

WEYMOUTH CONSERVATION COMMISSION
Town Hall Chambers
December 10th, 2008 Meeting

PRESENT: Cmmr. Gerald Murphy/Vic Chairman, Cmmr. Scott Coven/Clerk, Cmmr. Jeff Kent and Cmmr. Adrienne Gowen (arrived 8 PM)

ABSENT: Chairman John Thompson

ALSO PRESENT: Conservation Administrator, Mary Ellen Schloss

Acting Chairman Gerald Murphy called the December 10th, 2008 meeting of the Conservation Commission to order at 7:35 PM. He informed those present that Commissioner John Thompson would not be present this evening.

Minutes: 9/24/2008, 10/8/2008, for signing, 10/22/2008, for review and approval
Minutes were tabled until later in the evening.

431 Union Street - Continued Violation Hearing

Mr. Clancy owner of 431 Union Street and his representative, Brad Holmes/Environmental Consulting & Restoration came before the Board.

Mr. Holmes told members that he has been working with Mr. Clancy preparing their submission (including graphics) to correct the violation at 431 Union St. He said that on 11/15/08 a site inspection was conducted. He described the area as an in-land bank, armored and stabilized with no signs of erosion. He submitted the proposal to improve the resource area and create a buffer with the bank, which has been stabilized. They are also removing the non-rock material and next spring plan to stake in a fiber roll, bring in loam and seed. Additionally, they plan to provide vegetation to stabilize the area between the inland bank and fence - with hopes of improving the wildlife area.

Cmmr. Coven asked how much higher he thought it would be with the addition of the loam.

Mr. Holmes noted that the coir log is 12" in diameter, adding it will go in 2" behind the rock - with 10" of loam behind it.

Cmmr. Kent commented that he didn't see any major issues at this point, and felt it would work out fine with the proposed improvements.

Cmmr. Murphy concurred, and supported Mr. Clancy and Mr. Holmes moving forward with the project.

Ms. Schloss stated when all the work is done she would like to see the applicant go forward with plantings. With regard to the depth/amount of loam, she suggested the addition of a trench with 4" and 6" loam, rather than 10" - but added she was flexible. She then told members that they would need to issue a second Enforcement Order in order to carry out the project. Additionally she would be requesting no more than 6" be added - explaining there was no need to raise the level any more than necessary. She outlined this in her report and in addition she requested that there be oversight of the plantings/installation of coir logs, etc. In addition, she requested the dates from the applicant, as well as, having him remove the stone material right away - within 2-4 weeks, but she added they could discuss that further suggesting some time in Spring for the re-plantings, but no later than April-May 1st (depending on the weather).

Mr. Holmes agreed to the requests by the Administrator, but first referred to lowering the coir log and the request for less fill commenting that it sounded okay. With reference to the amount they could trench in, Mr. Clancy would like to leave that part flexible.

Ms. Schloss then asked the applicant 'did you dig there?' and Mr. Holmes told her 'no corings, but they moved the rocks around'.

Ms. Schloss asked that she be kept updated on their progress so that she could make a site inspection - in addition she wanted to know about the water for the coir log which would need to be irrigated. She then asked about the timetable.

Cmmr. Kent asked about peak flow and Mr. Clancy said it usually occurs in the Spring and Fall.

Ms. Schloss asked if the tublings were inside the log and Mr. Holmes said they were, adding if necessary they could provide straw.

Ms. Schloss asked if the removal of non-organic material could be done by January 12th, noting that the Commission's next meeting was scheduled for January 14th. She also wanted to see the installation of the plants by May 1st.

Cmmr. Coven moved to issue the second Enforcement Order to Mr. Clancy, 431 Union Street.

Cmmr. Kent seconded.

UNANIMOUSLY VOTED

Wharf Street North - Hearing

MA Electric/National Grid

Map 19, Block 193, Lot 1

Request for Determination

Cmmr. Kent moved to open discussion for Wharf Street.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Alicia Kabir, Environmental Consultant for Massachusetts Electric came before the Board to address one of their utility poles located off Wharf Street (bordering North Weymouth). She explained that particular utility pole is presently being used by an Osprey for a nest location - so the plan is to move the nest further south of the existing location, just south of the line and the addition of a new utility pole is being coordinated. Plans also call for installing a perch for male osprey.

