



Wellfleet Selectboard

Note: Start Time of 6pm

The Wellfleet Selectboard will hold a public meeting on **Tuesday, August 22, 2023, at 6:00 p.m.** The Chapter 2 of the Acts of 2023, this meeting will be conducted in person and as a courtesy via remote means, per 940 MCR 29.10 and the Town's Remote Participation Policy. While an option for remote attendance and/or participation is provided as a courtesy to the public, the meeting/hearing may not be suspended or terminated if technological problems interrupt the virtual broadcast unless otherwise required by law.

Joining the Meeting:

In-person at the Wellfleet ACC, 715 Old King's Highway, Wellfleet, MA, 02667

Join the meeting hosted in Zoom by using the following link:

<https://us02web.zoom.us/j/85689604806?pwd=blplVFFBZzViQ0xNWkZKMm9iMVdrdz09>

By Phone: +1 929 205 6099 and enter Meeting ID: 856 8960 4806 | Passcode: 611877 Landline callers can participate by dialing *9 to raise their hand.

To Participate during public comment:

- Zoom: Raise hand to be called on to speak.
- Phone: dial *9 to raise your hand.

It is at the Chair's discretion to call on members of the public. All speakers must be recognized to speak. If attending a meeting in person, please find the closest available microphone and confine any personal conversations to outside the meeting room. Anyone may record the session but must notify the Chair and may not interfere with the meeting to record it.

Additionally, the meeting will be broadcast live, in real time, via live broadcast on Comcast cable (Wellfleet Government TV Channel 18), also available via livestream or Video on Demand (VOD) recordings at wellfleet-ma.gov

I. *Announcements, and Public Comments*

Note Public comments are limited to no more than two minutes per speaker. The Board will not deliberate or cote on any matter raised solely during Announcements & Public Comments.

II. *Business*

A. Discussion and potential vote on Dredging Mitigation

III. *Minutes*

- A.** July 11, 2023
- B.** July 13, 2023
- C.** July 18, 2023
- D.** July 25, 2023

IV. *Adjournment*



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: August 22, 2023

I

ANNOUNCEMENTS AND PUBLIC COMMENTS

| | |
|--|--|
| REQUESTED BY: | Wellfleet Selectboard |
| DESIRED ACTION: | Announcements to the board and public |
| PROPOSED MOTION: SUMMARY: | <i>NOTE: Public comments are limited to no more than two minutes per speaker.</i> The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments. |
| ACTION TAKEN: | Moved By: _____ Seconded By: _____ Condition(s): |
| VOTED: | Yea _____ Nay _____ Abstain _____ |



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: August 22, 2023

II

BUSINESS

~ A ~

| | |
|-------------------------|---|
| REQUESTED BY: | Dredging Mitigation ~ Selectboard |
| DESIRED ACTION: | Discussion will continue the dredging and mitigation plan |
| PROPOSED MOTION: | If a motion is warranted one will be made at the time of the discussion. |
| SUMMARY: | |
| ACTION TAKEN: | Moved By: _____ Seconded By: _____ Condition (s): |
| VOTED: | |

August 8, 2023

Wellfleet Selectboard
Town of Wellfleet
300 Main Street
Wellfleet, MA 02667

Dear Selectboard:

As you are aware, the town has been reviewing a plan for obtaining a dredging permit utilizing funds procured through a mitigation plan with the Army Corps of Engineers. The Shellfish Advisory Board has held multiple meetings on this issue and have only recently been able to review the current plan with the shellfishing community. There remain grave concerns.

On Monday, August 7th the Shellfish Advisory Board voted to respectfully request the Selectboard bring the issue of entering into this mitigation agreement to the public through a question at Town Meeting.

We remain concerned about our ability to commercially shellfish the 28 acres of bottom the ACOE is asking to control through this plan for an indefinite amount of time. Additionally, the current plan uses the resources of our shellfish department to carry out the project in perpetuity; having the potential to negatively impact the town propagation plan for our proven wild fishing areas. These concerns directly affect the livelihood of a large number of shellfishing families in town for many years to come.

Restricting the use of this land for an indefinite term or for more than 5 years goes directly against The Town of Wellfleet bylaws (Article 3, Section 7) which require this use to first be approved by Town Meeting.

There are alternatives to funding the dredging permits that do not require entering into a mitigation plan with the ACOE and we firmly believe this is an issue that should be brought forward in a town meeting to better reflect the will of the people. We thank you for your prompt attention to this matter.

Sincerely,

Karen D. Johnson on behalf of:

The Wellfleet Shellfish Advisory Board:
Karen Johnson - Chair, Ethan Estey - Vice Chair, John Duane, Becca Taylor, Nick Sirucek, Stephen Pickard, Adrien Kmiec, Damian Parkington (alternate), Brad Morse (alternate)



TOWN OF WELLFLEET

300 MAIN STREET WELLFLEET MASSACHUSETTS 02667
Tel (508) 349-0300 www.wellfleet-ma.gov

August 2, 2023
NAE 2015-01414
GEI 2004486

VIA EMAIL: Charles.N.Farris@usace.army.mil

Charles N. Farris
Regulatory Dredging Liaison
US Army Corps of Engineers
Regulatory Division
696 Virginia Road
Concord, MA 01742

Dear Mr. Farris:

**Re: Area II Mitigation Plan
Wellfleet Harbor Dredge Project
Wellfleet, MA**

The Town of Wellfleet is submitting the enclosed Mitigation Plan for Area II of the Wellfleet Harbor Dredge Project, NAE 2015-01414. The Mitigation Plan is proposing the enhancement and protection of 28 acres of intertidal mudflat in the area of Blackfish Creek, in Wellfleet Harbor. The proposed mitigation plan will generate the required 7.16 mitigation credits and offset the impacts of the dredging of the Wellfleet Harbor Area II, South Mooring Field.

If you have any questions, please feel free to contact me at (508) 349-0300.

Sincerely,

Richard J Waldo
Town Administrator

Wellfleet Harbor Dredge Mitigation Plan

Wellfleet, Massachusetts
Submitted to:
US Army Corps of Engineers
New England Division
Regulatory Division
696 Virginia Road
Concord, MA 01742

Submitted by:
Town of Wellfleet
300 Main Street
Wellfleet, MA 02667

GEI Consultants, Inc.
124 Grove St, Suite 300
Franklin, MA

August 2, 2023
Project No. 2004486

Mitigation Plan 33CFR 332(c) (2) though (14)

A. Goals and Objectives:

The Town of Wellfleet has proposed the dredging of 23.8 acres of tidal mudflats along with sub and intertidal resource areas as Area 2 in project plans. It is well understood that intertidal mudflat habitat is beneficial for many reasons. Mudflats can provide nursery habitat and food supplies for larger fisheries, support bird populations and protection of coastlines through the absorption and lessening of storm forces. There are however factors that influence the functionality of a mud flat.

The compensatory mitigation plan is submitted to offset the dredging work in Wellfleet Harbor Area 2, South Mooring Field. The mitigation plan consists of enhancing a 28-acre parcel in Blackfish Creek. The Blackfish Creek area is currently designated as “open”, year-round by the shellfish regulatory authority, the Commonwealth of Massachusetts. The designated area will be restored by placing spat on shell, placing seed oysters, placing quahogs, and placing cultch to enhance shellfish propagation which will lead to improved water quality, and increased biodiversity resulting in the successful restoration of what was formerly a very productive shellfish habitat, and will provide protection of tidal mudflat habitat.

Objective enhancement would be measured using oyster density levels of twenty-five (25) individuals/m² throughout a 28-acre area (an areal density identified in the Chesapeake Bay Oyster Metrics Workgroup). It is important to note that the Massachusetts’ Division of Marine Fisheries uses a metric of approximately six (6) oysters per square meter as an indicator of “significant oyster resource”. Over a five to seven -year period, our efforts will be to enhance this area so as to enhance oyster density with a target goal of 25 oysters/m². An increase in oyster density has been shown, though prior work in Wellfleet, to lead to a dramatic increase in biodiversity and water quality. Water quality success would be measured in relation to the EPA’s definition of “excellent” water quality designation. Nitrogen levels will be recorded for information purposes only but will not be evaluated as a metric under the Mitigation Plan. Nitrogen levels are monitored under the Cape Cod Commission’s 208 Water Quality Plan. Biodiversity success would be measured through density and diversity of species as indicated in the attached performance standard. It is anticipated that the area would also become a resource for local shore birds, turtles, a wide variety of marine species and juvenile fish protection.

