

**Meeting Minutes**  
**Herring River Executive Council (HREC)**  
**Thursday, December 16, 2021, 3:00 pm**

**Virtual meeting via Zoom**

HREC members present: Deborah Freeman, Brian Carlstrom, Geoff Sanders, Helen Miranda Wilson; Coordinator: Carole Ridley; Others present: Tim Smith, Christine Odiaga, Martha Craig, Bill Biewenga, Dale Rheault, Steve Block, Steve Spear, Al Kraft

**Minutes**

Following the meeting welcome and introduction, and at the suggestion of Janet Reinhart, the minutes of September 30, 2021 were approved by consensus with one correction, replacing “January 2022” with the word “early 2022” in the last sentence on page 1.

**Herring River Restoration Project Update**

Carole Ridley provided the following project updates.

**Permitting Update:**

- The following permits have been issued: Section 401 Water Quality Certification from Massachusetts Department of Environmental Protection, and Section 404 General Permit from the US Army Corps of Engineers.
- The following permits have been applied for: Chapter 91 Waterways licenses, which can only be issued following the completion of the Wetlands Protection Act review.
- Permits soon to be filed: Notices of Intent will be filed with the Wellfleet and Truro Conservation Commissions in January 2022, with public hearings likely in February 2022.

Brian Carlstrom commended the project team for moving the permitting along.

**Fundraising Update:**

A number of promising funding sources are being pursued.

- USDA Natural Resource Conservation Service Small Watershed Program has an appropriation through the Farm Bill and additional funding in the Bipartisan Infrastructure Framework (BIF). NRCS is reviewing a funding proposal from the project and a decision could come early in 2022.
- NOAA received approximately \$500 million for each of two separate programs from the BIF. The funding opportunities could be available in the first quarter of 2022 and the project will be competitive.
- USFWS also has appropriations from the BIF for which the project is competitive.
- With support from Sen. Markey’s staff, the project is seeking language to be included in the 2022 Water Resources Development Act that would authorize the Army Corps to provide support to the project in later phases.

Mr. Carlstrom provided an update on NPS funding opportunities. The National Park Foundation has secured contributions from private donors and continues to seek donors. The Seashore is pursuing a number of avenues to complete 100% design of the Mill Creek Water Control Structure so that it is poised to receive any possible NPS funding that becomes available. Lastly, the Seashore is working to secure funding for the replacements of the Upper Herring River culverts.

**Regulatory Oversight Group:**

- The Regulatory Oversight Group (ROG) which consists of representatives of multiple local, county, state and federal agencies met in October to get an update on the project and in

particular the Adaptive Management Plan, initial Tide Gate Management Policy and monitoring. The ROG is working with the technical team to develop an information sharing process that will enable the ROG to provide input on key implementation decisions. An additional meeting is planned for early 2022.

#### Possible Town Meeting Actions:

Town Meeting action will be required to accept temporary and permanent easements from property owners along the segments of low road elevation. The owners are aware. The project team is coordinating with Interim Town Administrator Charlie Sumner to prepare documents for Town Meeting. Additional meetings with property owners will happen early in January 2022.

Town Meeting action may also be needed for the Town-Seashore land transfer and any grant agreements that may be forthcoming, but this is not definitive.

Helen Miranda Wilson asked if there was a deadline for Selectboard action on the land transfer. Ms. Ridley replied that the land transfer is necessary for low road elevation work, and that work may be delayed, but suggested deferring discussion until later in the agenda, to which Ms. Wilson agreed.

#### Construction Management Planning

The Project team has engaged Fuss & O'Neill to develop

- Recommendations for organizing the bidding packages to select contractors for construction of multiple project elements,
- Construction sequencing scenarios and timelines for multiple project elements, and
- Options for structuring and coordinating construction management activities for different project elements.

Ms. Ridley presented slides that had been prepared by Fuss and O'Neill, with some minor modifications.

The slides presented four major findings:

1. The three separate projects (Chequessett Neck Road Bridge, low road elevation work, and Chequessett Yacht and Country Club) should be bid separately
2. There is ample room for material storage
3. The material from Chequessett Yacht and Country Club is suitable for the low roads work
4. Projects should be bid as early as possible

Four scenarios for construction management were proposed:

1. Hire the existing design firms to provide construction management of their respective elements
2. Hire a single firm to provide construction oversight and management of all elements
3. Hire a clerk of the works to oversee construction, with the existing design engineers also in place for construction management.
4. Hire a single firm to provide construction oversight and management, and keep design firms on retainer in case needed for specific issues.

Ms. Wilson noted that Massachusetts Law requires a Owner Project Manager for certain projects and asked if it had been clarified whether this requirement applies to this project. Martha Craig responded that Fuss & O'Neill has been asked to look into this and should have an answer shortly.

Ms. Wilson also asked if the National Park requires this type of position. Mr. Carlstrom indicated that the NPS has a proscribed process for construction oversight for all project types.