She went on to say that the location is in the riverfront area/buffer zone and is considered an isolated wetland. She then described the installation process, which she said would be completed within the next couple of months - before migration begins.

Ms. Schloss told members she viewed it as a simple project with no impact to the resource area and was recommending a Negative 3. This would allow Mass. Electric the ability to install a 2nd perch.

The meeting was opened to the public, no one spoke.

Cmmr. Kent moved to issue a Negative 3 Determination as recommended by the Administrator.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Lot 29 Greenvale Ave - Continued Hearing**DEP File #81-1047**

Cmmr. Kent moved to open the continued public hearing for Lot 29 Greenvale Avenue, File 81-1047.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Ms. Schloss informed those present that the applicant has requested to have the hearing continued to a date uncertain as he is still working on negotiating a purchase of the adjacent parcel, so that he would have a buildable lot.

Cmmr. Kent moved to continue the hearing for Lot 29, Greenvale Avenue, File 81-1047 to a date uncertain.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Alexan at Arbor Hill - Continued Hearing**DEP File #81-1046**

Cmmr. Murphy asked that they hold off on opening this hearing until Cmmr. Gowen arrived.

Members agreed.

Weymouth Neck, 300 River Street, DEP File #81-938**Request for Final Certificate of Compliance**

Ms. Schloss informed members that this project involved the contaminated soils remediation /cleanup at Weymouth Neck (Area 2 of Webb State Park) and that the work has been completed, including restoration of the beach area, planting of beach grass, etc. She noted that there was also some additional work with the outlet/culverts as well as some repairs that were done.

Cmmr. Coven moved to issue a Certificate of Compliance for DEP File 81-938, 300 River Street as approved by the Administrator.

Cmmr. Kent seconded.

UNANIMOUSLY VOTED

Woodbine Road Project**DEP File #81-1013****Request for a Certificate of Compliance (to close file)**

Ms. Schloss reported that the project was a 3-lot subdivision and that the original proposal was for the roadway/utilities, but she explained that the Town purchased this property via CPC (Community Preservation Committee)/Community Preservation Act and the previous project is no longer a viable project. At this point the Town would like to close out the Order of Conditions so they can proceed with placing a Conservation Restriction on the property - and it would be noted on the Certificate that the project terminated.

Cmmr. Coven moved to issue a Certificate of Compliance for the Woodbine Road Project, File 81-1013, as recommended by the Administrator, with the notation that the proposal was never implemented.

Cmmr. Kent seconded.

UNANIMOUSLY VOTED

Minutes: 9/24/2008, 10/8/2008, for signing, 10/22/2008, for review and approval

Cmmr. Coven moved to approve the minutes of the 10/22/08 meeting as amended.

Cmmr. Kent seconded.

UNANIMOUSLY VOTED

File Note: 9/24/08 minutes were submitted for signature.

Note: Cmmr. Gowen arrived.

Alexan at Arbor Hill – Continued Hearing
DEP File #81-1046

Cmmr. Kent moved to open the public hearing for File 81-1046, Alexan at Arbor Hill.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Mr. Stuart Clark/Registered PE for Gale Associates as well as Project Manager, along with Donald Schall, Senior Biologist/ENSR were among those present representing the client Trammel Crow. Mr. Stuart came before the Board and prepared his PowerPoint presentation for the Commissioners and those in the audience, including Town Councilors Mike Smart, Patrick O'Connor, Arthur Mathews and Ed Harrington.

Mr. Richard Sweeney, PE/Senior Engineer from Tetra Tech Rizzo the Commission's peer review consultant/engineer was also present along with Richard Albano, Senior Wetland Scientist also from Tetra Tech Rizzo – both representing the Commission/Town.

Mr. Clark made the PowerPoint presentation as promised at a previous meeting, which described the proposed work site and Alexan project to those present. He noted that the site consisted of 30 acres located off Burkhall Street, which was comprised of mainly woodland, a small wetland and a Mass. Electric easement, adding it did not include a wildlife habitat or flood zone.