B. Site Selection:

The proposed mitigation site is classified as mudflat habitat and has been influenced by human interaction. The proposed mitigation site is in an area that had previously been degraded due to a variety of reasons including ice damage, harvest pressure, disease, and other human influences. The proposed enhancement will positively affect areas outside of the proposed mitigation area. Restoration of shellfish populations, water quality and increased biodiversity in the restored area will have wide ranging benefits for the Wellfleet Harbor system.

The mitigation site was carefully selected, based on its location and more importantly, for its restorative capabilities to return the designated area to its former habitat - a highly productive tidal mudflat with rich shellfish beds, naturally symbiotic flora and

fauna, reduction in nuisance sedimentation and increased water quality and clarity. Each of these characteristics has been declining in the Wellfleet Harbor system over the last several decades. These factors combined with the proposed additional shellfish propagation efforts (placing spat on shell, placing seed oysters, placing quahogs, and placing cultch) and protection of oyster habitat, will lead to a restoration and enhancement of 28 acres of mudflat habitat to the overall benefit of an enhanced Harbor ecosystem, benefitting all users.

Blackfish Creek (BFC) Site 1 is the mitigation site; it is located in Blackfish Creek. Refer to Appendix A Figure A1 for location details.

C. Site Protection Instrument:

The proposed mitigation areas, along with all shellfishing areas in Wellfleet, are governed by MA GL Chapter 130. Shellfishing habitat in these areas is regulated through the Municipal Propagation Permit as granted to the Town by the State and regulated under MA DMF Shellfish Planting Guidelines.

The mitigation area in Blackfish Creek is designated as protected by the MA ACEC program (see Figure A1). This area is therefore subjected to closer scrutiny to avoid or minimize adverse environmental impacts by local and state agencies (<https://www.mass.gov/service-details/acec-program-overview>). The area will be indicated as a resource protection area on official shellfish maps, with local signage and routine patrol 364 days a year at each low tide during daylight.

The Town further agrees not to disturb the mitigation area through addition of a mooring basin, piers, community docks or other such development. The mitigation area will be marked on Town shellfish maps. Uses of the mitigation area would be reserved for shellfishing and other secondary uses as listed in the Longterm Management Plan (Appendix C). Due to Division of Marine Fisheries regulations, the area cannot be closed to harvest for longer than a three-consecutive year period. The Town of Wellfleet Shellfish Department will open the area for harvest in such a way as to ensure minimum density of oyster populations.

D. Baseline Conditions:

A pristine mudflat in an area of little human development, lower impact to the sediment, little or no point source pollution, and no harvest pressure would be considered a pristine mudflat habitat with high functionality and value to the ecosystem.

The mudflat at Wellfleet Harbor and Shirt Tail Point has been consistently influenced by human use since 1644. The first modern era occurrence established the existing mooring field in 1955, although the area was used as a harbor prior to that time. The area around the harbor is well developed with housing surrounding much of the coastline, especially to the north, east and south. This leads to significant sources of run off and non-point source pollution as well as other point source contaminants that may occur less frequently. Equally significant is the location of the Town mooring docks, boat ramp, refueling station and other commercial buildings all located immediately to the north of the Area 2 dredge site. This area served as the major docking and refueling station for the Town prior to 1985. While there has not been a significant spill or leak in this time it is expected that the higher rate of human occupation of these areas contributes to the degradation of the mud flat habitat. State records dating from 1937 show the constant use of this area with over 25 completed projects including shoreline protection, establishment

of the channel and mooring field, improvements, and expansions of the fueling docks and parking lots and establishment of docks and piers adjacent to the Area 2 mooring basin and a large jetty protecting the Harbor Basin. The mooring basin itself is not an undisturbed mudflat and the sediments are not like mudflat but have been characterized as “black custard” and not capable of supporting shellfish. Since 1957, approximately 340 ground tackle and mooring lines/buoys have been cored into the bottom in the spring and dragged through the sediments to the shore each fall to be recovered. This activity completely disturbs the area each year. Recently, due to a lack of dredging, approximately 80 moorings have been lost due to an inability to access them due to a lack of water at low tide or so restricted a tidal window as to make them undesirable. This has resulted in a loss of approximately \$80,000/year in marina related revenue based on data from Wellfleet Marine Corporation.

The proposed compensatory mitigation project site is considered mudflat habitat and has been mapped by MA Mapper as shellfish suitability area for American Oysters (*Crassostrea virginica*).

The mitigation area once was a historically productive mudflat used consistently for shellfishing. The western area of Blackfish Creek, many decades ago, was highly productive but in more recent decades was so reduced in oyster population and productivity that it qualified for licensing private shellfish grants (less than six oysters per square meter). In addition, the area immediately west of the proposed mitigation area was highly productive and was a major stop on the Shellfish Department’s daily patrols during the early to mid-2000’s, but in more recent years, shellfish populations have decreased there. It appears that this reduction in productivity was due to consecutive large ice events and the Shellfish Department’s cultch program alone has not been able to bring it back. More recently, in the eastern regions of the proposed mitigation area, extremely low shellfish populations remain, and the Shellfish Department has observed very little shellfishing due to a lack of resources. Areas to be cultched currently have nitrogen reduction targets which could be improved with increased oyster populations and the in-migration of other organisms.

A baseline biological and sediment composition survey was conducted on June 22, 2023 (pre-restoration) to determine the baseline for the Blackfish Creek mitigation site. Performance metrics to be measured are included in the attached table. The full baseline survey is located in Appendix B of this document.

E. Determination of Credits:

The plan for restoration and enhancement of 28 acres of equivalent mudflat habitat will generate the required 7.16 mitigation credits and offset the impacts of the dredging of the Wellfleet Harbor Area 2, South Mooring Field.

F. Mitigation Work Plan:

The mitigation work plan proposes a multipronged approach for the enhancement of the Blackfish Creek Site in Wellfleet Harbor including:

- Placement of spat on shell.
- Placement of oyster seed.
- Placement of Taunton River quahog relay.
- Placement of cultch.

Cultch has been used for over 100 years in Wellfleet Harbor to provide substrate for larval

oysters (spat) to attach. Without oysters, shell or suitable substrate, natural set, which is uniquely abundant in Wellfleet Harbor, would otherwise die. Replacement of substrate through cultching is well established for maintaining and restoring oyster populations. The addition of cultch and subsequent sets of oysters that can grow there will improve the water quality of the area through the natural filter feeding. The cultch strips also improve biodiversity through providing substrate for other organisms to use for food or refuge.

The area would be enhanced with cultch (sea clam shell) and oyster seed from locally available resources. Cultch will be trucked from a whole sea clam processing plant to the Town Transfer Station and supplemented with oyster shell from recycling programs with restaurants and the general public. This material is properly aged then loaded by front-end loader and delivered to a custom-built cultch barge. The barge has a hopper which delivers a strip of shells approximately 4'x100' with about 6 inches of relief on the bottom. Cultch has been shown to be the ideal material for "catching a natural set" of oyster spat due to Wellfleet's significant locally spawning oyster population without using "spat on-shell" or extensive seeding which is necessary in areas where there is not a local "set".

A 28-acre parcel of mudflat habitat has been identified in Blackfish Creek (BFC), east and south of Pleasant Point (see Fig A1). This area is currently approved for shellfish propagation and harvest. A baseline biological survey was performed in BFC on June 22, 2023. The survey identified current substrate, density of oysters, and other biodiversity. Water Quality monitoring in the area is being monitored by the Center for Coastal Studies. Cultching will be conducted as described above. It is expected that restoration efforts of cultching and seed placement will take approximately 5 years to reach the desired levels of oyster density, biodiversity, and water quality improvement.

