

**Request for Determination Of Applicability**

Mr. Coven moved to open the hearing for the Abigail Adams State Park, Vegetation Management project.

UNANIMOUSLY VOTED

Mr. Calvin Layton/Ma. DCR represented the applicant. He referred to Ma. General Laws, CMR11 which states, in part, a vegetation plan is required for this location/type of project. He told members that the public right-of-way is in place. He

further stated there would be no application of a herbicide within the resource area, although there would be some within the 100-ft. buffer zone.

Ms. Schloss reminded Mr. Layton that they spoke about DCR delineating the resource area, adding once this was done she would inspect the delineated area where they propose treatment. He noted that they had not submitted a map/plan of the resource area or right-of-way.

Mr. Layton said the area would be mapped for treatment re. the first detention resource area and the setback that would allow for a margin of safety. He noted that they are not permitted to treat within 10 ft. of the water, adding their limit of work would be the edge of the resource area/water. He noted that 'your area of concern is the tidal area'. He told members that DCR wants to focus on the issue of public safety; i. e., poison ivy - and that their work would probably include some brush treatment. He felt they chose the best method; i. e., mechanical or herbicide, which is viewed as the safest in an urban area.

Ms. Schloss said she was looking at a Negative 3 Determination and requested DCR to contact her to view the area prior to the application.

Mr. Layton was in agreement with this request.

Cmmr. Coven moved to issue a Negative 3 Determination with the addition of any special conditions made by the Administrator. Cmmr. Gowen seconded.

UNANIMOUSLY VOTED

### **35 Regatta Road - Continued Violation Hearing Rand Currier**

Mr. Rand Currier and his representative Mr. Stan Humphries/LEC Environmental (a firm specializing in coastal issues) came before the Board.

At this point Chairman Thompson read from a 5/9/07 memorandum drafted by the Administrator, outlining the violation and the history in regard to 35 Regatta Road. The memorandum stated, in part, that Mr. Currier was issued a violation notice on March 16, 2007 after Ms. Schloss made a site inspection of his property and identified unauthorized cutting of vegetation on the 'town-owned' coastal bank. At that time Mr. Currier was required to appear before the Commission on 3/28/07, which he did and at that time accepted responsibility for the unauthorized work that was done and agreed to whatever mitigation the members required.

On April 6<sup>th</sup>, 2007 an Enforcement Order was issued requiring Mr. Currier to hire a consultant and submit a restoration plan by 5/2/07 and for him to be prepared to discuss the plan at the 5/9/07 meeting. A proposal/plans were submitted by LEC Environmental. In addition the applicant submitted a landscaping plan.

Following the hearing, it came to the Commission's attention that the prior owner of 35 Regatta Road had also removed vegetation from the coastal bank without permission. To remedy this problem, the Commission required that the owner pay for the services of a consultant (who would serve the Commission) to prepare a mitigation plan for the illegal cutting (this plan was prepared by Steve Ivas and dated 3/22/02).

Ms. Schloss then reviewed the plans, which she felt were reasonable. She was now recommending the Commission hire its own coastal bank specialist to review LEC's plans. She was also in favor of the Board issuing a second Enforcement Order that required the owner fund the services of the consultant. In addition, she outlined for the members the items she wanted remedied and the manner it be done - along with the consultant's input.

Ms. Schloss commented that she felt LEC has submitted a very good plan, but again would like a second pair of eyes to look at it before they vote on it. Once this is done she felt they could move forward relatively quickly. She wanted to point out that both 35 and 39 Regatta Road were both cut down in the past.

Mr. Rand Currier spoke next, noting that when he was last before the Commission he was told to hire an environmental consultant, which he did. The Consultant, Mr. Humphries of LEC, recommended plantings and he thought at that time he was in compliance with the Board. At this point he has someone lined up to do the landscaping work, but was concerned about Ms. Schloss' recommendation that he hire another consultant for the Conservation Commission - when he felt LEC's efforts would suffice, as they had done a good job and was very knowledgeable in this area. He then asked 'should I stop everything now?'

Ms. Schloss replied that in the next week or two she felt they could work it out, but first she wanted a second pair of eyes to help out with long term maintenance issues then at that point they could move forward.

Chairman Thompson added that because of the additional cuttings/removal of vegetation that have taken place, he was in agreement with the Administrator and wanted an expert's opinion - including recommendations on setting precedents for the future. He told Mr. Currier, if future cuttings are abandoned, then maybe they could move forward.

Mr. Currier commented that the plants there were not invasive.

Mr. Humphries/LEC wanted to point out that his letter refers to removals only of invasives. He said possibly they could review the plan and move forward as proposed, adding that they would 'hand-cut' only to trim back the invasives. They would also be checking to see if the shrubs have taken well, then possibly the Commission could approve removing all of the invasives. He felt delays could inhibit the planting process and they would miss out on the growing season. He suggested that the Commission's consultant could oversee it all so that no precedent would be set.