Mr. Clark reminded those present that 275 units had been previously approved and it included 7 acres of wetland. Further through the Zoning Board and the Special Permit process it was reduced in scale from 18 acres to 10 acres. Additionally the impervious surface was also reduced from 7 acres to 5 acres. Further in 2001 the applicant received an Order of Conditions from the Weymouth Conservation Commission. This Order was appealed and DEP issued a Superceding Order of Conditions. Recently the applicant applied for and received a Certificate of Compliance stating that the work never commenced.

Mr. Clark went on to say that he has met with the Conservation Administrator and Richard Sweeney, the Commission's consultant and they shared a lot of dialogue regarding the design. Based on that meeting and their comments, they redesigned the pond into a pocket wetland and adjacent ponds. They also changed the size of the pocket wetland from the original pond increasing the size and reducing the area to be blasted. They also increased the flow path which brings about many benefits; such as, large habitat and more vegetation. He noted that the lower pond was a deeper pond. In drainage area 2.0 they also created two basins, noted on the plan as 2A and 2B. They have included a treatment device for the first pond. He explained that the lower part goes into Pond 2B and has a hydro-dynamic separator. He stated that they have decreased its height because of the comments by the neighbors in the community. Also the device increases the amount of hydraulic detention time. Additionally, they are replacing the sediment forebays with hydro-dynamic separators. He went on to list the positive points for doing this. He further explained that with this proposal they changed the infiltration system by collecting the water from lower Burkhall and infiltrating it. Now the flow will be within reasonable limits.

At this point Mr. Clark presented the pre and post analysis that validated the reduction in runoff by 30%. He noted they would fill a couple of small isolated wetlands, referring to D & E. In order to mitigate the loss of wetland, they propose to construct wetlands. Plans also call for changing the topography from woody to a more robust wetland system. They have also placed a 12-acre piece of land adjacent to the brook into a 'conservation restriction' for a period of 30-years. The last piece of mitigation involves Wetland C and a downstream wetland, where they propose to remove invasive species. He noted that these items are noted in the updated changes. In closing, Mr. Clark stated that there are still some items remaining on Mr. Sweeney's list and they will continue to work with Tetra Tech Rizzo on finalizing those items.

Cmmr. Gowen asked the Administrator for her comments on Mr. Clark's presentation.

Ms. Schloss told members that Mr. Sweeney has been continually working on this project and much of the information that has been provided can be found on the Town's Conservation website, under 'peer review' comments - including the applicant's comments. She quickly added that they also have Rick Albano's comments (the other peer review consultant from Tetra Tech Rizzo) are noted on the website.

Mr. Sweeney spoke next and referred to the certified soil evaluation that has been done. He told members that he has spoken with the applicant a couple of times. He then referred to the second comment letter, adding they are now in their 3rd round of letters. He also noted that last Friday he received the new changes submitted by the applicant, to which he has provided a summary outline. He referred to his December 10th letter, reviewing each section which included the following subjects:

- Stormwater Basin Forebays, noting that the Tetra Tech Rizzo wetland scientist will comment on this too.
- Subcatchments
- Water Quality
- Calculations
- Soils Information

Mr. Sweeney went on to say that he and Mr. Albano would be reviewing previously received material from the applicant, plus the new set of comments/materials just received by Mr. Clark.

At this point Mr. Albano was asked to comment on the wetland issues. He said he reviewed the Notice of Intent including the revised portions, including the Bordering Vegetated Wetland and the isolated wetland. He has also reviewed both sets of site plans as well as the letter from Gale Associates that included comments regarding the isolated wetland. Additionally he visited the site on 11/25/08 during a rain storm event and observed the two wetlands (D & E) to be filled. He noted that "E" was bigger than "D" and that "E" drained toward the northwest by the existing culvert.