Basic yearly timelines would be as follows:

Blackfish Creek 2023 (- 2029)

- June 2023 - local oyster seed will be purchased and raised on the Shellfish Department's farm.
- June (2023) – shell bags will be placed in Chipman's Cove for spat settlement.
- Fall 2023 - spat on shell (bags) will subsequently be transferred from Chipman's Cove to Blackfish Creek.
- Fall 2023 – the 28-acre mitigation area in Blackfish Creek will be marked with signage and buoys; communication will be sent to all shellfishermen establishing the mitigation area.
- May 2024 - quahog (*Mercenaria mercenaria*) relay will take place from the Taunton River into the Blackfish Creek mitigation area. (See Figure A2)
- June 2024 - the oyster seed from the Shellfish Department's farm will be deployed in Blackfish Creek.
- June 2024 (or June 2025, once the Chapter 91 Permit to cultch in Blackfish Creek has been received) - 10 strips of cultch will be laid in Blackfish Creek.

Areas to be cultched will be determined by Wellfleet Shellfish Department staff after walking the bottom of the area to be cultched. Staff will mark the approximate beginning and end of the cultch strips with buoys and then run the cultch barge at high tide between the two buoys.

- Subsequent Years – the process shall continue as described above, utilizing:
 - Placement of spat on shell.
 - Placement of oyster seed.
 - Placement of Taunton River quahog relay.
 - Placement of cultch.

When the spat on shell is relocated from Chipman’s Cove to Blackfish Creek in October 2023, it will start the three-year closure for the Blackfish Creek area. After three years the shellfish department will evaluate the oyster density and propose an opening of a portion of the area for harvest as per MA DMF regulations that will not adversely affect the stated performance metrics.

Past season(s) enhancement will be evaluated to make adjustments before the next season (through year 4).

After year 5, if performance metrics have been met, the USACE will issue a Certificate of Compliance and the site will move into a monitoring plan only, with no active enhancement of resources. Ongoing harvest opportunities will be decided by the Shellfish Department in such a way as to ensure minimum density of oyster populations and restoration/harvest management that supports other restoration metrics.

G. Maintenance Plan:

The mitigation plan is predicated on increasing the oyster populations through cultching and seed placement. Over a five-year period, we expect to place approximately 125-200 tons of cultch in MA DEP Chapter 91 approved area for this purpose. Cultching and seeding the entire 28-acre area in one season is not planned as there are many factors that could negatively influence the restoration efforts. Placing all of the cultch strips and seed would leave the area susceptible to negative environmental and biological impacts. Storms or disease could spread quickly through an area that has all been recently enhanced. By enhancing smaller areas over a longer five-year time period, evaluations can be made as to the success of the enhancement, and adjustments can be made to maximize the enhancement of the mudflat habitat allowing the Town to adjust maintenance in real time, over the first 5 years.

H. Performance Standards:

This project will measure water quality, biodiversity, and oyster density to indicate enhancement success. Enhancement success for the following attributes is defined below for each standard. The main criteria for a certificate of compliance is oyster density based on referenceable standards. Water quality and biodiversity are additional qualitative standards that may be used to adaptively adjust oyster density, should there be difficulty in achieving the standard and are useful measures to understand the macro environment in the waterbody but not under the direct control of the project or the Town’s efforts.

Water quality: Upon construction of the project, water quality is expected to improve on the site during the 5-to-7-year monitoring period. Successful water quality is defined as an increase in targeted metrics year over year for the 5 to 7 years. Ultimately the site is expected to exceed the metrics established in the baseline and is envisioned to meet EPA’s definition of “excellent” water quality designation as further defined in 314 CMR 4.00: MASSACHUSETTS SURFACE WATER QUALITY STANDARDS. These parameters are measured by the Center for Coastal Studies as contained in Table below, except for coliform which is measured by the Massachusetts DMF. Class SA waters as

defined in the standard, are required for the harvest of shellfish.

Oyster density: Success for the site is defined as surviving oyster density on the total acres of the site at 25 oysters / m². This will be measured at baseline, with a linear progression expected over the 5 to 7 years.

Biodiversity: Success for this attribute is defined as increase over the baseline, particularly in the first few years, and then leveling off. Given the transient nature of some of the species to be measured, it is understood that not all species will be found or increase year after year. Biodiversity success will be measured by overall species richness.

The performance standards will be recorded utilizing these metrics:

| Wellfleet Mitigation Performance Metrics Black Fish Creek Location | | | | | | |
|--|----------|--------|--------|--------|--------|--------|
| Seasonal Average based upon a statistically significant sample | Baseline | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 |
| Oyster Density/m² | | | | | | |
| Water Quality | | | | | | |
| Temperature °C | | | | | | |
| Salinity | | | | | | |
| Dissolved Oxygen mg/L | | | | | | |
| Chlorophyll ug/L | | | | | | |
| Pheophytin ug/L | | | | | | |
| Turbidity NTU | | | | | | |
| Nitrate Nitrite uM | | | | | | |
| Ammonium uM | | | | | | |
| Orthophosphate uM | | | | | | |
| Silicate uM | | | | | | |
| Particulate Organic Nitrogen uM | | | | | | |
| Particulate Organic Carbon uM | | | | | | |
| Total Dissolved Nitrogen uM | | | | | | |
| Total Dissolved Phosphorus uM | | | | | | |
| Total Nitrogen uM | | | | | | |
| Total Phosphorus uM | | | | | | |
| Total Nitrogen TDN PON | | | | | | |
| Coliform (Total Fecal Coliform) | | | | | | |
| Biodiversity | | | | | | |
| Amphipod (various sp) | | | | | | |
| Anemone (various sp) | | | | | | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | | | | | | |
| Barnacle (various sp) | | | | | | |
| Blue crabs (<i>Callinectes sapidus</i>) | | | | | | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | | | | | | |
| Invasive green crabs (<i>Carcinus maenas</i>) | | | | | | |
| Mites (various sp) | | | | | | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | | | | | | |
| Oyster (<i>Crassostrea virginica</i>) | | | | | | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | | | | | | |
| Polychaete (various sp) | | | | | | |
| Purple marsh crabs (<i>Sesarma reticulatum</i>) | | | | | | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | | | | | | |
| Whelk (various sp) | | | | | | |
| Hermit Crabs (<i>Pagurus sp.</i>) | | | | | | |
| Horseshoe Crab (<i>Limulus polyphemus</i>) | | | | | | |

Performance standards will be measured according to the above table. Metrics will include water quality indicators as well as oyster density and biodiversity. The basic conclusion is that an oyster density of 25 oysters/m² (Restoration Goals, Quantitative Metrics and Assessment Protocols for Evaluating Success on Restored Oyster Reef Sanctuaries Report of the Oyster Metrics Workgroup Submitted to the Sustainable Fisheries Goal Implementation Team of the Chesapeake Bay Program, December 2011) is considered a successful restoration and is expected to be self-sustaining. MA DMF regulations require that areas be open for a minimum of a day every three years in order to be in compliance with Massachusetts law. For the initial five years of enhancement, monitoring and reporting will take place yearly. This will include an evaluation of substrate health, including bottom relief, increased bottom structure and distribution relative to other performance goals such as biodiversity and water quality. On-going monitoring will determine if recruitment is self-sustaining. After the initial five-year work plan has achieved a target goal of 25/m², we will evaluate future harvest opportunities and timing in order to ensure healthy oyster resources and habitat, in the context of continuing to meet our restoration goals. Harvest, productivity, disease, weather events, ice mortality and other previously unforeseen impacts will be closely monitored in relation to impacts on performance standards.

I. Monitoring Requirements:

The mitigation area will be monitored by a set of third-party organizations mutually agreed upon by the Town and the USACE. Reports will be compiled by the Town and submitted yearly to the USACE for review. Any potential adjustments to the work plan will be made at that time in consultation with the USACE. Water quality monitoring is conducted by the Center for Coastal Studies as part of the larger Wellfleet Harbor monitoring that is already underway.

1) Black Fish Creek

An additional water quality monitoring point will be added in the Blackfish Creek mitigation area to better capture the Water Quality metrics listed above. This monitoring occurs once in February and twice a month from April – September as conducted by the Center for Coastal Studies. An improvement in water quality will be tracked through the changes in this data over the five to seven-year work period.