#### **Land Exchange Update:**

Mr. Carlstrom and Ms. Wilson noted that the process is ongoing with no major news to report. Mr. Carlstrom indicated that it is preferred to keep the process on track for any needed approvals at the 2022 Annual Town Meeting. It was confirmed that as long as the agreement on the transfer is reached, the work on low roads can proceed, even if the later steps in the transfer are not yet complete.

### Herring River Stakeholder Group charge and appointments

#### HREC Member Announcements:

Bill Biewenga, Chair of the Stakeholder Group, presented the following slate of members for appointment and re-appointment.

Representing	Representative	Proposed Term	Term Expires
Mill Creek Sub-basin	Al Kraft	2	12/31/23
APCC Restoration Center	April Wobst	2	12/31/23
Wellfleet Conservation Trust	Barbara Cary	1	12/31/22
Recreational User of Herring River	Bill Biewenga	2	12/31/23
MA Audubon Sanctuary	Bob Prescott	2	12/31/23
Upper Bound Brook Sub-basin	Edouard Fontenot	1	12/31/22
Wellfleet Herring Warden	Not confirmed	1 (when named)	
Truro Conservation Trust	Fred Gaechter	1	12/31/22
Cape Cod Mosquito Control	Gabrielle Sakolsky	2	12/31/23
Chequessett Club	Barry McLaughlin	2	12/31/23
Business Community	Not confirmed	1 (when named)	
Upper Pole Dike Creek Sub-basin	Laura Runkel	2	12/31/23
Center for Coastal Studies	Katie Costagno	2	12/31/23
CCNS Community	Open	1 or 2	
Wellfleet Harbor Master	Not confirmed	1 or 2	
Business Community	Moe Barocas	1	12/31/22
Member at Large	R. Paul Faxon	2	12/31/23
Wellfleet Shellfish Advisory Board	Request replacement	1 or 2	
Truro Shellfish	Request replacement	1 or 2	

He noted that only Katie Costagno and Barry McLaughlin were new appointments. Several of the open positions were discussed with suggestions about potential candidates for Mr. Biewenga to follow up with.

Ms. Wilson moved that the appointments be voted on by the HREC, because of their significance. Mr. Carlstrom seconded the motion. All members present voted aye, and the motion carried. Ms. Wilson moved to approve the slate of appointments as presented to the HREC. Geoff Sanders seconded the motion. All members present voted aye, and the motion carried.

#### Public Comment

There was no public comment

#### Next Meeting Dates

The following meeting dates were agreed to for 2022, with other meetings to be scheduled if needed:  
Thursday, March 17, 2022, 3:00 pm

Thursday, June 16, 2022, 3:00 pm  
Thursday, September 15, 2022, 3:00 pm  
Thursday, December 15, 2022, 3:00 pm

**Adjournment**

The meeting adjourned at approximately 4:10 pm.

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Submitted March 17, 2022 by Carole Ridley

# Herring River Executive Council

December 16, 2021

The meeting is



recorded by the HREC. Anyone else desiring to attend the meeting may do so only after notifying the HREC and may not participate in the conduct of the meeting in doing so.



and the meeting will be held with the

# Agenda

- Welcome and introductions
- Approval of minutes: September 30, 2021
- Herring River Restoration Project update
- Updates on land transfer between Town of Wellfleet and Cape Cod National Seashore
- Herring River Stakeholder Group appointments
- HREC member announcements
- Public comment
- Next meeting dates
- Adjourn

# Approval of Minutes

- September 30, 2021

# Project Updates

- Permitting
- Fundraising
- Regulatory Oversight Group
- Possible Town Meeting Actions
- Construction management (Fuss & O'Neill report summary)
- Timeline

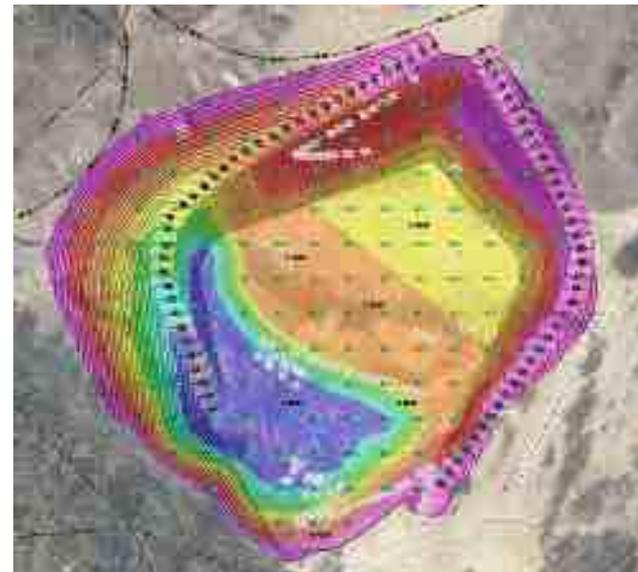
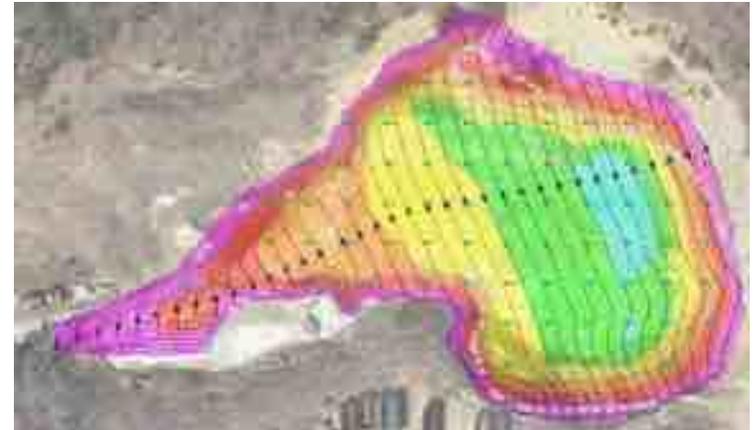
## Finding 1 - Bid Major Projects Separately

