

Conservation Commission
Minutes of January 14, 2016
Public Hearings
Mashpee Town Hall
Waquoit Meeting Room

Commissioners Present: Robert Anderson, Dale McKay, Brad Sweet, John Rogers, Mark Gurnee.

Staff Present: Conservation Agent Drew McManus, Recording Secretary Judy Daigneault.

CALL MEETING TO ORDER: 5:55 p.m.

Chairman Robert Anderson called the meeting to order at 5:55 p.m.

PUBLIC COMMENT:

There was no public comment.

PRE/POST-HEARING AGENDA:

Minutes: Approve November 12, and December 10, 2015 Minutes

Motion: Mr. Sweet moved to approve the November 12 and December 10, 2015 minutes, seconded by Mr. Rogers. Vote unanimous 5-0.

Needed Signage to Enhance Conservation Lands

Release of funds request for signage (Lands & Maintenance account)

The Agent informed the commissioners that Katelyn Cadoret, Assistant Conservation Agent, has gathered information necessary to come up with a price for signage to enhance conservation lands. The signage would be directional and educational signs for the vernal pool at John Johanson Trail. Katelyn did some research and her estimate cost is \$1,000 to \$1,200 which would include shipping. The Agent requested that Commissioners vote to release these funds from the Conservation Lands and Maintenance Account.

Motion: Mr. Sweet moved to authorize the release of \$1,200 from the Conservation Lands and Maintenance Account for signage at the John Johanson Trail, seconded by Mr. Rogers. Vote unanimous 5-0

Mashpee National Wildlife Refuge MOU – Chairman's signature required (document has been signed by Board of Selectmen)

The Agent referred to the Memorandum of Understanding that was recently signed by the Board of Selectmen. This is an MOU that was drafted by the Partnership for the Mashpee National Wildlife Refuge. The Agent stated he attended the Board of Selectmen's meeting with Tom Eagle from the Mashpee National Wildlife Refuge. The MOU includes partnerships of US Fish and Wildlife, Mass Department of Conservation and Recreation, Mass Division of Fish and Wildlife, Towns of Mashpee and Falmouth Conservation Commission, Friends Group of the Mashpee National Wildlife Refuge, Falmouth Rod and Gun Club and The Wampanoag Tribe. The partners mostly have been focused on acquisition of land but not so much on management of the land. This document spells out the framework for a cooperative management amongst all of the partners, the sharing of resources and manpower. The Agent noted none of this is legally binding. One of the biggest benefits is the prescribed burn work which requires a hiring out of a burn boss. By getting this document signed, the USFWS can use their own burn boss in-house. The Town has received tens of thousand of dollars in habitat improvement work. By signing this document the town will continue to receive benefits and offer up its resources to the other partners. Chairman Anderson signed the Memorandum of Understanding.

HEARINGS:

6:00 David Edlin, 5 Bowsprit Point. Proposed modifications to existing pier, ramp and float. **NOI**

Resource Area: Land Under Ocean, Salt Marsh, Coastal Bank, Land Subject to Coastal Storm Flow, BWV

Matt Costa, Cape and Islands Engineering, represented the applicant. He explained the proposed project includes the removal and the construction, license and maintenance of a new private residential pier, ramp and float system with stairs leading to the new pier. Also proposed is the construction and maintenance of a timber retaining wall located at the bottom of the Coastal Bank. Mr. Costa explained the project includes the placement of 12 vinyl coated piles and support timbers and decking which will connect to the stairs, ramp and float. The project also includes the construction of a new 1' by 71' timber retaining wall. The work done from the seaward side of the coastal bank will be done from a barge and work with the retaining wall will be done by hand. He explained mitigation will be beneficial to the resource areas. Mr. Costa noted there will be no impact to shellfish and the applicant will be submitting an application for a new Chapter 91 license.

The Agent reviewed a letter from Division of Marine Fisheries and stated that the Shellfish Constable stated the project would not be a problem to shellfish. He stated the project meets the performance standards. The Agent indicated already listed on the plan is encapsulation of the new float, proper signage noting DEP

number and street address, non-leaching wood preservative and no pulling of the float for off-season storage over any wetland resource areas. He recommended a close and issue.

It was suggested by Mr. Sweet that the phragmites be addressed on both sides of the dock. Mr. Costa stated he would have that conversation with the applicants. The Agent said it is premature at this point to consider an Amended Order. It would depend on the discussions and what is being proposed. This could be taken up at a later time as an Amendment to the Order or an Administrative Review.

No comment from the public.

Motion: Mr. Sweet moved to close and issue, seconded by Mr. Rogers. Vote unanimous 5-0.

6:03 Antonio and Helen Donato, 18 Cricket Way, Proposed construction of pier, ramp and float structure and retaining wall. **NOI**

Resource Areas: Land Under Ocean, LSCSF, salt marsh, coastal beach, BVW.

Mr. Costa, Cape and Islands Engineering, represented the applicant. He requested a continuance on behalf of the applicant.

