

Approved
Wellfleet Conservation Commission

Meeting Minutes

November 20, 2019 7:00 pm

Town Hall Meeting Room

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TOWN CLERK
TOWN OF WELFLEET

Attendees: Deborah Freeman, Barbara Brennessel, John Cumbler, Michael Fisher, John Portnoy, Agent Hillary Greenberg-Lemos, and Christine Bates, Committee Secretary

4:00 - Business Meeting & Conservation Agent's Report

Mail / Discussion

Notification of High Dune Craft Cooperative outreach meeting with the community regarding cannabis held on October 17, 2019.

John Riehl - Harbor Management – He requested that the Conservation Commission provide input to the Harbor Management program. He will provide a copy to Agent Greenberg-Lemos to be forwarded to Commissioners. NRAB

DLTA – no discussion

65 Howland Lane: Attorney Ben Zehnder and Jeff Kenprecos came to the table to discuss the property with the Commission. The Commission was concerned with previous parking on the property and mowing of the property which has a vernal pool with spadefoot toads. Attorney Zehnder stated the land has been used as a meadow and has always been mowed. He provided an affidavit documenting the history of the property and stated parking has been allowed because this use preceded the Wetland Protection Act. Therefore, Attorney Zehnder claimed that the Commission has no jurisdiction at this location. John Portnoy expressed his concern that the site is clearly a wetland with cattails in the area where there are spadefoot toads and hoped this property will never be filled. Attorney Zehnder stated the owners do not plan to change their use of the land.

Jurisdictional Opinions

2008 Brown Neck's Road – The Commission could not locate the property; therefore, no action at this time.

Sandy Shoes, LLC, Meadow Road, Jeremy Young requested the removal of 1 pine tree which is infested with beetles. Barbara Brennessel requested there be mitigation by replacing the tree with three native shrubs. Agent Greenberg-Lemos will ask for a mitigation plan and the Commission can vote on this at the next meeting.

Dick and Chet Lay, Forest Rd., Cut and remove 2 dead black locust and 2 dead oak trees from the property. Shrubs have been planted. The Commission requested 12 trees and/or shrubs be

planted for mitigation. Deborah Freeman moved to approve the Jurisdictional Opinion pending mitigation; seconded by Barbara Brennessel; passed 5-0.

Chactel - Pleasant Point: Request to remove branches which are hanging over the house for insurance reasons. John Portnoy moved to approve the Jurisdictional Opinion; seconded by John Cumbler; passed 5-0.

Meeting Minutes: November 6, 2019. Barbara Brennessel provided additional edits and moved to approve the amended November 6, 2019 meeting minutes; seconded by John Portnoy; passed 5-0.

Deborah Freeman announced the Commission will be on the January 28, 2020 Select Board agenda and asked that Commission members join her in attending that meeting.

November 23, 2020, Cape Cod Community College – Sierra Club Local Climate Leader's Summit

Bruce Hurter, Chairman of the Open Space Committee. Mr. Hurter requested the Conservation Commission provide a formal vote for transfer, care, custody, management and control of the following parcels:

Map 35-1, Parcels 201, 209, and 210, Town owned properties along the north shore of Blackfish Creek. These properties abut Blackfish Creek and include a barrier beach, coastal dune, and salt marsh. Parcel 209 is a 1.58 acre wetland area. Parcel 210 is a 7.41 acre area including 5.73 acres of tide lands and 1.66 acres of upland beach area. Parcel 201 is a .02 acre Town-owned water access path. All are within the Areas of Critical Environmental Concern (ACEC) and within the Flood Zone. Michael Fisher moved to recommend that the Commission accept the management and control of the properties; seconded by John Portnoy and passed 5-0.

Map 20, Parcels 11, 12, and 16, Town owned properties along Kendrick Avenue. These 3 properties are located west of the Mayo Beach and are each classified as Coastal Dune, Coastal Beach and Barrier Beach. They contain 1.84 acres and are all within the Area of Critical Environmental Concern (ACEC) and Flood Zone. Barbara Brennessel moved to recommend that the Commission accept the management and control of the properties; seconded by John Portnoy; passed 5-0.

These transfers will be subject to favorable votes at spring 2020 Town Meeting.

Agent Greenberg-Lemos advised the Commission that items to be discussed with the Select Board on January 28 should include Wesley Swamp, especially the need for a consultant for recommendations (provided by John Portnoy), the MVP resiliency grant, and the DLTA proposal.