Mr. Sweeney went on to explain that the culvert was flowing to Wetland "C", which the applicant viewed as an isolated wetland - which he saw as a BVW, but at a closer look he found that the water from the culvert flowed and disappeared into an existing pipe to Wetland "C". He told members that at this point he concurred with the applicant that Wetland E was not a BVW as defined by the State/Local regulations. Additionally he viewed Wetland "D" as locally jurisdictional.

Mr. Albano stated that he reviewed the Variance Request for both wetlands, which claims they have a diminutive function, based on their small size - but in regard to Wetland "D" other factors come into play. He further noted that "E" discharges into "C" - and from there flows into the public water supply/Old Swamp River. Based on that he said there was value to "E".

Mr. Albano was also recommending the applicant revisit their Variance Request to fill both wetlands based on the impact to the 15 wetland functions and values. He said that the analysis of the pocket wetland should be refocused back on its ability to mitigate for the lost functions and values of wetlands D and E; at that point the applicant could satisfy the local Ordinance. He was also looking at "C" (down gradient of "E") where it discharges. He told members that he saw it as one continuous wetland system, based on this he did not see "C" as isolated because the jurisdiction has 100' buffer around it, which was shown on the plan. Additionally "C" also has a depression in it which is considered a definition of a vernal pool. He then read the local definition of a vernal pool for those present.

Mr. Albano further stated at this point the ball is back in Conservation's court - as he sees it as local jurisdictional matter. He sees the area as vernal pool with a wildlife habitat area. He said if the Commission chooses to assert its jurisdiction, then the applicant should submit a Variance Request for work proposed within a resource area. Re. the jurisdiction area, he views it as discrepancy between the Weymouth Ordinance and the WPA. He then referred to the 100 ft. resource area around the potential vernal pool in Wetland "C", where one half would be altered. He didn't see it within bog or wetland area, so the Commission cannot take jurisdiction under the Wetland Protection Act. He

said that the applicant would need another Variance Request for work within this area and then explained how it would be mitigated.

Lastly, Mr. Albano referred to the wetland mitigation, he looked at the proposed pocket wetland and saw it as commendable - whereby the applicant proposed to create additional different habitat types. He then asked 'how the pocket wetland would be mitigated' - asking the applicant to look at the longevity of the pocket wetland to see if it would be feasible. He felt it might take monitoring or possibly redesign. He commented that it looked good on paper, but asked 'would it be functional long term?' He felt that the area of Open Space was also commendable, adding it was a great piece that could be viewed as mitigation.

Mr. Clark told the members that the applicant would continue to work with Mr. Albano and Mr. Sweeney regarding their comments.

Commr. Kent asked 'when the test pits are created, how good would be the representation in the rocky area' - and 'how would they use it as an accurate basis.' Additionally, if the calculations are incorrect, 'how will it all come together?'

Mr. Sweeney stated this was in the area of the recharge system, adding that the existing conditions consist of primarily fill as well as many ledge outcrops. He noted that they hit natural soil at 7', but there was also debris in between. He reported that in one of the test pits water was weeping out, indicating the water table - and this was reconfirmed a little further away. He said that in his opinion, it needs to be raised to meet Storm Water Standards.

Commr. Kent asked 'so the information so far - is it reliable?'

Mr. Sweeney replied, 'I believe it is', adding if he relocated he would retest. He pointed out that the ledge is everywhere over there.

Commr. Gowen asked Mr. Stuart if there was a lot of ledge there and Mr. Sweeney replied 'yes', on the west and east side of Burkhall Street, commenting that a lot of ledge would have a definite impact and possibly indicate the need to relocate.

Commr. Coven asked the applicant about treating the water from Wisteria, noting they were not required to do so and Mr. Stuart replied 'yes', but would as part of their mitigation.

Commr. Coven noted that they were proposing 242 units proposed with parking for 300-400 cars, then asked 'does the drainage system address the oil runoff' for so many vehicles.

Mr. Stuart said it did, noting this was addressed in his N O I.