Oyster density is the second measure of mitigation success. Oyster density is expected to increase yearly with the laying of cultch. The laying of cultch is expected to recruit natural oyster spat within the Wellfleet Harbor system. The addition of seed oysters will also increase the density of the oyster population. The five-year goal of the project is a density of 25 oysters / m² as calculated across the entire mitigation area. Density will be measured in the early summer and in the late fall in areas where recruitment has occurred and averaged across the entire site. Density measurements shall include oysters of all sizes, including spat. This data will be reported to the USACE yearly.

Biodiversity will be measured twice yearly in the spring and fall at the stations marked on the attached map (see Figure B1). This data will be included in the yearly reporting to the USACE as shown in the above table. It is expected that the largest increase in biodiversity will be seen in the areas that have been cultched where oyster reefs are established.

J. Long-Term Management Plan:

The Long-Term Management Plan will be managed by The Long-Term Steward of the site, which is the Town of Wellfleet. The detailed Long Term Maintenance Plan can be found in Appendix C. This Plan will be enforced to protect the environmental enhancement. In the event of a Force Majeure event leading to death of all the oysters, the Town's responsibility will be to jump start the shellfish population by using Year Two activities with respect to cultch and seed, as listed in the work plan shown above. Oyster density will be reported to the USACE in accordance with Mitigation Plan Scenarios Table (Appendix D).

The mitigation area in Blackfish Creek is designated as protected by the MA ACEC program (see Figure 2), therefore subjected to closer scrutiny to avoid or minimize adverse environmental impacts by local and state agencies (<https://www.mass.gov/service-details/acec-program-overview>). The area will be indicated as a resource protection area on official shellfish maps, with local signage and routine patrol 364 days a year at each low tide during daylight. For the first five to seven years, annual quadrat assessment by an academic or governmental institution or creditable nonprofit organization will be performed and results will be submitted to the USACE annually.

The Town agrees not to disturb the mitigation area through a mooring basin, piers or other such development. The mitigation area will be marked on Town shellfish maps. Uses of the mitigation area would be reserved for shellfishing and other secondary uses as listed in the Longterm Management Plan (Appendix C). Due to Division of Marine Fisheries regulations the area cannot be closed to harvest for longer than a three consecutive year period. The Town of Wellfleet Shellfish Department will open the area for harvest in such a way as to ensure minimum density of oyster populations, ensuring continued overall productivity of the mitigation area.

K. Adaptive Management Plan:

As with any biological system, there are numerous unknowns that can affect results. The main tenants of the adaptive management plan revolve around field performance and initial performance metrics for years one through five. Beyond five years, please see the Long-Term Management Plan. We believe, based upon experience and best available science that a self-sustaining population can be achieved that meets protection of fish species, biodiversity and water quality improvement goals. However, as noted above, the initial targets of 25 oysters/m² are based on data that is not from Wellfleet Harbor.

The variables that may lead to implementing changes to the mitigation plan include:

- Weather*
- Recruitment*
- Cultch volumes*
- Survival rates*
- Bottom condition*
- Disease*
- Predator Pressure*
- Growth rate*
- Poaching*
- Water Quality*
- Ice mortality*

Each of these variables may require different management responses. Those responses could include increased or decreased need for cultch or spawning stock. Increased or decreased allowance for harvest. Changes in how harvest can be conducted to protect other ecosystem functions. Other potential measures to ensure successful ecosystem restoration could include seeding the area with additional brood stock or “spat on shell” stock from other productive areas. It is likely that as conditions and influences on the mitigation area change, a combination of these approaches will be necessary to meet our performance goals. Oyster density of 25/m² is a proxy for overall enhancement of the mitigation site and is expected to lead to improvements in water quality and biodiversity. Therefore, if water quality and biodiversity are improving, an oyster density below 25/m² may be sufficient to show enhancement. Any proposed modifications to the work plan will be sent to the Corps for approval prior to implementation.

Long-term and adaptive management will be conducted by the Wellfleet Shellfish Department. Consistent with other shellfish designations such as conditional, prohibited, seasonal closures and rotations, and the required harvest openings, this area will be managed to achieve a density of 25 oysters/m² with the goal for it to become self-sustaining and providing enhanced ecoservices with a contingency buffer against disease, ice mortality or other resource destruction.

In addition, there may be compelling reasons, based on local conditions, to decrease any of the metrics such as oyster density, biodiversity, or water quality. Based on monitoring data, the Town will have a meeting with the USACE mitigation team after one year to assess progress to date and determine whether any substantive changes are required. Based on monitoring results, this may result in adjustments to performance goals. The Town may alter the workplan to include additional cultch, location of cultch, additional seed or additional input of other shellfish. Additionally, there may be a need to reassess the location of the mitigation.

The Town will be judged to be in compliance with the mitigation agreement so long as the agreed upon work plan is being executed. After five to seven years of implementation and monitoring, if performance standards have been achieved, the USACE will issue a Certificate of Compliance.

Due to the vagaries of natural resource habitats specific achievement of any performance standard may require changes to the work plan but would not constitute noncompliance. Please see Appendix D for potential adaptive and long-term management scenarios.

L. Financial Assurances:

The Town of Wellfleet will purchase a \$50,000 performance bond that totals the first-year objectives and project implementation for Blackfish Creek. The Town of Wellfleet will request release of the performance bond after a post construction report has been submitted to the Corps and the Corps approves release.

Availability of Funds: It is expressly understood that any duties to be performed by the Town hereunder or any supplies or services to be procured to carry out the Town’s obligations under this Mitigation Plan are subject to the appropriation of funds by the Wellfleet Town Meeting. The Town has appropriated such funds.