Agent Greenberg-Lemos reported the town is still working towards a Watershed Plan for a DEP-required Watershed Permit for wastewater disposal. Scott Horsley is performing the analysis of alternative wastewater treatment, including public outreach with the town's Comprehensive

Wastewater Planning Committee. Ryan Curley stated we need to put together information because there is little documentation. He stated that the harbor's water quality is declining rapidly, and the town has to come to an agreement about which treatment is the best. The amount of time it would take to see if the oyster reefs work for significant nitrogen removal would take years. It is site specific with variable water conditions, sediments and time of year. Barbara Brennessel stated there are diseases which could cause mortality of shellfish and we should not count on shellfish to reduce nitrogen loading. Agent Greenberg reported there is sampling being performed at the bathing beaches and ponds. Documentation for the harbor will include the Commercial District of town and down to Mayo Beach. Harbor water quality appears to have worsened since the MEP study of 2014. The public needs to get educated and come to a consensus on what they want for a Watershed Plan, i.e. wastewater disposal. Dredging may not reduce nitrogen loading over the long term. Agent Greenberg-Lemos stated it would be beneficial to have the Board of Health perspective: She stated new regulations are being looked at which affect the ponds and well water.

The Commission will review John Cumbler's draft letter and make recommendations at a future meeting. The State has money for climate change and sea level rise and now that the Town has passed short-term rental taxation, all of which may be used to help fund improvements in wastewater-disposal.

5:00 pm PUBLIC HEARINGS:

Town of Wellfleet, Maps 41 and 42, NOI, repave Lt. Island Road from Rte 6 to Catboat Road, catch basins to be removed and replaced with deep sump pumps with heads Cont'd. The DPW requested a continuation to 12/4/19. John Portnoy moved to continue to 12/4/19; seconded by John Cumbler; passed 5-0.

SLA Nominee, 1005 Chequessett Neck Rd., Map 19, Parcel 94, NOI, Proposed replacement of an existing coastal engineering structure Cont'd. At the request of the applicant, John Cumbler moved to continue to 12/4/19; seconded by Barbara Brennessel; passed 5-0.

Armstrong, 145 Third St., Map 40, Parcel 109, Certificate of Compliance. Mr. Armstrong stated this was an Order of Condition from 1998 to expand his dwelling. The project is in compliance. Barbara Brennessel moved to approve the Certificate of Compliance; seconded by John Cumbler; passed 5-0.

Eurich & Associates, 1065 Chequessett Neck Rd., Map 19, Parcel 91, RDA, Construct shed and breezeway on top of existing foundation. Donald Eurich came to the table and stated that there is an existing foundation which was permitted in 2010. This project will utilize the foundation and will not affect any resources. The roof will be pitched for water runoff. There will be a breezeway which will hold the propane tanks with two areas on each side for storage. Barbara Brennessel stated that diamondback terrapins nest on this property. Mr. Eurich stated he will try and perform the work in April prior to turtle nesting. John Cumbler moved to approve this as a Negative 3; seconded by John Portnoy; passed 5-0.

Morgan, 60 Arey Lane, Map 36, Parcel 26, RDA, Remove 1 log (the remains of a pine tree), and cut flush with grade 5 large pines which are dangerous to dwelling. John Portnoy stated that the log did not threaten safety, provided wildlife habitat and therefore shouldn't be removed. John Cumbler identified the RDA as a Negative 2 but the log is not to be removed unless it is infested with insects that may harm nearby live trees; and there is to be a 3:1 mitigation with new shrub plantings; seconded by John Portnoy; passed 5-0.

Glaze, 625 Old Wharf Road, Map 35, Parcel 14, Request for COC. (Cont'd). Michael Fisher recused himself. Agent Greenberg-Lemos gave an overview of the Order of Conditions from 2006. The work is in compliance and a new Order of Conditions is in place. John Cumbler recommended that there should be a time limitation for sand renourishment due to the changes in the environment. Deborah Freeman stated that this Order of Condition is in perpetuity for renourishment. Agent Greenberg-Lemos stated that we don't always have to have a condition with perpetuity. There was discussion regarding the erosion rate. Agent Greenberg also reported that four towns are working on the regulation of beach renourishment with CZM grant money. She stated that the sand keeps moving off-site and isn't working to maintain the beach. It was recommended that in future applicants be required to come back in 3 to 5 years so the Commission can view the property. John Cumbler wants to know the amount of sand added. John Portnoy asked for a measurement of short-term (last 5 years) erosion rate. This topic will be on the next agenda. Barbara Brennessel moved to approve the Certificate of Compliance; seconded by John Portnoy; passed 4-0.

Deborah Freeman requested that the Commission go into Executive Session to discuss litigation. The meeting will not reconvene in open session.

Barbara Brennessel moved to go into Executive Session; seconded by John Portnoy; passed 5-0. Debby Freeman, yes; John Cumbler, yes; Barbara Brennessel, yes; Michael Fisher, yes; and John Portnoy, yes.

Barbara Brennessel moved to adjourn the public meeting at 5:45 pm; seconded by John Portnoy; passed 5-0.

Respectfully submitted,



Christine A. Bates, Committee Secretary