

**Meeting Minutes of the
Herring River Executive Council (HREC)
Thursday, April 16, 2020, 3:00 pm
Virtual meeting via Webex**

Attending: HREC members: Geoffrey Sanders, Brian Carlstrom, Janet Reinhart, Helen Miranda Wilson, Dan Hoort; Coordinator: Carole Ridley; Attending: Martha Craig, Tim Smith, Dave Koonce, Beth Chapman, Gail Ferguson, Philip Tabas, Christine Odiaga, Dale Rheault, Steve Spear.

The meeting opened just after 3:00 pm with introductions of the HREC and others participating virtually.

-Administrative matters

Approval of Minutes: Prior to the meeting Helen Miranda Wilson had circulated to HREC members, and confirmed receipt by them, proposed edits to the draft minutes of January 16, 2020. Her proposed changes were shown in red typeface, and included typographical changes and other clarifications. Janet Reinhart requested to clarify whether the discussion of the Chequessett Neck Road dike as a point source for bacterial contamination was accurately reflected and she agreed that it was so in the revision. Brian Carlstrom highlighted a question about whether the appointment of Moe Borocas as Vice Chair of the Herring River Stakeholder Group had been accomplished by vote or by consensus. Dan Hoort remarked that the decision had been made by unanimous consent.

Ms. Wilson moved that the members present vote on the approval of minutes. Janet seconded the motion and the vote was 5-0-0 in favor. Ms. Wilson then moved approval of the minutes as amended. Mr. Hoort then seconded the motion and the vote was 5-0-0 in favor.

A second administrative matter concerned a draft report of the Herring River Executive Council to be submitted for inclusion in the 2020 Town of Wellfleet Annual Report. Ms. Wilson had circulated a draft to the HREC members, and confirmed receipt. She noted that the report had been prepared by Hillary Greenberg Lemos with edits provided by Ms. Wilson. Carole Ridley noted that in previous years the report had been submitted by the Herring River Restoration Committee, which is no longer constituted under the memorandum of agreement between the Town and Seashore (MOU IV). Mr. Hoort recommended approval of the annual report for submission by consensus. The consent was unanimous. Mr. Carlstrom thanked Ms. Wilson for her efforts in moving the report forward. Ms. Wilson indicated that she would submit the report to the Town Administrator's office for inclusion in the Town Report.

-Herring River Restoration Project update

Ms. Ridley provided an update on project permitting and an issue related to land transfers associated encroachment on Seashore property due to roadway design.

Permitting: The Cape Cod Commission public hearing opened on March 9th, and was well attended by the public. The Cape Cod Commission staff report, which was described at the hearing by the Chief Regulatory Officer, found that the project is compliant with the Cape Cod Regional Policy Plan standards for Development of

Regional Impact review. His comments noted that the focus of the Cape Cod Commission's review would likely be on the form of conditions that would be included in a Commission decision. The public hearing was continued to April 30th at 4:30 pm and will be conducted as a virtual meeting due to social distancing restrictions that are in effect.

The Commission staff report identified a number of questions related to different topical areas. Consistent with the Selectboard's vote to authorize the Friends of Herring River and consultants to assist with the permitting process, responses to each of these questions were prepared and will be submitted to the Commission by the Town of Wellfleet. A draft of the responses was shared with Mr. Hoort, Ms. Lemos and representatives of project partner agencies for input. Ms. Wilson requested to see the document, and Ms. Ridley offered to circulate it to the HREC members. The document will be submitted to the Cape Cod Commission in the coming days, well in advance of the April 30th hearing continuation.

Ms. Ridley explained that the Selectboard had approved an agreement to extend the Cape Cod Commission's public hearing period. The public hearing period now extends through July 2020. That should be more than sufficient time for the Cape Cod Commission subcommittee to formulate their recommendation to the full Cape Cod Commission.

Ms. Reinhart complimented the presentation at the hearing. Ms. Ridley acknowledged the work of the representatives of the partner agencies and also the assistance of the Friends of Herring River in their outreach efforts.

Lastly, Ms. Ridley reported that work is ongoing in the development of subsequent permit application to Massachusetts Department of Environmental Protection, US Army Corp of Engineers and Massachusetts Coastal Zone Management. More information about those permits should be available at the July Executive Council meeting.