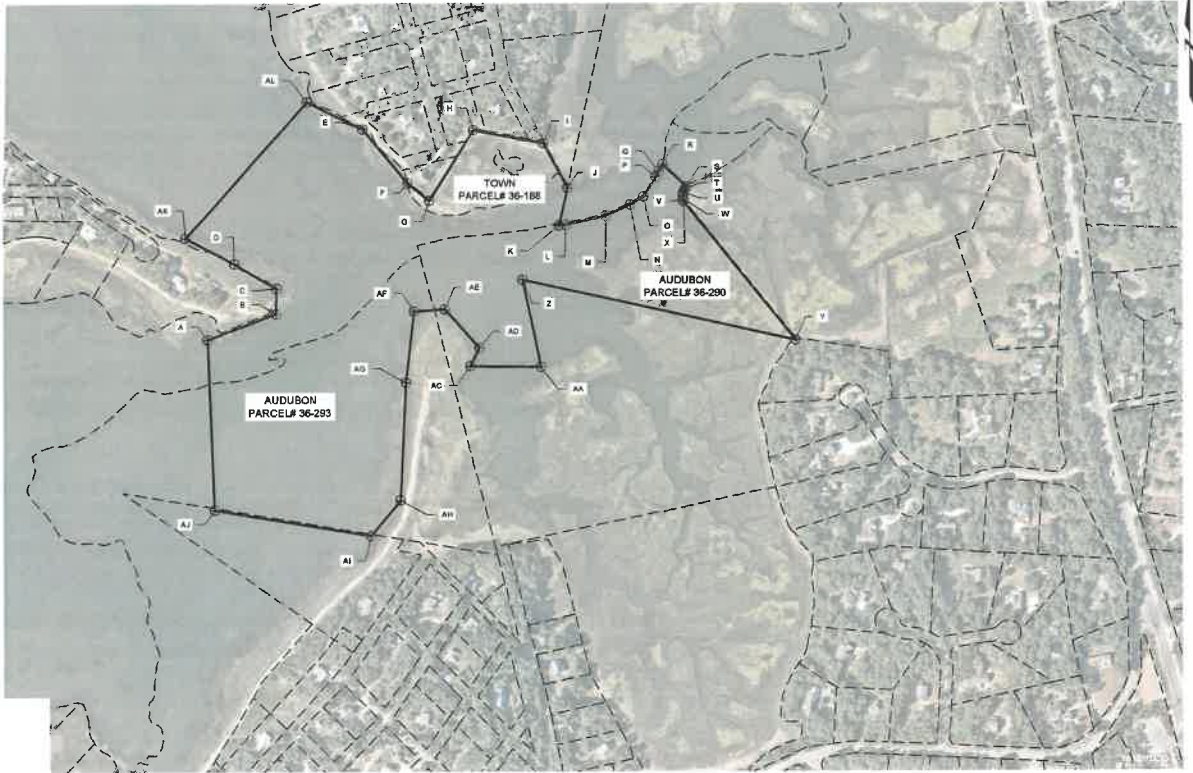
Proposed Mitigation Budget

| FY 2024 | | | FY 2025 | | | |
|---|---------|------------|-------------|---|------------|-------------|
| Item | amount | price | total | amount | price | total |
| Racks | 55 | \$100.00 | \$5,500.00 | | | |
| 4mm bags | 100 | \$7.75 | \$775.00 | | | |
| 9mm bags | 333 | \$7.75 | \$2,580.75 | | | |
| Bag Assembly | 433 | \$2.00 | \$866.00 | | | |
| Zipties | 1332 | \$8.60 | \$120.40 | | | |
| Condos - 8 bay | 13 | \$240.00 | \$3,120.00 | | | |
| Candy Striped Poles | 5 | \$10.00 | \$50.00 | | | |
| Buoys | 10 | \$22.00 | \$220.00 | | | |
| Poly Line Roll | 1 | \$150.00 | \$150.00 | | | |
| Cultch | 2.5 | \$1,250.00 | \$3,125.00 | 2.5 | \$1,250.00 | \$3,125.00 |
| Fuel (cultching and relay) | 96 | \$5.29 | \$507.84 | 96 | \$5.29 | \$507.84 |
| Oil (cultching and relay) | 4 | \$30.00 | \$120.00 | 4 | \$30.00 | \$120.00 |
| Oyster Seed R6-8 Hatchery (100K/price is per 1,000) | 100 | \$37.85 | \$3,785.00 | 100 | \$37.85 | \$3,785.00 |
| Quahog Relay | 0 | 0 | 0 | 70 | \$27.25 | \$1,907.50 |
| JM OT (cultching/relay) | 20 | \$53.27 | \$1,065.47 | 20 | \$53.27 | \$1,065.47 |
| CM OT (cultching/relay) | 20 | \$47.69 | \$953.75 | 20 | \$47.69 | \$953.75 |
| WSD labor planting and farm ops | IN KIND | | | IN KIND | | |
| Baseline Survey | | | \$4000 | | | |
| Chapter 91 Permit Amendment | | | \$40,000 | | | |
| Monitoring Survey(s) | | | \$20,000 | | | \$20,000.00 |
| | | | \$86,939.21 | | | \$31,464.56 |
| | | | | <i>*same for five years but we need to expect increases in prices</i> | | |

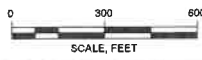
Appendix A – Figures and Site Photos



| POINT | NORTHING | EASTING |
|-------|-----------|------------|
| A | 276467.80 | 1065511.85 |
| B | 276441.81 | 1065554.66 |
| C | 276404.86 | 1065626.11 |
| D | 276364.85 | 1065682.68 |
| E | 276324.85 | 1065726.75 |
| F | 276284.84 | 1065762.81 |
| G | 276244.83 | 1065792.38 |
| H | 276204.82 | 1065812.54 |
| I | 276164.77 | 1065824.68 |
| J | 276124.71 | 1065828.71 |
| K | 276084.66 | 1065824.14 |
| L | 276044.61 | 1065811.75 |
| M | 276004.56 | 1065791.94 |
| N | 275964.51 | 1065764.99 |
| O | 275924.46 | 1065731.54 |
| P | 275884.41 | 1065692.12 |
| Q | 275844.36 | 1065647.94 |
| R | 275804.31 | 1065608.40 |
| S | 275764.26 | 1065564.03 |
| T | 275724.21 | 1065519.51 |
| U | 275684.16 | 1065475.03 |
| V | 275644.11 | 1065431.54 |
| W | 275604.06 | 1065388.09 |
| X | 275564.01 | 1065344.68 |
| Y | 275524.01 | 1065301.19 |
| Z | 275484.01 | 1065257.69 |
| AA | 275444.01 | 1065214.19 |
| AB | 275404.01 | 1065170.69 |
| AC | 275364.01 | 1065127.19 |
| AD | 275324.01 | 1065083.69 |
| AE | 275284.01 | 1065040.19 |
| AF | 275244.01 | 1065000.00 |
| AG | 275204.01 | 1064959.81 |
| AH | 275164.01 | 1064919.62 |
| AI | 275124.01 | 1064879.43 |
| AJ | 275084.01 | 1064839.24 |
| AK | 275044.01 | 1064799.05 |
| AL | 275004.01 | 1064758.86 |

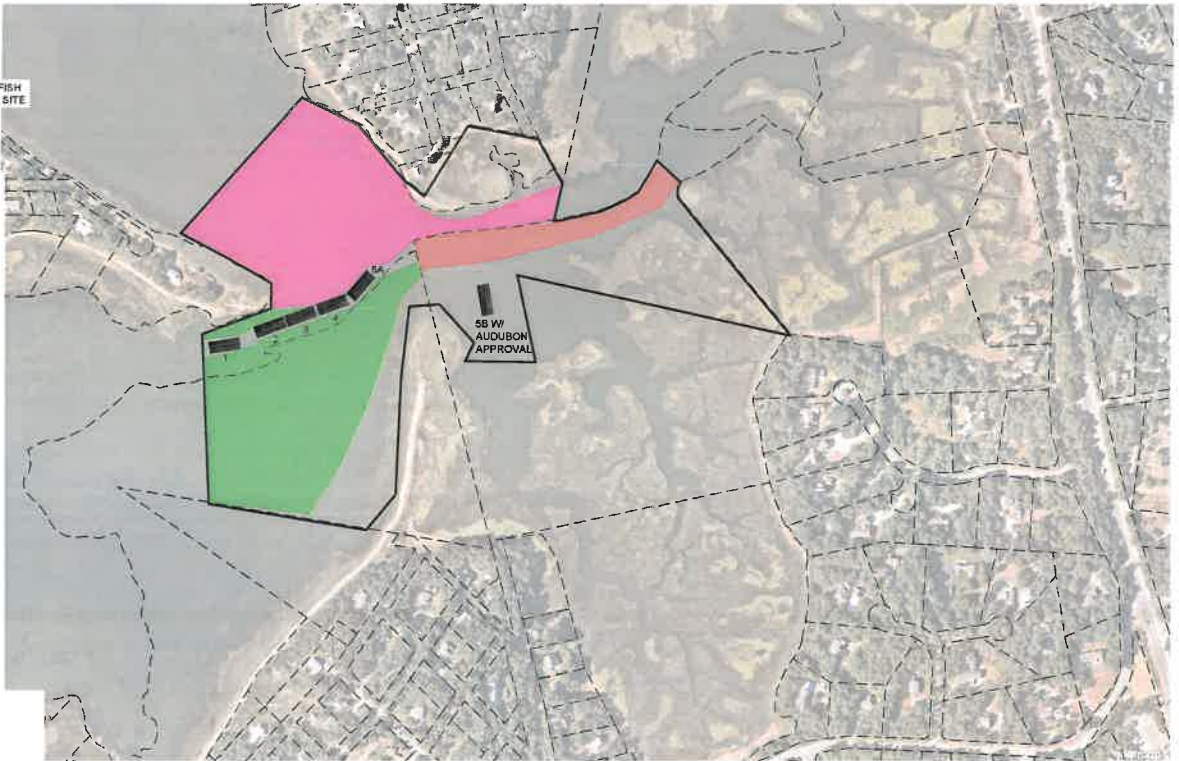


AREA = 1,220,040 SQ.FT







| | | |
|------------------------------------|--|---|
| Blackfish Creek Wellfleet, MA | | BLACKFISH CREEK |
| Town of Wellfleet Wellfleet, MA | | Project 2004486 Aug 2023 Fig. A-1 |

FITZGERALD, JAMISON. B:\Working\WELLFLEET MA, TOWN OF 2004486 Wellfleet Dredging Design\CAD\Figures\FIG.01 & FIG.02 GROUND TRUTHING.dwg - 7/13/2023



LEGEND

-  - CLUTCH STRIPS
-  - QUAHOG RELAY
-  - SPAT ON SHELL AND OYSTER SEED
-  - SPAT ON SHELL, OYSTER SEED, AND QUAHOG RELAY



| | | |
|------------------------------------|---|--|
| Blackfish Creek Wellfleet, MA |  | BLACKFISH CREEK |
| Town of Wellfleet Wellfleet, MA | Project 2004486 | Aug 2023 Fig. A-2 |



Figure 1: Blackfish Creek looking from Pleasant Point



Figure 2: Blackfish Creek tidal flats offshore from approximately State Street and Atlantic Ave



Figure 3: Blackfish Creek Salt Marsh and Tidal Flats looking from the area of Route 6



Figure 4: Blackfish Creek typical sediment composed of med / fine sand and some silt.