Town Councilor Mathews spoke next. He said that on 10/15 Mr. Sweeney submitted a letter/report with 88 questions/comments on the project for the applicant to address. He also referenced a letter from Gale Associates, with an 11/26/08 response. He said at this point it appeared that 40 of Mr. Sweeney's comments have still not been addressed - and now there is a new letter dated 12/3/08 sent to Mr. Stuart/Gale Associates with questions. He felt there was a lack of information forthcoming from applicant, adding that some of the responses to Mr. Sweeney's comments were only one-line sentences, which he felt were an inadequate. Although he wanted to note that he wasn't aware of what had taken place at the meetings between the applicant, the Administrator and the Commission's peer consultants. At this point he was hopeful that the Commissioners would be asking more questions.

Town Councilor Mathews went on to note that in the latest letter Richard Sweeney asked the same questions a third time and he was requesting a third party perform an independent review. He felt that this manner of communication could be going on 2-3 months from now. Further it seemed that Mr. Albano was asking the Commission to have the applicant go one extra step, especially in regard to the request for two (2) Variances, although he quickly added that

he realized work was still in progress. In closing he said that he appreciated the applicant making the information available to him - as well as to Commission and the Administrator making the information available on line.

Town Council Harrington questioned the replication of wetlands, noting the applicant says replication from upland wetland to a more robust drainage ditch just appears to be replacing one with another.

Mr. Donald Schall, Senior Biologist/ENSR for the applicant replied to Town Council Harrington's comment 'no, that is not correct, "E" is essentially being replicated with natural shrubs and tree species'. He then described the vegetation in "D" (a small area of 1,500 sq. ft.). He explained that it was being replaced in the wetland area with a variety of shrubs ideally suited for this system - tolerant of seasonal flooding. He said it would increase the species diversity and would sustain what's there.

Town Council Harrington referred to the reptiles, amphibians and water source mammals as well as birds of prey - asking if the present wildlife would be eliminated with the project.

Mr. Schall told him that work could be done so that could be avoided.

Town Council Harrington asked if there were water level problems; i. e., from what's present to too low.

Mr. Sweeney referred to the pocket wetland, explaining that the area was mostly ledge - adding that the plans are to blast the ledge and create a depression.

Town Council Harrington asked if it could be supply ground water and Mr. Sweeney told him that it was being reversed at this time.

Town Council Harrington commented that the area might not be appropriate for this. He then asked Mr. Sweeney if he felt the applicant was responsive to him and if he felt he would be responsible for his assurances.

Mr. Sweeney responded that he felt the applicant has been responding well and in good faith.

Town Council Harrington asked about a timetable, several months??

Mr. Sweeney replied that he couldn't say.

Commr. Gowen voiced her concern about the blasting being handled safely and properly.

Commr. Coven then asked about Storm Water Basins 1 & 2 and Mr. Sweeney said his comments were in regard to ledge outcrops and that the revised proposal by the applicant is much better suited even though it is the same size with the same orientation. He assured Commr. Coven and the Commissioners that he would continue to review the proposal and the proposed changes.

Commr. Coven next referred to the wetland replication stating he had flooding concerns with regard to the different locations.

Mr. Albano stated that at this point he was waiting for the applicant's response to his comments, quickly noting that both wetlands have Water Storage Capacity. He commented that if the filling of the wetland could be conducted in such a way with mitigation, retainage and habitat value, he would feel that the applicant met the value of the Variance Requirements - but he quickly added that he was waiting for their response at this time.

The hearing was opened to the public.

Kimberly Gruenberg of 160 Burkhall Street first noted that she sent a letter to the Conservation Commission outlining her feelings and concerns. Overall she was opposed to the project with concerns about flooding, destruction

of the wetland as well as the wildlife habitat. She didn't feel that the applicant could anticipate all of the scenarios that could take place - even with all the experts involved.

Nicole Sault, 120 Burkhall Street/Wisteria Point referred to the wildlife habitat and questioned the applicants comments regarding the comments that there were no endangered species on the proposed site. She also questioned the wetland jurisdiction/Area #1 - the flowing water between C & E. She asked that the Commission keep in mind the time of year that the study was conducted - and the flow changes that come with the seasons. Re. Variance/Mitigation Plans, she felt these plans were all unnatural and the proposal will change a natural functioning system which was put there by Mother Nature. She asked the Commission to please protect the land. With reference to the wildlife, she said when they fill the wetland they would be killing the animals. Re. blasting-this would do the same thing.