Ms. Schloss replied that she was flexible on this, adding they all essentially have the same goal in mind with regard to restoring the bank, getting it vegetated - and being cautious about setting a damaging precedent.

Mr. Currier said to the members 'if I come back in a month with pictures, possibly then you can decide'.

Chairman Thompson replied that the Commission wanted their own consultant who could also look at the larger picture. He told Mr. Currier that his actions have put the members in an untenable position. He went on to say 'your consultant is suggesting we move ahead and that sounds fine, once our consultant reviews it'. He reiterated that the bank was 'Town' property as well as Conservation Commission resource (coastal bank) property which requires their protection

Mr. Currier said that he would like to move ahead for several reasons, which include the timing of the 'growing season', limiting the invasive species, and also important to him - it would help him to save some money.

Ms. Schloss stated that she is in receipt of the plan from LEC as well as one from Mr. Currier's landscaper. At this point she had a question re. the jute netting/erosion control blanket - asking, will it be placed over the entire bank?

Mr. Humphries stated that he didn't see any additional erosion caused by the removal, so at this point he didn't know if the jute netting would be required.

Ms. Schloss commented 'it would only be needed with the supplemental topsoil' and Mr. Humphries agreed.

Next Ms. Schloss asked about using 'native grass seed mix' and Mr. Humphries told her there were three standard mixes with 10-20 species. He offered to provide her with the list.

Next Ms. Schloss asked about the removal of the 15' x 20' area - and asked his opinion in regard to erosion impact/habitat impact.

Mr. Humphries was in favor of shrub clusters, which would enable the coastal bank to be more predominant with shrubs. He pointed out that the invasives must be totally cut back in this area; otherwise the area would be fully taken over.

Chairman Thompson confirmed that they would proceed with the planting now although the Commission would still need to issue a second Enforcement Order regarding the manner the corrective work would be done and it would encompass the present plan of action.



Lastly the Chairman said it would require Mr. Currier to pay the \$750 fee for the consultant so that the situation could be addressed for a 'one size fits all'.

Cmmr. Gowen moved to issue a second Enforcement Order in accordance with the requirements as outlined in the Administrator's 5/9/07 memorandum.

Discussion:

Members agreed that Rand Currier could go forward as discussed upon the Commission's consultant's hiring/review and approval of the plan including present and future plantings.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Mr. Currier wanted to clarify that he could proceed with LEC's plan.

Ms. Schloss asked him when the landscaper would be on site and he replied 'on Monday'.

Ms. Schloss reconfirmed that she/the Commission would want someone else to look at the site/plan first.

Mr. Currier said that the present plan called for additional soil and Mr. Humphries wanted to clarify that they would be 'cutting' not removing.

Ms. Schloss also wanted to reaffirm they would not be removing any more shrubs, just 'cutting back'.

Mr. Currier told her they would be working on the area to the right of the stairs, referring to just the vines.

Mr. Humphries described them as being long and gangly and in need of trimming - some were in 5' lengths. He said they would be removing the root systems 'only after they receive approval from the Commission'.

Ms. Schloss addressed the access to the beach, asking if they would be coming on the property with machinery - and Mr. Humphrey responded 'no', adding they would be entering 'from Rand Currier's property'.

### **39 Regatta Road - Violation Hearing**

#### **Jack Knight**

Mr. Jack Knight, Sr. and his son, Jack Knight, Jr. came before the Board.

(At this point Cmmr. Kent recused himself from the hearing, as he had a business relationship with Mr. Knight.)

Chairman Thompson read from a 5/9/07 memorandum drafted by the Administrator, outlining the violation and the history of the site in regard to 39 Regatta Road. The memorandum stated, in part, that Ms. Schloss conducted a site visit on March 14<sup>th</sup> because of a call she received about unauthorized cutting/removal of vegetation on a town-owned coastal bank. Upon inspection she found that the bank has been cleared out, with over 11 trees and shrubs removed without authorization.

Based on this violation on March 16<sup>th</sup>, 2007 the Commission issued an Enforcement Order/Violation Notice to the owner and scheduled a 3/28/07 hearing - which was rescheduled to 5/9/07.

Research into the property showed that the same owner, Jack Knight, Sr. was called before the Commission for a similar offense back in 2002 and at that time he and his neighbor Mr. Tarco (35 Regatta Road) were required to pay for the Commission's consultant to prepare an assessment and mitigation plan for the unauthorized work for the bank.

At this point it appears that no work had been done to mitigate the first offense, and it was suspected that that there might have been more than two violations of this nature at this locus.