Appendix B – Blackfish Creek Baseline Survey

Memo

To: USACE New England District, Regulatory Division
From: Alyssa Richard
c: Town of Wellfleet
Date: July 3, 2023
Re: Baseline Biological Assessment, Blackfish Creek Mitigation Site
Town of Wellfleet Harbor Dredge Mitigation Plan
Blackfish Creek, Wellfleet, MA
GEI Project No. 2004486

As a requirement for the Wellfleet Harbor Dredge Mitigation plan a baseline biological diversity survey was conducted in the Blackfish Creek site (see attached map). GEI Consultants and the Wellfleet Shellfish Department conducted a survey of the 28-acre mitigation area that included sediment sampling for grain size characterization and biological diversity assessment. The survey was conducted from approximately 7:00 AM to 12 PM on June 22, 2023, around the predicted low tide of 9:28 AM. Weather conditions were clear with excellent visibility. GPS coordinates were taken at various points along the project site and can be seen on the attached plan marked samples BFC1 – BFC 25. Sample point BFC 21 was not able to be surveyed as the area was inaccessible by foot. Sample locations were predetermined as agreed on by the Town and USACE, Samples BFC13, BFC19 and BFC 20 were modified due to accessibility and sample BFC 25 was added in the field. Samples were taken using a 1m² aluminum quadrat at the GPS coordinate previously determined (except as listed) then digging approximately 2 inches into the sediment to count individuals present. After counts were completed a sediment sample was taken for grain size analysis.



Figure 1: Typical 1m² quadrat sample



Figure 2: View of the tidal flats

| Sample BFC1 | | |
|--|---------------|--------------|
| Species | Number | notes |
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 103 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 0 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 1 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 0 | |

Sample BFC2

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 1 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 0 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 1 | (clam worm) |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 1 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 0 | |

Sample BFC3

| Species | Number | notes |
|--|--------|--|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 100s | *seed barnacles pictured attached to a shell |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 0 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 17 | |
| Oyster (<i>Crassostrea virginica</i>) | 2 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 1 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 42 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 0 | |



Figure 3 Seed Barnacles found on a shell

Sample BFC4

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 1 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 1 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 0 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 2 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 0 | |

Sample BFC5

| Species | Number | notes |
|---|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 0 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 14 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 0 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 1 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 0 | |
| Horseshoe Crab (<i>Limulus polyphemus</i>) | 1 | |



Figure 4 Horseshoe crab found at Sample #5

Sample BFC6

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 0 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 115 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 1 (clam worm) | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 0 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 0 | |

Sample BFC7

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 2 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 26 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 0 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 0 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 0 | |

Sample BFC8

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 1 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 0 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 0 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 0 | |
| Fiddler Crab (<i>Leptuca pugillator</i>) | 12 | |

Sample BFC9

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 2 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 0 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 0 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 0 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 1 | |

Sample BFC10

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 1 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 7 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 0 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 2 | |
| Periwinkle (<i>Littorina littorea</i>) | 0 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 0 | |

Sample BFC11

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 0 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 23 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 0 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 0 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 0 | |
| Horseshoe Crab (<i>Limulus polyphemus</i>) | 1 | |

Sample BFC12

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 1 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 0 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 0 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 32 | |
| Fiddler Crab (<i>Leptuca pugillator</i>) | 0 | |

Sample BFC13(b)

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 0 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 62 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 2 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 22 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 0 | |

Sample BFC14

| Species | Number | notes |
|--|--------|-------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 0 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 0 | |
| Oyster (<i>Crassostrea virginica</i>) | 2 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 0 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 63 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 0 | |
| Periwinkle (<i>Littorina littorea</i>) | 6 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 0 | |

Sample BFC 15

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab <i>(Hemigrapsus sanguineus)</i> | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) <i>(Mercenaria mercenaria)</i> | 1 | |
| Mites | 0 | |
| Mud Snail <i>(Ilyanassa obsoleta)</i> | 19 | |
| Oyster <i>(Crassostrea virginica)</i> | 0 | |
| Oyster Drill <i>(Urosalpinx cinerea)</i> | 0 | |
| Polychaete (various sp) | 0 | |
| Ribbed Mussel <i>(Geukensia demissa)</i> | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs <i>(Pagurus sp.)</i> | 25 | |
| Fiddler Crab <i>(Leptuca pugilator)</i> | 0 | |

Sample BFC 16

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 0 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 9 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 1 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 0 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | | |

Sample BFC17

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 1 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 12 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 1 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 0 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 0 | |

Sample BFC18

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 0 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 4 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 0 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 0 | |
| Fiddler Crab (<i>Leptuca pugillator</i>) | 0 | |

Sample BFC19(b)

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 0 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 10 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 1 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 3 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 4 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 25 | |

Sample BFC20(b)

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 0 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 0 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 0 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 59 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 0 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 4 | |

Sample BFC22

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 6 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 0 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 0 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 0 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 0 | |

Sample BFC23

| Species | Number | notes |
|--|---------------|--------------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 1 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 0 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 0 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 0 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 0 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 0 | |

Sample BFC 24

| Species | Number | notes |
|--|--------|-------|
| Amphipod (various sp) | | |
| Anemone (various sp) | | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | | |
| Barnacle (various sp) | | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 5 | |
| Mites | | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 33 | |
| Oyster (<i>Crassostrea virginica</i>) | | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | | |
| Polychaete (various sp) | | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | | |
| Whelk (various sp) | | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 4 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | | |

Sample BFC25

| Species | Number | notes |
|--|--------|-------|
| Amphipod (various sp) | 0 | |
| Anemone (various sp) | 0 | |
| Asian Shore Crab (<i>Hemigrapsus sanguineus</i>) | 0 | |
| Barnacle (various sp) | 0 | |
| Hard Clam (Quahog) (<i>Mercenaria mercenaria</i>) | 0 | |
| Mites | 0 | |
| Mud Snail (<i>Ilyanassa obsoleta</i>) | 0 | |
| Oyster (<i>Crassostrea virginica</i>) | 0 | |
| Oyster Drill (<i>Urosalpinx cinerea</i>) | 0 | |
| Polychaete (various sp) | 0 | |
| Ribbed Mussel (<i>Geukensia demissa</i>) | 33 | |
| Whelk (various sp) | 0 | |
| Hermit Crabs (<i>Pagurus sp.</i>) | 0 | |
| Fiddler Crab (<i>Leptuca pugilator</i>) | 7 | |

Biodiversity

The primary species found on the mud flat were mud snails, hermit crabs and fiddler crabs. The mud flat is surrounded by sea grass beds which contain an abundance of fiddler crabs and ribbed mussels. The tidal flats primarily contain mud snails and hermit crabs although polychaetae worms and horseshoe crabs were also found. No Asian shore crabs (an invasive species) were counted in the sample areas. Some sample locations contained quahogs with a few oysters counted as well.

