

# Town of Wellfleet, Massachusetts

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## Herring River Restoration Committee Minutes 02/13/14

Approved Meeting  
Minutes  
Herring River Restoration Committee (HRRC)  
Cape Cod National Seashore Headquarters  
Wellfleet, MA  
February 13, 2014  
9:30 am-4:00 pm

Members Present: Gary Joseph, Tim Smith, Eric Derleth, Steve Spear, Charleen Greenhalgh, Hillary Greenberg, Hunt Durey (by phone) and Steve Block (by phone)

Others Present: Margo Fenn, Don Palladino, Alan Platt, Martha Rheinhardt, Craig Wood, Chris Feeney

Administration/Coordination:

Communications/Coordination w ith Friends of Herring River: Don Palladino updated the Committee on the status of several grants:

1. A Massachusetts Bays Program (MPB) grant for culvert replacement design for Old Kings Highway and Patience Brook was submitted, but no decisions have been announced yet about grant awards.
2. A National Fish and Wildlife Foundation (NFWF) grant application was submitted at the end of January to fund a series of engineering design and scientific studies related to the Restoration Project. Decisions on these grant awards are expected sometime in the spring.
3. Friends of Herring River was awarded a \$20,000 grant from the Corporate Wetlands Restoration Partnership (CWRP) for Pole Dike Creek tide control modeling.
4. The Committee discussed whether it would make sense to seek a MA Department of Environmental Protection (DEP) 319 grant. Members noted that these grants are generally for implementation of water quality improvement projects. Another DEP grant program (604b) is designed to fund planning projects and might be more suitable. The group discussed potential ideas for this grant program.

NOAA FFO Grant: Don Palladino reported on a conference call with Melanie Gange of the NOAA Restoration Center. Year 2 funding proposals under this three-year grant program will be requested in a few weeks. Friends of Herring River (FHR) needs to provide Ms. Gange with an explanation of the changes made in the Year 1 NOAA budget and prepare its Year 2 funding request. The Committee reviewed the priorities that were identified for Year 2 during the December 2013 HRRC meeting and made some adjustments. One thing that needs to be added is funding for some of FHR's operational costs. HRRC members agreed to work with FHR to document progress to date on grant activities and refine the Year 2 NOAA grant request.

Approval of Draft Minutes: The Committee voted unanimously to approve the minutes of the January 8, 2013 HRRC meeting.

Schedule of Meetings: The Committee approved the following schedule for upcoming meetings:

February 26, 2014	MOU III Working Group Meeting
March 12, 2014	HRRC regular meeting
March 13, 2014	Adaptive Management Modeling Workshop
April 10, 2014	HRRC regular meeting (proposed)

Low-Lying Properties: Louis Berger Group (LBG) Contract for Survey & Engineering Work: Craig Wood and Chris Feeney of LBG joined the meeting to discuss a proposed scope of work for survey and engineering services for two key low-lying private properties. Through a Request for Responses process, LBG was selected to provide these services. Slade Associates will act as a subcontractor to LBG. The Committee reviewed a draft contract agreement provided by LBG. The group agreed that it would make sense to structure the agreement as a "lump-sum" contract by task. Authorization to proceed could be issued for individual tasks, in coordination with the property owners. Formal permission from property owners will be needed to authorize LBG and Slade Associates to access the properties.

Craig Wood noted that the RFR had asked consultants to estimate survey costs based on an average parcel size of one acre.

Two of the parcels under consideration are larger than that, but much of both the sites is low , wetland area. The Committee agreed that survey plans should show the entire parcels but that detailed topographic contours are only needed for those areas where work would be needed. Members noted that adjacent parcels should also be shown, in order to be able to site wells and septic systems at sufficient distances from those on adjoining lots. The Committee briefly discussed the possibility of locating a well for an affected house on an adjoining parcel owned by the Wellfleet Conservation Trust (WCT).

Steve Block suggested that the HRRC should have an opportunity to review draft deliverables for site plans and surveys, before they are finalized. He also suggested that the contract should include timelines for completion of tasks. Hillary Greenberg asked that the plans delineate the buffer zones under the State Wetland Protection Act and the Wellfleet Wetland Bylaw. Steve Spear noted that he had met several times with one of the property owners, and walked the site with him to explore potential flood prevention approaches. He offered to provide LBG with available information regarding this property.

The Committee agreed that the contract should include at least three meetings with each property owner as well as meetings with the HRRC.

Margo Fenn reported that she had talked with David McGowan of The Nature Conservancy about the possibility of helping with negotiations with affected low-lying property owners. TNC is interested and willing, but McGowan suggested that the survey and engineering work should proceed before considering other options.

The Committee discussed other needed outreach to low-lying property owners and the general public. Hillary Greenberg noted that the Town of Wellfleet had recently done an informational mailing to all property owners concerning the Town's Pay-As-You-Throw solid waste disposal system. She said she could supply a mailing list and an estimate of costs to send out a Herring River project update to property owners. The Committee discussed possible funding sources for preparing and mailing a brochure of this kind. Tim Smith noted that there might still be some remaining funding at the Coastal America Foundation (CAF) that could be used for public outreach.

**Project Funding/Grant Tracking:** The Committee discussed how to set up a tracking system for Project funding. There have been grants from many different agencies awarded in the past, and there are numerous current grants for ongoing work, all with differing budgets, matching requirements and reporting protocols. There is a need for a central system to keep track of all of this. FHR uses the Xero system for accounting purposes. Tim Smith suggested that the Zoho system could be used for more global grant tracking and reporting. He presented an initial template for how this could be done. Don Palladino presented a spreadsheet summarizing the status of grants received to date by FHR. Tim Smith and Martha Rheinhardt agreed to further develop and refine the Zoho template.

**MOU III Development:** Margo Fenn reported that the MOU Working Group had met in January to review the Anderson & Kreiger legal memorandum. She noted that while the Anderson & Kreiger team had initially indicated that some form of legislatively authorized public authority would be needed, after researching the matter further, they recommended the formation of a private, non-profit entity to manage the Restoration Project. They reviewed several different models in which federal, state and local government entities combined efforts with non-profits to restore environmental habitats and found that the Boston Harbor Islands Partnership and the Penobscot River Restoration Trust provide the most helpful models for government and non-profit cooperation. The Anderson & Kreiger memorandum set forth recommendations about how to form and structure a new non-profit entity for the Herring River Project.

Working Group members raised some questions about how government officials would be able to serve on the Board of a non-profit entity, absent enabling legislation. The Working Group discussed the idea of structuring the new management in a slightly different way, with an intergovernmental oversight committee (perhaps created through an MOU) that would contract with a non-profit entity to carry out the restoration activities.

The Working Group requested that Anderson & Kreiger representatives come to Wellfleet for the next scheduled Working Group meeting. FHR is trying to arrange a date for that meeting. The Working Group would like to discuss the specific structure and enumerated powers for the new management entity. The group also wants to develop an outline of a model property owner agreement.

**Review of DEIS/EIR Concern/Response Report:** The Committee spent the remainder of the meeting reviewing draft responses to a number of concern statements raised in the public and agency comments on the Draft Environmental Impact Statement/Report. The group reviewed selected concern statements and representative quotations from the comment letters, and suggested how to refine the draft response statements. Individual members agreed to prepare responses to specific issues in their areas of expertise.

**Documents Referred to in the Meeting:**

- Minutes of the January 8, 2014 HRRC Meeting
- Draft Contract Agreement with LBG for Low-lying Property Engineering, 2/9/14