-ROW land transfer

Ms. Ridley explained that the elevation of low road segments resulted in an increased side slope of roadway that encroaches on Seashore property on one side of the roads. The roadway elevation work is proposed along two non-contiguous miles on Old County, Pole Dike and Bound Brook Island Roads. The amount of land encroachment is equivalent to approximately two acres when small pieces along the roadway segments are combined. The encroachment has been minimized, but is also balanced with the objective of minimizing encroachment on private parcels and maintaining ease of wildlife passage. The Seashore is not authorized to provide an easement or license to allow the encroachment. In lieu of that, there is a requirement for a transfer of land comparable to the area of encroachment. This requires a four step process of 1) quantifying the Seashore and Town parcels for transfer, 2) conducting surveys and developing legal descriptions of the parcels, 3) conducting appraisals of the parcels and 4) executing the exchange. Mr. Carlstrom explained that the process involves the National Park Service Lands Office, and Lauren McKean is the Seashore official who works most closely with that office. Ms. Wilson noted that final execution of a transfer would likely require Town Meeting action. Mr. Carlstrom noted that this is a complex and time consuming process, and that it can be managed in a way that allows the project to proceed even if the transfer has not been fully executed. This will require close coordination between the Town and

Seashore. Mr. Hoort said that he would identify someone to work with the Seashore staff and the project team to move this process forward.

-Report from Chair of the Herring River Stakeholders Group

Due to technical difficulties, the Chair was not able to participate in the meeting. However, Ms. Ridley reported that the HRSG has been meeting to learn more about 1) various aspects of the project and 2) the adaptive management process and discuss how they may be involved in collecting data regarding socio-economic factors that are accounted for in the adaptive management structured decision-making framework.

-HREC member announcements

Mr. Carlstom thanked the Friends of Herring River for working with Geoff Sanders to modify the herring count to address social distancing requirements.

-Public comment (15 minutes) *

There was no public comment

-Next Meeting dates were reviewed by the Council and are still workable:

Thursday, July 16, 2020, 3:00 pm

Thursday, September 17, 2020, 3:00 pm

Thursday, December 17, 2020, 3:00 pm

Prior to adjournment, Ms. Wilson requested that the draft minutes be circulated soon after the meeting while memories were fresh, and also that a link to the meeting recording be provided to the Town Administrator's office.

The meeting adjourned at just before 4 pm.

Submitted by Carole Ridley, Coordinator

Approved by Herring River Executive Council on July 16, 2020

Herring River Executive Council

Thursday, April 16, 2020

Virtual meeting via Webex

HREC Agenda

April 16, 2020

1. Welcome and Introductions
2. Approval of Minutes: January 16, 2020
3. Administrative Matters
4. Herring River Project Update
 - A. Permitting
 - B. Right of Way land transfer
5. Report from HRSG Chair
6. Member Announcements
7. Public Comment
8. Next Meeting Dates
9. Adjournment

4. Herring River Project Update

A. Permitting

- 1) Cape Cod Commission Development of Regional Impact Review
 - i. 3/9 Public Hearing Continued to 4/30 (virtual)
 - ii. Supplemental filing
 - iii. Extension agreement to July 2020
- 2) Section 401/404, C. 91 and MCZM Consistency Review (July Meeting)

4. Herring River Project Update

B. Right of Way Land Transfers for Low Roads

- 1) Elevation and increased slope of low road segments encroaches on NPS land
 - i. Encroachment from town roads elevation extends ≈ 2 non-contiguous miles ≈ 2 ac of encroachment
 - ii. Add'l encroachment from High Toss Rd elevation - TBD
 - iii. Road design minimizes encroachment on private land; maintains $\approx 3:1$ slope for wildlife

4. Herring River Project Update

B. Right of Way Land Transfer for Low Roads

- 2) NPS unable to grant ROW permit for transportation—requires land swap
- 3) Steps (apply to town and NPS parcels)
 - i. Finalize encroachment areas & identify town parcels
 - ii. Legal description of parcels with metes & bounds
 - iii. Appraisal of parcels
 - iv. Execute/transfer
- 4) Request: Set-up Town – NPS work group to discuss details, identify resources and actions needed

5. Report from HRSBG Chair

6. Member Announcements

7. Public Comment

- 15 minutes
- * *Any discussion of an issue not on the agenda that is raised in the public comment section shall be limited to whether that issue should be placed on a future agenda.*

8. Next Meeting Dates

- Thursday, July 16, 2020, 3:00 pm
- Thursday, September 17, 2020, 3:00 pm
- Thursday, December 17, 2020, 3:00 pm

9. Adjourn