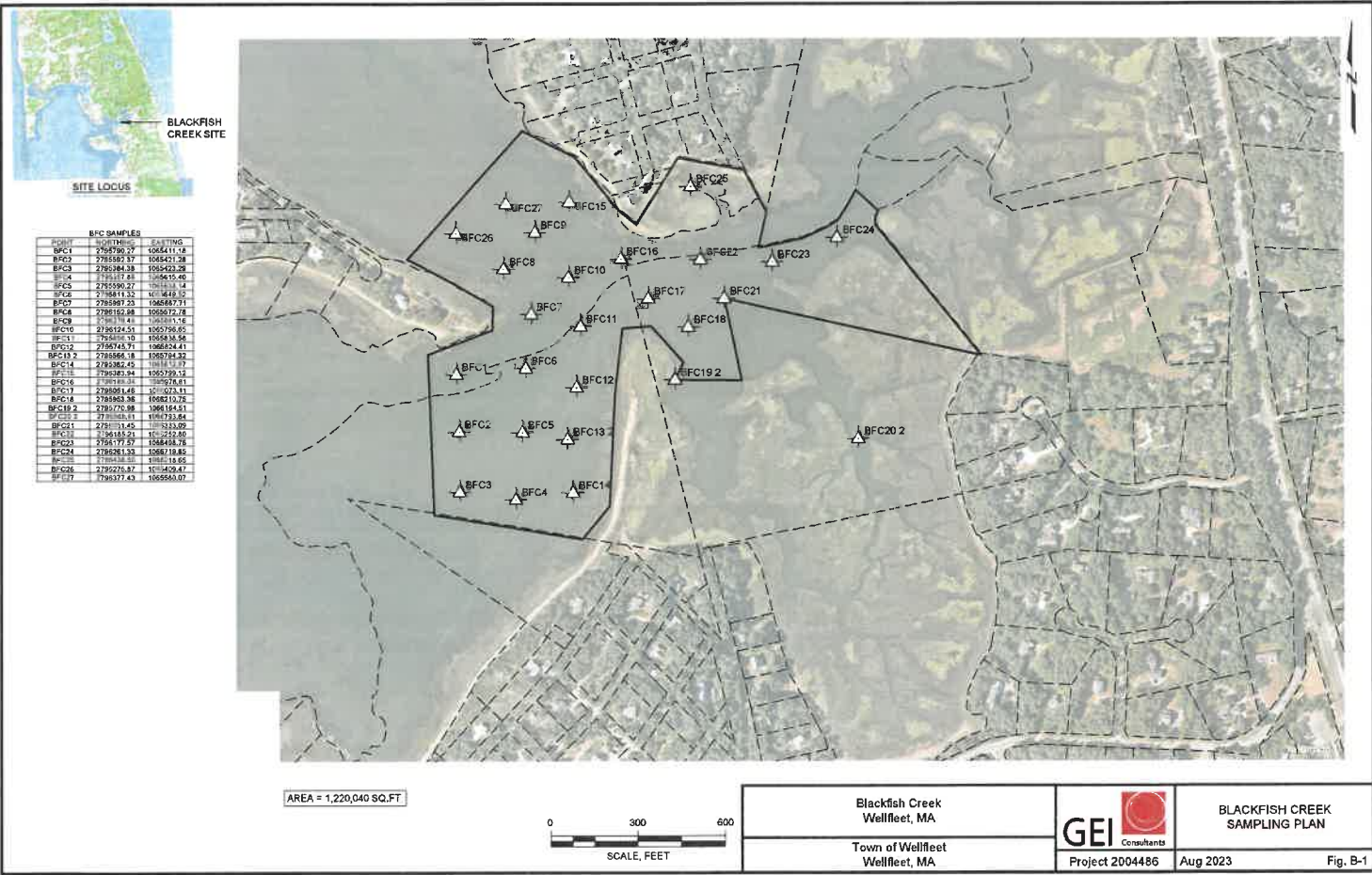
Sediment Characterization

Sediment samples were fairly uniform in appearance, consisting of sand with a layer of darker silty sediment and a thin layer of tidal deposition on top. Samples were combined into seven composite samples for grain size analysis. Samples 20 and 25 were analyzed as individual samples due to the differences in collection location.

Grain Size analysis conducted on June 30, 2023, shows that sediment is predominantly made up of medium to fine grain sand with some silt/clay fines. The distribution of fines can be seen to increase as you move to the East further into Blackfish Creek. Sample 20 and 25 have

the highest percentage of fines (31.2% and 14.2% respectively). See the attached analysis for grain size details.

AMR



FITZGERALD, JAMISON B \Working\WELLFLEET MA, TOWN CP2004486 Wellfleet Dredging Design\00_CAD\Figures\FIC.01 & FIG.02 GROUND TRUTHING.dwg - 7/19/2023

Appendix C – Long Term Management Plan

LONG TERM MANAGEMENT PLAN

for

Wellfleet Harbor Shellfish Habitat Restoration Plan

July 2023

Town of Wellfleet, MA

GEI Consultants, Inc.

July 2023

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I. Geographic Information

Site Name: Wellfleet Harbor Moorings – Area 2
Town/County: Wellfleet, Barnstable County, Massachusetts
Total Site Size: 28 acres

Type of Ownership: Municipal
Date Acquired: circa 1763

II. Introduction

A. Purpose of Management Plan

The purpose of this management plan is to ensure that the property is enhanced, managed and maintained in the Mitigation Plan referenced in Corps Permit Number NAE-2015-1414.

B. Long-Term Steward and Responsibilities

The Long-Term Steward of the site is the Town of Wellfleet. The Town of Wellfleet and subsequent Long-Term Stewards if the property is transferred, shall implement this management plan, managing and monitoring the property to preserve its habitat and conservation values. Before any action is taken to void or modify the deed (or easement), management plan, or long-term protection mechanism, including transfer of title to, or establishment of any other legal claims over the site, 60-day advance notification must be given to the U.S. Army Corps of Engineers district engineer.

C. Management Plan Review

The management plan will be reviewed at a minimum once every 5 years by the Long-Term Steward. The plan may be revised or supplemented with additional information and management recommendations. Any revisions other than edits that change the management actions beyond standard maintenance activities will be reviewed with the U.S. Army Corps of Engineers.

III. Property Description

A. Setting and Location

The compensatory property BFC 1 is located in Blackfish Creek. The property is intertidal mudflats, and contains no forest, field, upland, wetland, streams, etc.

BFC 1, is adjacent to Town property, Wellfleet Conservation Trust property, Massachusetts Audubon property, and upland private owners.

B. Directions and Access

Phase 2 Site – BFC 1 (41.91052210420094, -69.99373781217896):

To view:

From the intersection of Highway 6 and Main Street, Wellfleet proceed west on Highway 6 (actual compass heading is south) for 2.6 miles, passing LeCount Hollow Road on the left. In another .2-mile, Blackfish Creek is visible on the right.

To visit:

Continue on Highway 6 for .2 mile and turn right on Old Wharf Road. Proceed .7 mile to a small one car parking space on the right, with split rail fence and a No Vehicles but Walkers Welcome sign. Follow the path to the right, along the shoreline. It leads to a point between BCDMA 13 and BCDMA 14.

C. History and Land Use of Property

1. Acquisition History

Acquisition of the site, or more specifically authority for the site, is derived by MA GL Chapter 130 and the MA DMF Shellfish Planting Guidelines. Shellfishing habitat in these areas is regulated through the Municipal Propagation Permit as granted to the Town by the State.

2. Land Use

BFC 1 Site:

This site is intertidal. Currently, there is some shellfish harvesting in BFC 1, but it is not a very productive area.

There are no existing man-made features on the property – no roads, no trails, no buildings, no walls, no fencing, no structures of any kind, no boat launches, no historic areas.

3. Historic or Archaeological Sites

There are no known historic features or archaeological sites in the proposed intertidal mitigation site BFC 1.

4. Existing Easements or Other Restrictions

There are no existing easements, rights-of-ways, or leases held by others.

5. Legal Documents Appendix

The area, along with all shellfishing areas in Wellfleet, are protected by MA GL Chapter 130. Shellfishing habitat in these areas is regulated through the Municipal Propagation Permit as granted to the Town by the State and regulated under MA DMF Shellfish Planting Guidelines. The area will be marked as a shellfish restoration area on shellfish maps. Secondary uses would be limited to shellfishing; no mooring fields, municipal docks, or dredging shall be conducted in the mitigation area.

D. Adjacent Land Uses

The properties adjacent to the site and their current uses are:

BFC 1

- Blackfish Creek – shellfish harvesting, water activities, including swimming, boating and kayaking.
- Audubon Land
- Town of Wellfleet Land
- Wellfleet Conservation Trust Land
- Private Residence(s) - upland of intertidal site.