Next speaker was Harvey Welch - who also referred to the blasting, commenting that even with the Fire Department being involved, it could still divert water to unsuspected areas. Based on that he felt the Commission should also hire an engineer to oversee this part of the project and to protect all of the abutters.

Jim Cunningham of Lakeshore Drive was the next speaker - He stated that he was opposed to the project for several reasons, primarily because it involves a danger to the wildlife and Open Space. He said he made a site inspection and saw displaced Woodchucks - and now the applicant is speaking about 30 acres, wiping out the wetland, wildlife, vernal pool and open space. He felt strongly that it should be left 'as is'. With regard to damages and displaced water - he commented that the location of the ledge is still unknown. Additionally there is disappearing water which flows to the bottom of the hill and this should be given serious consideration. Re. Water Use - the Air Base is coming on line and he felt that the Town has excessive development all using the Town's limited water supply, which he said would be running out at some point. Re. Access - he pointed out that there was only one road in, with water running down the hill - he felt this would undermine the road and the base of the hill.

Mr. Cunningham went on to say that today he learned that Avalon Ledge complex was just sold. He felt that people would be coming in to buy and then flip the property for profit. He felt this project could turn out to be a similar situation. He said that Board should be concerned and keep the interests of Weymouth's residents as a priority and not those of outside developers.

Mary McCauley, 118 Tall Oaks came before the Board. She asked Mr. Clark to bring the PowerPoint presentation back up and to zoom in on the map of Arbor Hill. Once this was done she pointed out parts of the map which she felt were not accurate with regard to locations/complexes. She also questioned the runoff pattern. She asked 'what will happen to the trees'. She spoke of the present flow pattern according to her history on the hill. She was concerned with the flow and drainage and the protection of the buildings when blasting begins.

Mr. Clark explained that the blasting would not touch the existing wetland area Ms. McCauley referred to, pointing out that post development there would be less water flowing down the hill. He also informed Ms. McCauley and those present that the Fire Department is responsible for overseeing the blasting and any concerns should be directed to them as opposed to the Conservation Commission.

Ms. McCauley asked what would happen if the blasting changes the flow, adding that a 'blasting engineer' should assess the project - again adding that she felt land and water flow would be affected.

Barbara Popkin, 118 Tall Oaks Drive stated that she agreed with Ms. McCauley. She said that the entire area is rock and ledge and that blasting would affect the wildlife and displace them. Additionally traffic will substantially increase and the pollution from the increase in motor vehicles would affect the animals.

Harvey Welch asked if there would be another presentation given by the applicant after improvements/changes are made.

Cmmr. Murphy replied that it was a work in progress. He expected changes would be ongoing and that eventually there would be another presentation.

Ms. Schloss stated for the record that the Conservation Commission received 83 letters, some were duplicates and all were on file in the Conservation office. Concerns noted in the letters involved drainage, flooding, wildlife habitat. She assured those present that she would continue to put all materials received on the Town's website. She noted that the Commission will need to make a decision regarding the vernal pool - and whether they would assert local jurisdiction. She explained that the Local Ordinance refers to standing water - which is defined by a two month period.

Mr. Schall noted that back in early July "C" had standing water in the westerly end.

Ms. Schloss recommended to the Commission that they assert local jurisdiction over "C", the vernal pool and request for a Variance. She said it is based on 15 interests of the Local Ordinance. She noted that the channel upgradient of Wetland B is considered a stream under the local Ordinance and the applicant should request a Variance if the area is to be impacted.

With regard the Conservation Restriction - it involves comments with the - duration affect 30 years and it could be renewed in 20 years for a maximum of 100 years. She noted that Mr. Albano has commented on it being in 'perpetuity'.

Members discussed the next meeting date - present schedule calls for the next two meetings being January 14th and 28th.

Mr. Clark requested they continue their hearing to January 28th, 2009.