- Bid major projects separately
  - CNR Bridge
  - LLR Projects
  - CYCC Project
- Little coordination needed between the projects
  - Stockpile soil from CYCC for LLR project
- Allow bidders to focus on projects within their construction expertise



## Finding 2 - Adequate LLR Stockpile Capacity

- 57,400 cubic yards (in-place) required for LLR projects
  - Up to 73,000 cubic yards (in-place) is available for off-site use from CYCC borrow pit
    - 53,000 cubic yards to Elevation 45, 66,000 to Elevation 60 (48,000 and 59,000 cubic yards equivalent in-place, respectively)
    - 28,000 cubic yards available at transfer station site (25,000 cubic yards equivalent in-place)



## Finding 3 - CYCC Soils Are Mostly Suitable for LLR

- Soils meet AASHTO gradation requirements specified for LLR projects within the majority of the borrow site
  - Only one of 6 borings did not meet specification
- Confirmatory sampling and testing required during borrow pit excavation
- Scheduled for 11/22 to 1/23
- Use CYCC contractor to operate borrow pit



## Finding 4 – Construction Start Dates

- Bid early to attract bidders before they are committed
- Allow awarded contractors time to secure materials

Project	Schedule	Comment
CNR Bridge	Bid in May 2022 Construction start in Fall 2022	Water control and bypass built before February
CYCC	Start construction in 9/23	Based on GC consultant schedule
LLR	Start construction in 2/24	Dependent on GC schedule

# Critical Construction Management Tasks

- Develop proactive communication and coordination between contractor and town/stakeholders
- Observe and confirm compliance with plans and specs
- Document compliance with plans and specs
- Address design modifications required because of changed conditions
- Address design modifications suggested by contractor
- Administer the construction contract (payment, schedule)
- Coordinate between projects and community
- Communicate with public and address concerns

# Scenario 1 – Retain Existing Design Firms

- Retain design firms to oversee construction of their designs

Advantages	Disadvantages
Design engineer best understands their designs, underlying intent and construction requirements.	Requires owner to manage three engineering contracts.
Construction issues can be more readily addressed by engineer understanding how construction changes will fit in the design requirements, including post-construction O&M requirements.	Requires owner to communicate between the projects and public.
Only two parties responsible for end product, contractor and design engineer.	Could result in inconsistent compliance with common standards (e.g. permit conditions).

## Scenario 2 – Retain Third Party Firm

- Retain third party construction oversight firm

Advantages	Disadvantages
Reduces need for owner to manage multiple engineering contracts.	No knowledge of the design. Only understanding is what they read in plans and specifications.
Third-party engineer reviews design as it is constructed to identify issues.	Creates a third-party in trying to solve problems and assign responsibility
Opportunity for disadvantaged businesses.	Could result in larger change orders as third-party engineer is not incentivized to find creative solutions and lack of design knowledge forces conservative approach.

## Scenario 3 – Retain Clerk of the Works

- Support owner as point person for all three

Advantages	Disadvantages
Coordinate activities between the three projects. Serve as owners' representative for those projects.	Owner manages another professional services contract.
Manage communications and complaints by public.	Should not be used to directly oversee construction projects.
Enforce common construction standards such as erosion control and permit conditions.	
Manage common contract requirements such as managing submittals, payment applications, traffic control	

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# Possible Hybrid of #1 and #2

- Hire one firm to handle all construction management and oversight
- Keep design firms on retainer through out

Advantages	Disadvantages
One firm overseeing all – whole project viewpoint rather than separate projects	Firm does not have the same knowledge as design engineers
Owner has one firm to deal with	

## Additional Considerations

- Compile standard bid/contract documents to be used for all projects
  - e.g., instructions to bidders, general terms and conditions, supplementary conditions, payment applications, etc...
  - NRCS standard requirements
- What is the schedule and limits of work for MassDOT's Route 6 resurfacing project and Main St. project?
- How important is a summer shutdown for the LLR project?
- How will CYCC contractor be procured?
- What is bid schedule?
- What are the cash flow limitations?

# **Town & CCNS/NPS Land Transfer**

# **HRSRG Appointments**

- Possible action on appointments

# **HREC Member Announcements**

## Public Comments

- (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.*

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**Adjourn**