Recommendations in resolving the violation were outlined by the Administrator included the hiring its own consultant, with the cost to be borne by Mr. Knight (expected to be in the vicinity of \$5,000). Additionally she recommended Enforcement Orders be issued to ensure the mitigation work is brought to its conclusion. Fines for the violation were also recommended. Also, if the owner is to undertake the work - a Performance Bond should be required.

Re. the hiring of a consultant - the following scope of work proposed included:

- a site assessment
- survey if necessary
- a written report of his findings
- a mitigation plan
- long term maintenance plan
- possible creation of a Memorandum of Understanding
- oversight and follow-up of mitigation requirements

After reading Ms. Schloss' memorandum, Chairman Thompson spoke to Mr. Knight and told him that his actions have put the Commission in an untenable position. He wanted him to know that this is not the purpose of the Conservation Commission, but he added they have no alternative but to deal with the violation and remedy it.

Mr. Knight, Sr. read the copy of Ms. Schloss' memorandum, stating that he would need additional time to review it.

Ms. Schloss recommended that Mr. Knight be responsible for payment of the Commission's consultant.

Mr. Knight, Sr. told members that the work they were referring to took place in 2002 and at that time the Town looked into the situation. He stated that since then he had a fire at his home and lost his copy of these records.

Ms. Schloss asked if Mr. Ivas had been paid the \$400 due him for his report and Mr. Knight, Sr. responded 'I guess so'.

Mr. Knight told members that he worked on the tiered retaining wall for safety purposes, adding he has been trying to keep it clean, but it just keeps growing and growing.

Chairman Thompson wanted to point out that what he was referring to was "Town-Owned Land" and not his land - and in addition it was a 'coastal bank' which is a resource that is protected by the Commission. He told him that he should have come before the Commission before considering any work on this property.

Mr. Knight, Sr. replied that the growth is 18" high now.

Chairman Thompson told the Knights that the Board has no choice but to act on this violation.

Mr. Knight Sr. asked if he could have additional time review Ms. Schloss' comments and then come back before the Board and Chairman Thompson replied 'yes'.

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

Cmmr. Coven moved to issue a second Enforcement Order to encompass all the points and recommendations in Ms. Schloss' memorandum along with the funding of a consultant.

Discussion: Mr. Knight, Sr. asked if he could use his own consultant if approved by the Board and the Chairman replied 'yes'. Cmmr. Gowen seconded the motion.

UNANIMOUSLY VOTED

Ms. Schloss wanted to clarify that Mr. Knight is responsible for payment of the consultant and Mr. Knight Sr. said he understood that.

Before concluding the meeting, Chairman Thompson explained to the Knights that the Commission is comprised of reasonable people, but he cut down vegetation on Town-Owned Land and on a 'protected' coastal bank - that was why he was called in. He felt it important to note that the first time this happened was in 2002, and it was brought to his attention - but now he has done it again. He told Mr. Knight, if he had asked first, they would be in a different position tonight.

The meeting concluded.

### **328 North Street - Violation Hearing**

#### **Charles & Dawn Struzziere**

Chairman Thompson summarized the situation at 328 North Street where debris had been dumped in a wetland resource area. In July of 2006 an Enforcement Order was issued for this offense. Next, the owners, the Struzziere's were then called before the Board, along with the (then) owner of Benson Landscaping Company who did the dumping and it was agreed that the Struzziere's would work with the owner of the landscaping company and return to the Commission with a mitigation plan in the Fall (2006) - but that has not been done. Tonight they were before the Board because the Board to address resolution of the violation.

Mrs. Struzziere told the Board that Steve Ivas/Wetlands Consultant came out to the site and they told him to send the bill and his findings to Benson Landscaping (the owner's name is Roy Asbury), and have not heard anything more since that time.

Chairman Thompson explained that meeting with the Commission is their next step in rectifying the situation. He told her the members do not relish the enforcement role, but it is their responsibility to protect the resources.

Ms. Schloss asked if they had a copy of Steve Ivas' report and she replied 'no'. She said that Mr. Ivas said he would give the bill to Benson and they heard nothing further. They also spoke with the Mr. Asbury and was told by the new owner would split it with his uncle, the previous owner who did the dumping.

Chairman Thompson pointed out it is now one year later and nothing has happened.

Chairman Thompson felt that two Enforcement Orders needed to be issued this evening - one to the Struzziere's and one to Benson Landscaping in order to get a mitigation plan and the corrective work taken care of.

Ms. Schloss wanted a copy of Mr. Ivas' report and if there wasn't one, then they would need to require payment for this service. She said she has written a letter but did not receive a response. She said it was possible that Mr. Ivas was never paid and that was why there was no report. She recommended that an Enforcement Order be issued with a request for payment.