Ms. Schloss said at this point her concerns included:

- (1) Variance
- (2) Intermittent Flow
- (3) Intermittent Stream

Mr. Schall asked that the definition of a 'stream' be reviewed and that the Conservation Commission give consideration to the question of jurisdiction, commenting that they were relatively silent on that issue. He referred to the decision re. the Town of Harwich 1993 and the Wetlands Protection Act - where he said it indicates that in 1999 there was an unregulated discharge channel from an up-gradient paved area. He also asked members to look at two court hearings: one re. Coca Cola/Town of Salem - when the opinion was upheld that the subject area of concern was not a resource area - and second hearing involved the Town of Lenox where a similar decision was rendered re. the definition of a stream/drainage channels and Storm Water Events. Lastly he asked members to look at the Town's local ordinance, noting it refers them back to the State. He asked members to review them before making a decision.

Cmmr. Murphy said he would be referring the matter to the Town Solicitor, Attorney George Lane for his opinion.

Mr. Schall offered to give them the paperwork re. the cases he just cited.

Before closing the hearing, Ms. Schloss interjected that she viewed Wetland "C" as definitely meeting the definition of a vernal pool.

Mr. Schall replied that he didn't have evidence to refute it, but pointed out that the definition was vague and could allow the Town to regulate anything.

Commr. Gowen moved to designate Wetland C as a vernal pool.
Seconded.

UNANIMOUSLY VOTED

Cmmr. Coven moved to continue the hearing for Alexan at Arbor Hill, File 81-1046 to January 28, 2009.

Commr. Kent seconded.

UNANIMOUSLY VOTED

22 Martin Street - Continued Hearing

DEP File # 81-1050

Commr. Kent moved to open the hearing for 22 Martin Street, File 81-1050.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Mr. Gary Gabriel, applicant came before the Board. He reminded members that his retaining wall had fallen down twice and that his Order of Conditions to rectify the situation had expired. He said he has hired a structural engineer to assist in rebuilding the wall again. He explained that he has stacked boulders to stabilize the hill, which he was losing due to erosion. He acknowledged that his wetland line was incorrect, and it was actually closer than he thought.

Ms. Schloss told members that she received a letter from Mrs. Lynch, 655 Front Street questioning the process and the project. She said we discussed the written testimony from the Engineer and why it was designed that way; i. e., farther back then what was shown on the plan. Further they were looking for the statement from the Engineer defending the design and its proximity to the No Disturb Buffer Zone.

Mr. Gabriel responded that it was actually located on the ledge and offered to get the engineer's statement verifying this for the record.

Ms. Schloss told him that the Board had also looked at it. She then asked if he had a Building Permit and Mr. Gabriel replied that he didn't because he was waiting to hear for the Commission first.

Ms. Schloss told him she would like an 'as built' plan for the record, reflecting the existing slope. She commented that encroachment into the 25 ft. buffer appeared to be stable - and she realized it had to be built that way (according to plan). She also told Mr. Gabriel that she would need the \$100 Application Fee. It was also noted that some trees were lost.

Cmmr. Kent commented that it looked fine to him and that he felt it would be too late now to take the wall out now.

Cmmr. Coven said he would like more information, because he would like to be confident it would last this time - and suggested additional plantings.

Mr. Gabriel noted that the last time he was before the Board, seven (7) new trees were requested but he actually planted ten (10). He said he would put in more if asked.

Cmmr. Gowen asked if they were healthy.

Mr. Gabriel replied 'yes', adding that the last wall he installed was defective - which was the manufacturer's fault. He said that the engineer did come out and he offered to supply an affidavit from him for the final wall.

Ms. Schloss requested a copy of the construction control affidavits from Mr. Gabriel - which he agreed to supply.

Cmmr. Kent moved to issue an Order of Conditions with the Special Conditions as outlined by the Administrator and included:

- the construction control affidavit
- an as-built plant

- the \$100 Application Fee

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

South Shore Hospital, DEP File #81-1001

Minor Modification

Mr. Brian Baldwin/Leggett McCall Properties, representing the applicant South Shore Hospital, came before the Board. He told members that a letter had been sent to the Administrator describing the proposed work.