Motion: Mr. Sweet moved to continue the hearing at the request of the applicant to January 28, 2016 at 6:03 p.m., seconded by Mr. Rogers. Vote unanimous 5-0

6:06 Ronald A. and Charlene A. Weekley, 38 Bluff Avenue. Proposed septic system upgrade. **RDA**

Resource Area: Land Subject to Coastal Storm Flowage (flood zone)

Peter McEntee, Engineering Works, represented the applicants. He explained the work will consist of locating, pumping and filling or removing the existing cesspools. A new septic system will be installed as indicated on the plan provided. The areas that are disturbed will be restored with loam and seed.

The Agent noted the application has been submitted to the Board of Health and is under review for a 3-bedroom dwelling. He showed some images of the property. The Agent recommended a negative determination.

No comment from the public.

Motion: Mr. McKay moved a negative determination, seconded by Mr. Rogers.

Vote unanimous 5-0.

6:09 Ira G. and Beth H. Rapaport, Trustees, 66 Frog Pond Close. Proposed patio construction and hardscape improvements. **RDA**

Resource Area: Buffer Zone to Top of Inland Bank and associated freshwater wetland (Frog Pond)

Matt Roskie, Hardigan Associates, represented the applicants. He explained the proposed project is to install a patio, hot tub, and fire pit. A drainage system to collect the water runoff from the patio will be installed on the property. The drainage system was not shown on the plan.

The Agent noted the parcel on a photo. He said the parcel abutting the applicant's home is town-owned Conservation land. The jurisdiction is a buffer zone to the top of the inland bank. He noted work had begun but was stopped for permitting. Tom Murphy said there was a lawn and shrubs pre-existing and they started to remove the top of the grass and took out the shrubs. They put in a trench for the base for a wall but the plumbing and electrical have to go through a permitting process so they stopped. The Agent said when they realized they had to get building permits that is when he was notified. It wasn't immediately apparent they were aware of the jurisdiction and was not assessing blame. The Agent noted the clearing in the back yard and outside the top of the inland bank. The left photo indicated a thickly vegetated area. He didn't believe this project would destabilize the bank and as long as they have provisions to catch runoff, he didn't see any issues with the project. It meets the performance standards. He stated they need to revise the plan to show the drainage system and mitigation plantings and said he would work with them on mitigation type

There was some discussion on the plan submitted and noted the drainage system definitely needs to be shown.

No comments from the public.

Motion: Mr. Sweet moved a negative determination subject to the Conservation Agent is satisfied with the revised plan.

6:12 Steven and Judith E. Rivers, 87 Lighthouse Lane. Proposed septic system upgrade. **RDA**

Resource Areas: LSCSF, buffer zone to coastal bank and salt marsh

Jeff Ryther, BSS Design, represented the applicant. He explained the project is a system upgrade. The plan has been submitted to the Board of Health. The installation will take place within two days.

The Agent wanted to make sure the replacement grass meets the nitrogen bylaw standard standards as well as Ch. 172 standards and recommended a negative determination.

Motion: Mr. Sweet moved a negative determination, seconded by Mr. Rogers. Vote unanimous. 5-0

**6:15 Steven Hynds, 333 Monomoscoy Road.
Proposed removal/replacement of bulkhead. NOI**

Resource Areas: Coastal Bank, Land Subject to Coastal Storm Flowage, Salt Marsh, Buffer zone to Land Containing Shellfish

Jack Landers-Cauley, J. E. Landers-Cauley, represented the applicants. He noted the lot on the plan provided. The project is to stabilize the bank of this property. They located where mean high water is and the remnants of the old bulkheads. The proposed project is to be entirely upland of mean high water. He distributed some pictures of the project which showed the stakes where the bulkhead will be located. They proposed placing a silt barrier to protect the plantings in the area. There was much discussion on the plan. It was noted the salt marsh was not delineated on the plan. The Agent said the salt marsh needs to be shown on the plan.

The Agent asked if a soft solution was considered and asked is that a viable alternative. The Agent said there needs to be something more substantial for mitigation because of impacting trees and moving the wall upland and impacting vegetation along the coast line. Mr. Landers-Cauley said he would have the discussion with the applicants. He said if the Commissioners are uncomfortable with the proposed location of the bulkhead, he could move it back. It would be an opportunity that the replant would be with indigenous plants. The project would impact some of the trees as noted on the plan. Mr. Gurnee felt this was an opportunity to consider a soft solution. Mr. Landers-Cauley said vegetation would be lost and the problem with such a solution is that it only lasts about 7 years. He said he would like to continue the meeting to the next meeting so he can talk to the applicants and meet with the staff to come up with a planting plan and the bulkhead location with a more clarified plan. The Agent said the wall at this location is fine but the salt marsh location and enhanced mitigation needs to be shown on the plan.

No comment from the public.

Motion: Mr. Sweet moved to continue the hearing to January 28 at 6:06 p.m. at the request of the applicant. Seconded by Mr. Rogers. Vote unanimous, 5-0

6:18 William P. and Roxanne M. Simmons, 339 Monomoscoy Road.