Chairman Thompson wanted to issue Enforcement Order that would require payment by the Struzziere's and Benson Landscaping and that the Commission could hire their own consultant, if there was no report available from Steve Ivas.

Ms. Schloss wanted a definite time frame for the report - and recommended 5/23/07 as the deadline (the date of the next meeting), if not the Struzziere's and Benson Landscaping (Roy Asbury) would have to pay for a consultant's services for the Commission.

Cmmr. Coven moved to issue two Enforcement Orders - one to Mr. and Mrs. Struzziere and one to Benson Landscaping/Roy Asbury requiring that a findings/mitigation report be to the Commission by May 23<sup>rd</sup> - if this is not done then the two parties will be required to fund the services of a consultant for the Conservation Commission.

Discussion - Members discussed an Enforcement Order going to both parties - with each liable for half the expense of the consultant.

Cmmr. Kent moved to issue one Enforcement Order to the Struzziere's and they would be required to have a report/remediation plan to the Commission by 5/23/07 or they would be required to pay \$2,500 for the new consultant.

Cmmr. Coven Seconded.

UNANIMOUSLY VOTED

Mr. Struzzi (father) told members that Mr. Roy Asbury (Benson's) stated originally that he would get help from his uncle (previous owner of Benson's Landscaping) and they would straighten it out.

The meeting concluded.

**Rt. 3 Median Pleasant/Middle Streets**

**Request for an Extension to Order of Conditions**

**Town of Weymouth/DPW**

**DEP File 81-979**

Cmmr. Moved to grant a one-year extension re. File 81-979, Route 3 Median at Pleasant/Middle Streets as recommended by the Administrator.

UNANIMOUSLY VOTED

**72 Davids Island Road**

**Request for an Extension to Order of Conditions**

**Michael & Margaret Lynch**

**DEP File 81-912**

Commr. Kent moved to issue a one-year extension for 72 David's Island Road (which expired in February) through February 2008.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

**Conservation Report**

**Outstanding Enforcement Orders:**

**100 St. Margaret Street - Rick Murray**

Ms. Schloss reported that an Enforcement Order was issued for this property October of 2005. She received the Mitigation Plan (drawn up by Bill Woodward for Mr. Murray) in September 2006, with plans to implement it in last Fall - this has never been done.

Chairman Thompson asked Ms. Schloss to have Mr. Murray come before the Board.

Ms. Schloss additionally reported that she sent Mr. Murray a Certified Letter on 9/13/06 regarding the status of the mitigation project, but did not receive a response.

Commr. Kent moved to issue another Enforcement Order to Mr. Murray and that he be informed that he must appear before the Board at the next meeting on 5/23/07 with his implementation plan - and if he does not appear at that time with the plan he will be assessed a fine of \$300 per day thereafter.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

**25 Liberty Street Enforcement Order - The Duchaney's**

Ms. Schloss informed members that the Duchaney's have started their mitigation work, but felt the work needed to be monitored. She spoke with Bill Woodward and updated him and he replied that the pool was filled with water. She said she expected to have a new update for the Board at the next meeting.

**Other Business**

**Fountain Lane Condos**

Ms. Schloss stated that the violation comes under local jurisdiction and involves 3,000-sq. ft. of Isolated Vegetated Wetland. She told members that they want to fill in the area that is causing a mosquito problem with ground-up asphalt. She has told them that they need to file a Notice of Intent.

**Possible New Ordinance**

Ms. Schloss reported that she met with Marcia Connelly, para-legal working with Atty. George Lane, re. the Town wide effort to come up with proposed Ordinances/Regulations - and Ms. Connelly has encouraged the Commission to move their efforts forward so that the Commission's local ordinances could be available on the Town's website.

**Longwood Road Update**

Ms. Schloss informed members that Scott Arnold/Arnold Engineering is working on making drainage changes for Longwood Road (re. appeal and DEP's involvement). She is expecting DEP to respond to this change in the near future.

**Herring Run Update**

Ms. Schloss stated that presently there are 25,000 fish in the Herring Run, which should extend to about June 15<sup>th</sup>.

**Woodbine Road Subdivision Plan**

Ms. Schloss told members that she would soon be reviewing by definitive subdivision plan for Woodbine Road. She commented that she felt that maintaining the wildlife habitat was very important, adding this is one of the last pieces of untouched land around Whitman's Pond.

**The next meeting will be held on May 23rd, 2007 at Weymouth Town Hall/Town Council Chambers.**

**Adjournment**

Commr. Kent moved to adjourn at 10:35 PM

UNANIMOUSLY VOTED

Respectfully submitted,

Susan DeChristoforo  
Recording Secretary

APPROVED: \_\_\_\_\_

Scott Coven, Clerk

DATE: \_\_\_\_\_