Ms. Schloss updated members on the project, stating that the Board had issued an Order of Conditions in 2007 and later approved a modification to the Order of Conditions in September of this year. She noted that this is the Hospital's second request for a modification which called for not using the previously proposed wall, but to stabilize the slope instead - which is located within 100 ft. of the buffer, but outside of the 50 ft. buffer. She noted that eventually it will become a grass slope.

Mr. Baldwin said they were trying to minimize the size of the wall which was originally 24 ft. high and quite imposing, now it has been reduced in height to 16 ft. - a significant reduction which he felt was also better for the neighbors.

Cmmr. Kent viewed the modification as minor.

Ms. Schloss stated that in the past they handled the approved minor modification with a letter to the file.

Cmmr. Kent moved to have the Administrator send a letter to the South Shore Hospital accepting the minor modification and that the Administrator be notified when the work is to begin.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Lagoon Decommissioning, Great Pond Water Treatment Plant, DEP File #81-959

Extension to Order of Conditions

Ms. Schloss informed members that the Order of Conditions for the Great Pond Water Treatment Plant was issued in 2005 (removing sludge). The DPW just noticed that the Orders recently expired and called to request an extension. At this point the work has stopped, but they expect to start up again in about a month or so.

Cmmr. Kent moved to grant a one-year extension to the DPW re. File 81-959/Great Pond Water Treatment Plant.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Conservation Report - Other Business

60 Patterson Street Update

Ms. Schloss reported that the Enforcement Order issued to the Silvestro's re. violations at 60 Patterson Street required that sand and the wall be removed by December 9th, 2008. This has not been done. She spoke with Mr. Silvestro and noted that they never received the plan as requested and promised (it was noted that the consultant was never paid). She emphasized that the plan was needed and that this matter originated back in July (6 months ago).

It was agreed that Ms. Schloss would send a letter to Mr. Silvestro and if there is no action, a new Enforcement Order would be issued.

Cmmr. Kent said that if they don't receive the previously requested plan, then Mr. Silvestro will be required to come back once again before the Commission with his consultant.

All members agreed and the Administrator will advise Mr. Silvestro of same.

Complaints re. Rustic Drive

Ms. Schloss reported that she received calls from residents complaining about the installation of a propane tank. She looked into it and found that a Building Permit is not needed for installation of an underground tank. She will be working with the Plumbing Inspector and the Fire Department to resolve the issue, adding that she believed it came under local jurisdiction, if not the state. She noted that the complaint originally went to Mayor Kay's office. She said she might be contacting the owner about applying for a Request for Determination and schedule it for the 1/28/09 meeting.

Ms. Schloss told members that in the future she would be handling these types of issues on a case by case basis.

I-10 Extension Project

Ms. Schloss reported that FERC has submitted an Environmental Impact Report - and the Ma. Division of Fisheries & Wildlife has recommended that a Notice of Intent be filed. She noted that the Towns of Holbrook and Braintree are involved and both communities have concerns over endangered species, adding that this will be a huge project.

Old Business

Ms. Schloss next reported that the three (3) storm water projects are moving along.

New Business

Mid-January is the deadline for the next round of the Coastal Pollutant Remediation Grant funding, adding that she was told by the CPC that this would be an appropriate use for the funds.

Community Preservation Committee

Cmmr. Coven, the Commission's designee to the CPC reported that he would like to see the Commission/Administrator get something together in regard to signage/Bird Sanctuary for the CPC - although he added the use might be viewed as questionable. If so, they might want to give consideration to coming up with another proposal.

Cmmr. Gowen asked Cmmr. Coven if he could get them the categories that qualify for funding and the amount that is available.

The January 14, 2009, Meeting will begin at 7:30 P. M. at the Weymouth Town Hall.

Adjournment

Cmmr. Coven moved to adjourn at 10:12 PM and to meet again on January 14th, 2009 at 7:30 P. M. at the Weymouth Town Hall/Town Council Chambers.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Respectfully submitted,

Susan DeChristoforo
Recording Secretary

APPROVED: _____
Scott Coven, Clerk

DATE: _____