

**Conservation Commission
Minutes of May 12, 2016
Public Hearings
Mashpee Town Hall
Waquoit Meeting Room**

Commissioners: Bradford R. Sweet, Ralph B. Shaw, Jr., Dale McKay and Mark N. Gurnee, John Rogers.

Staff Present: Drew McManus (Conservation Agent) and Judy Daigneault (Recording Secretary).

Call Meeting to Order: 5:55 p.m.

The meeting was called to order with a quorum by Chairman Brad Sweet at 5:55 p.m.

There was no public comment.

PRE/POST-HEARING AGENDA

- **Minutes:** Approve April 14, 2016 Minutes

Motion: Mr. McKay moved to approve the minutes of April 14, 2016, seconded by Mr. Shaw. Vote unanimous 4-0-1 with Mr. Rogers abstaining.

Chad Smith: Letter of interest in becoming Conservation Commission Board Member
Hold

Discussion: Town meeting result – Chapter 172 amendments approve

The Agent stated that Town meeting approved Chapter 172 amendments to the Bylaw. The Bylaw replaced the language “An Administrative Review”. The Conservation Agent and/or the Assistant Conservation Agent will determine whether or not to accept a project as an Administrative Review. The Bylaw was also reformatted to reflect the changes. He noted the Bylaw now needs to be approved by the Attorney General.

Discussion/update: Koi Fish - Johns Pond/Eagle Scout Project

The Agent stated that a resident on John’s Pond spotted 4 to 5 Koi fish in the pond in the lagoon area. The MA Division of Fish and Wildlife has been notified and investigating. He noted these fish over time could cause problems to water quality due to the fact they are prolific breeders and eaters. The Agent stated an article appeared in the newspaper and an Eagle Scout contacted the Agent asking if he could conduct a fishing tournament at the site for his Eagle Scout Project. The Agent stated he signed off on the request and the tournament will be held on June 12 from 9 to 3.

HEARINGS:

**6:00 Town of Mashpee, 493-Beach Great Oak Road. Proposed alternate dredge site.
Owner of record: Commonwealth of Massachusetts Department of Environmental**

Management. At request of applicant, continued from April 14, 2016 to allow for NHESP review. NOI

The Agent noted the applicant has requested this hearing to be continued until May 26, 2016 at 6:00 p.m. because they are awaiting a letter from Natural Heritage for their comments on any restrictions they may have since it may be a piping plover nesting area.

Motion: Mr. McKay moved to continue the hearing until May 26, 2016 at 6:00 p.m., seconded by Mr. Shaw. Vote unanimous 5-0

6:03 Charles L. Mack and William C. Mack, Trustees, 16 Bowsprit Point. Proposed removal/replacement of licensed walkway pier and retaining wall. NOI

Resource Area: [Land Under Ocean, Coastal Bank, Salt Marsh, Land Subject to Coastal Storm Flowage](#)

Jeff Ryther, BSS Group, represented the applicants. He explained the proposed project is the reconstruction of the 32' licensed pier and the 45' timber retaining wall. He stated the lawn areas will be restored. The project includes total removal of the pier and rebuilding it in the same footprint. The old posts will be upgraded to 6" by 6" square wood pilings and will be vinyl coated. He noted the existing dock will be supported by two new 10" diameter float piles. He explained the retaining wall is leaning forward seaward and is proposing to rebuild it with the addition of posts in the front to prevent the leaning.

The Agent asked about the material to be used on the wall. Timber ties, non-creosol will be used. He noted the Shellfish Constable and the Harbormaster have no concerns. The float is encapsulated. The Agent recommended the work on the wall shall be hand work only due to its proximity to the salt marsh. It was noted the wall is a licensed structure. The Agent stated the material used should not be treated and he will sign off on the material to be used. Mr. Gurnee expressed his concern with the incomplete application. Following a discussion, the Agent outlined several conditions: revised narrative on what is being proposed, i.e., retaining wall materials, mode of construction, size of the posts for retaining wall, and vinyl coated piles.

No comments from the public

Motion: Mr. McKay moved to Close and Issue with the conditions discussed, seconded by Mr. Shaw. Vote 4-1 with Mr. Gurnee voting in the negative.

6:06 Russell W. Lowe & Karen A. O'Rourke, 110 Wheeler Road. Proposed single-family dwelling and elevated stairs and landings for beach access. NOI

Resource Area: [Bordering Vegetated Wetland, Land Under Waterbodies, Inland Bank, Ashumet Pond.](#)

Matt Costa, Cape and Island Engineering, represented the applicant. He explained the proposed project within the 100' buffer zone is to construct a single family home, porches, and decks. The project also includes the elevated stairs and landings that will lead to the beach area on Ashumet Pond. The stairway will be constructed by hand. The garage and the title V septic system will be located outside of the 100' buffer zone. This is a vacant lot with the exception of a shed. Only a portion of the house will be located within the 100'

buffer zone. The septic system design plan has been submitted to the Board of Health. This property is located within the Natural Heritage Endangered Species and the project has been filed with them and they do not anticipate any problems associated with this project. Gutters and drywells will be installed to capture the runoff. The natural vegetated area is the bank itself down to the water. The project meets the performance standards and he respectfully request the Commissioners approve this project.