Proposed removal/replacement of bulkhead. NOI

Mr. Landers-Cauley, J E Landers-Cauley, represented the applicants. He referred to the 333 Monomoscoy Road hearing and requested a continuance. He said three issues are salt marsh location, recommendation on elevation of bulkhead and indigenous plantings.

Motion: Mr. Sweet moved to continue the hearing at the request of applicant to January 28 at 6:09 p.m., seconded by Mr. Rogers. Vote unanimous 5-0

6:21 Jeffrey and Polly Cohen, 73 Bayshore Drive. Proposed vista pruning and path with maintenance in perpetuity and removal of one hazardous tree. NOI

Resource Areas: Coastal Bank, buffer zone to coastal bank, buffer zone to BVW and LSCSF.

Michael Talbot, Environmental Landscape Consultants, represented the applicant. He explained the proposed project. There was a one time vista pruning done at this site. The new owners have asked to do vista pruning in perpetuity. The applicants have asked to use the same vista pruning that was done in 2007. It meets the protocols in terms of width. They will remove some of the saplings and one dead pitch pine. They also requested to install a 4 foot walkway to the water.

The Agent recommended the removal of the pitch pine and outlined the buffer zone and the pathway on a photo.

Motion: Mr. Sweet moved to close and issue, seconded by Mr. Rogers. Vote unanimous. 5-0

6:24 Theodore C. Ell and Maureen E. Creedon, 14 Pem Lane. Proposed reconstruction of existing deck RDA

Resource Area: Riverfront, Mashpee River

Robert Foley, Foley Construction, represented the applicants. The proposal is to remove existing decks and replace with one deck. The Agent there is no encroachment on the riverfront and recommended a negative determination.

No public comments.

Motion: Mr. Sweet moved a negative determination, seconded by Mr. McKay. Vote unanimous

Certificate of Compliance: 50 Spoonrift Way 43-2739

The Agent noted there was one COC that did not pass inspection - 50 Spoonrift Way. He was unable to get into the house to verify bedrooms and the material around pool seemed to be impervious. The concrete material they have chosen is in close proximity to the top of the wall and there has already been runoff channeling. He said something needs to be done to capture the runoff.

Conflict of Interest Law Acknowledgement Forms – signatures required

The Agent distributed the Conflict of Interest Acknowledgement forms for the Commissioners' signatures.

Mr. Sweet introduced Bill Archer who may be interested in becoming a Commissioner or Associate. The agent invited Mr. Archer and Mr. Pittsley to come into his office so he can explain the process. They need to draft a letter of interest then after the Commissioners approve it is sent over to the Board of Selectmen for their vote.

Vote: Cancel February 11, Conservation Meeting

The Agent notified the Commissioners he will be on vacation and requested they vote on canceling the February 11 meeting.

Motion: Mr. McKay moved to cancel the meeting on February 11, seconded by Mr. Rogers. Vote unanimous, 5-0

New Chairman Status

Following a brief discussion,

Motion: Mr. McKay moved that Mr. Sweet be elected as the new Chairman, seconded by Mr. Rogers. Vote unanimous, 5-0

Motion: Mr. Sweet moved that Mr. McKay be elected as Vice Chairman, seconded by Mr. Rogers. Vote unanimous 5-0.

Distribution of revised Chapter 172 Bylaw for all Commissioners

The Agent asked that the Commissioners replace the revised 172 by law in their regulations books. Replace 172-1 to 172-15.

EPA Request: Install Monitoring Wells (Mashpee River Woodlands Conservation Area)

The Agent stated he was contacted by Brian Dore, EPA who is installing groundwater wells. He referred to the fact sheet in their folders. The EPA is identifying areas to assess groundwater flow direction. EPA has asked for the Commissioners' authorization.

Motion: Mr. McKay moved to approve the proposed location of wells by the EPA, seconded by Mr. Sweet. Vote unanimous 5-0

Ma Division of Fish and Wildlife: Request to perform prescribed burning on Mashpee Conservation Land.

The Agent said this is part of the National Heritage Refuge Work. Mass Fish and Wildlife is requesting to do prescribed burning on 17 acres of Town-owned property. The Agent noted the areas on the attached map. In regards to the New England cottontail and other species, this prescribed burning reinvigorates the scrub oak which is a primary vegetation for the New England Cottontail. This is ongoing work which we will continue to see in the future.

Motion: Mr. Sweet moved to allow the Mass Fish and Wildlife do the prescribed burning as presented, seconded by Mr. McKay. Vote unanimous, 5-0.

Mr. Gurnee noted it was time to deal with the nitrogen regulation. The Agent said the best way to start is to have all of the Commissioners read through Regulation 30. Mr. Gurnee requested this be put on the agenda for discussion.

Motion: Mr. Sweet moved to adjourn, seconded by Mr. Rogers. Vote unanimous. Meeting adjourned at 8:17 p.m.

Respectfully submitted,

Judy Daigneault, Recording Secretary