The Agent noted the proposed areas on the photos. He noted the lot is sparsely vegetated with some trees and stated if the owners want to do any landscaping on the 0 to 50 feet of the buffer in the future, they would need to file with the Conservation Commission. He said no part of the proposed project is going to destabilize the bank while providing access to the water. The Agent noted in the future if the owners plan to put in a seasonal dock that would trigger a permitting requirement.

No comments from the public

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

Discussion: New Seabury, Coastline Drive, coastal bank erosion control project New Seabury Golf Course vegetation clearance on coastal bank - Enforcement action

The Agent referred to an email Mr. Gurnee sent to the commissioners regarding a coastal bank erosion control project on Coastline Drive. Mr. Gurnee stated what has happened over the past five years is a lot of rocks and trash has accumulated. He said sand isn't going through the wall so the project is not doing what it is required to do. He said someone has to go out there and clean it out. There are also huge stones, bricks, asphalt and other material located behind the wall. The Agent stated Bayswater is responsible for the maintenance of the area. He said he feels the Commission should require a timely submission of an official observation report along with pictures. There was a lengthy discussion regarding how to remedy the situation. It was decided to contact Bayswater to require them to clean out the area. Then, from that point forward the Commissioners expect Bayswater to report back to them on a yearly basis with a report and pictures with the pile configuration. The Agent will contact Bayswater and require them to come in to a Commissioners' meeting and explain the violation of the Orders of Condition. The Agent will also contact them to let them know they need to remove anything that is impeding the sand immediately.

The Agent explained a situation where the course superintendent cut all of the shrubs on the coastal bank beach area of the golf course. He showed the area on pictures. This area was entirely comprised of native vegetation. This was brought to his attention by someone who was walking on the beach and he then verified what had taken place. The superintendent took the blame for it and said he didn't think it would be a problem. The Agent suggested they submit a Notice of Intent to revegetate the area. He explained to the superintendent that he wanted to see everything that was there replanted down to the exact species. The shrubs were holding that bank together. He said the area is also a Natural Heritage Habitat. The Agent put a cease and desist order on the area. He noted the superintendent has also gotten in touch with a restoration specialist. The Agent stated the State will be notified by way of the Notice of Intent and he plans to notify Natural Heritage. The Agent said he will draft an Enforcement Order which will have specific

timelines on which they need to file a Notice of Intent. Fines will kick in automatically on a daily basis if they don't submit by the required date. It was summed up that the Commissioners will require submission of a Notice of Intent as soon as possible.

Update: Briarwood Mashpee Association: drainage trenches

The Agent showed some pictures where the Association re-dug out some of the trenches which were refilled. The Agent said it is back in compliance again. They are working on leveling off the road.

Discussion: Santuit Pond Preserve Management Committee/Management Plan

The Agent stated the Santuit Pond Preserve is a 300 acre parcel that stretches into Barnstable and co-managed by both towns and has a conservation restriction on it by the Division of Fisheries and Wildlife. The original intent was to set up a management committee with representation from each entity. Barnstable designated their representative and Mashpee has to determine who is going to be their representative. The next step is to come up with a formalized management plan.

Discussion: Santuit Pond fish ladder

The Agent noted this requires a site visit by the Commissioners. He said the fish ladder was not designed properly and showed a photo of the herring that are backed up. He said this issue needs to be dealt with and he would like to take the Commissioners out there for a site visit. He said the 5 pools are not deep enough to handle the flow and that flow gets so strong that it washes them back down into the river. There are too many pools that are too shallow. The turbulence is so high the herring get trapped and get washed down the river by the hundreds. He said, in his opinion, it is a design flaw. His ultimate goal is to have the Commission write a letter of concern and distribute it to the Town Manager, Marine Fisheries, Natural Resources and Conservation services. We need to get everyone back to the table and come up with a solution.

Update: Assistant Agent projects

The Agent updated the Commissioners on the Assistant Agent's projects. She is working on the pollinator gardens, with AmeriCorps building kiosks in the Santuit pond parking lot preserve, working on the conservation lands, working with volunteers and with the herring count program. He expressed the need for more hours to make this a full time position. The assistant is also relaunching the land steward program and is working on a yearly gathering of the volunteers and noted she has been doing a great job.

ADDITIONAL TOPICS

(This space is reserved for topics that the Chairman did not reasonably anticipate would be discussed).

Mr. Gurnee asked about the Ashumet Pond timber wall. The Agent said this is an old creosol timber wall that is falling apart and is less than ten feet from the water. The repairs couldn't wait until the next meeting to get a permit so emergency certifications are an avenue for the Conservation Department to address work that needs to be done. The Department will issue an emergency certification that covers the work with the understanding it will come back to the Commission when the work is complete. The Agent

stated he has been out to the site, met with the contractor and the homeowner. He put conditions on the project on how the work should proceed. He stated the homeowner will come before the Commission with an RDA.

Motion: Mr. Gurnee moved to adjourn, seconded by Mr. Shaw. Vote unanimous 5-0 meeting adjourned 7:35 p.m.

Respectfully Submitted,

Judy Daigneault, Recording Secretary