IV. Natural Resources

A. Aquatic Resources

The mitigation site consists of intertidal mudflats that are walkable at low tide. The site is an historic shellfish growing area that has had limited productivity in recent years for various reasons.

B. Baseline Description of Biological Resources

1. Biological Species and Communities

The Baseline survey for the BFC1 site was conducted in June 2023.

2. Endangered, Threatened and Rare Species, and Species of Special Concern

Red Knot, Roseate Tern

C. Soils & Geology

Sediment samples were fairly uniform in appearance, consisting of sand with a layer of darker silty sediment and a thin layer of tidal deposition on top. Samples were combined into seven composite samples and two individual samples for grain size analysis

Grain Size analysis conducted on June 30, 2023, shows that sediment is predominantly made up of medium to fine grain sand with some silt/clay fines. The distribution of fines can be seen to increase as you move to the East further into Blackfish Creek. See Appendix B for detailed GSA information.

D. Hydrology and Topography

Wellfleet Harbor, where the BFC site is located, has an average tidal exchange of 10 feet.

E. Summary of Restored or Enhanced Resources

This project will measure water quality, biodiversity, and oyster density to indicate enhancement success. Enhancement success for the following attributes is defined below for each standard.

Water quality: Upon construction of the project, water quality is expected to improve on the site during the 5 to 7 -year monitoring. Successful water quality is defined as an improvement in targeted metrics year over year for 5 to 7 years. Ultimately the site will exceed the metrics established in the baseline and is envisioned to meet EPA's definition of "excellent" water quality designation.

Oyster density: Success for the site is defined as surviving oyster density on the total acres of the

site at 25 oysters / m². This will be measured at baseline, with a linear progression over the 5 to 7 years.

Biodiversity: Success for this attribute is defined as increase over the baseline progressively for the 5 to 7 years. Each year biodiversity will increase, and at a minimum will not decrease. Given the transient nature of some of the species to be measured, it is understood that not all species will be found or increase year after year. Biodiversity success will be measured by overall species richness.

F. Threats (existing or potential)

There has not been motor vehicle activity on the proposed intertidal compensatory sites, nor will future vehicle activity be allowed.

1. Waste Disposal (such as dumping of trash or debris)

There has not been any dumping of trash or debris on the proposed intertidal compensatory sites, nor will such activity be allowed in the future.

2. Invasive Species, Pests and Pathogens

The project does not involve the introduction or removal of invasive species.

3. Vandalism and Encroachment (such as destruction of signs or other property, boundary encroachments, etc.)

There has been no vandalism or encroachment on the proposed intertidal compensatory site. The very nature of the site, i.e., intertidal with no physical structures located thereon, precludes vandalism from being a future concern. There may be shellfish signage installed in the future, similar to the shellfish signage elsewhere in Town. Historically, such signage has been respected and free of vandalism.

V. Management Vision & Goals

Maintain the property to support the propagation of sustainable shellfish populations.

A. Permitted Uses:

Shellfish harvesting consistent with the terms of the Mitigation Plan and subject to the guidelines and regulations established by the Commonwealth of Massachusetts and Town of Wellfleet and enforced by the Wellfleet Shellfish Department.

Due to Division of Marine Fisheries regulations, the area cannot be closed to harvest for longer than a three consecutive year period. The Town of Wellfleet Shellfish Department will open the area for harvest in such a way as to ensure minimum density of oyster populations and continued overall productivity of the mitigation area. Consistent with other shellfish designations such as conditional, prohibited, seasonal closures and rotations, and the required harvest openings, this area will be managed to achieve a density of 25 oysters/m² with the goal for it to become self-sustaining and providing enhanced ecoservices.

Consistent with enhancement goals and achieving appropriate oyster density, the work plan shall include the following activities performed by the Shellfish Department:

- Late fall each year, conduct site visits to ascertain spat recruitment on the cultch strips and to evaluate presence of legal-sized oysters in the area.
- Conduct rudimentary counts of legal-sized oyster populations and determine which cultch strips or areas can support harvest and for how long.
- Take into consideration the presence of quahogs and other shellfish, such as soft-shell clams.
- Consider impacts of both recreational and commercial harvest openings.
- Develop a harvest plan with proposed opening dates and buoy placement to delineate the open area.
- Bring the plan to the Shellfish Advisory Board and solicit community feedback. Revise the harvest plan, as deemed appropriate, with shellfishermen's feedback.
- Present the final harvest plan to the Selectboard to keep them informed.

B. Prohibited Uses:

- No dogs; no pets.
- No off-road motorized vehicles.
- No camping.
- No fires.
- No cutting or removal of vegetation

C. Public Use Guidelines:

- Passive visual enjoyment.
- Respect abutting/upland private property.
- Boating and kayaking
- Fishing
- Shellfish harvesting, subject to state and town regulations.

VI. Management Actions

A. Natural Resources

Action: At least one annual walk-through survey will be conducted to qualitatively monitor the general condition of these habitats. General topographic conditions, hydrology, general vegetation cover and composition, invasive species, erosion, will be noted, evaluated and mapped during a site examination. Notes to be made will include observations of species encountered, water quality, general extent of wetlands and streams, and any occurrences of erosion, structure failure, or invasive or non-native species establishment.

B. Objectives: Monitor population status and trends. Manage to maintain habitat for an oyster population density of 25 oysters/ m².

Action: Monitor status every year by conducting population assessment surveys. The annual survey dates will be selected during the appropriate period as identified by the applicable agencies and will generally occur in May and October of each year. Occupied habitat will be mapped and numbered to allow repeatable data collection over

subsequent survey years.

Action: Visually observe for changes to occupied habitat, such as changed hydrology or vegetation composition. Record any observed changes. Size of population (1 acre, etc.).

Action: Implement other actions that enhance or monitor habitat characteristics to maintain oyster densities at 25 oysters / m².

C. Infrastructure and Facilities, Security and Public Access

1. Gates, Parking, Fences, Signage, and Property Boundaries

The intertidal habitat precludes the creation of trails. There are some limited areas where there is public parking and access. This area will be accessed primarily by walking, boat, skiff, and kayak.

Signage will be installed indicating it is a closed area for shellfish restoration. When quahogs from the Taunton River are planted there will also be signs up for “No Shellfishing Contaminated Area”.

2. Trash and Trespass

Trash and trespass issues will be monitored and enforced by the Shellfish Department.

VII. Funding and Task Prioritization

- A.** The funds for this project will be coming out of the Town’s dredging fund. When monies in that fund need to be replenished, the Dredging Task Force and/or Harbormaster will create a funding article for approval by voters at the Annual Town Meeting.

VIII. Literature Cited

Report of the Oyster Metrics Workgroup, “Restoration Goals, Quantitative Metrics and Assessment Protocols for Evaluating Success on Restored Oyster Reef Sanctuaries” Submitted to the Sustainable Fisheries Goal Implementation Team of the Chesapeake Bay Program, December 2011, [Restoration Goals, Quantitative Metrics and Assessment Protocols \(oyster-restoration.org\)](http://www.oyster-restoration.org/RestorationGoals_QuantitativeMetricsandAssessmentProtocols)

Dissanayake, N. et. al, “Ecological functioning of mudflats: global analysis reveals both regional differences and widespread conservation of functioning” *Mar Ecol Prog Ser.*, Vol. 604, pp. 1 – 20, October 4 2018

Water Quality Data from Center for Coastal Studies can be accessed at:

<http://www.capecodbay-monitor.org/stations/105>

**Appendix D– Table of Potential Adaptive and Long Term
Management Scenarios**

MITIGATION PLAN SCENARIOS

| PRIOR TO ISSUANCE OF CERTIFICATE OF COMPLIANCE | | |
|--|----------------------------|--|
| Scenario | Applicable Document | Required Action |
| Year Seven - oyster population has not reached 25/square meter. | Adaptive Management Plan | Continue the cultch and seed for additional years and/or implement additional actions to increase the population. However, if the oyster population has steadily increased in prior years (but not reached 25/square meter) and the other metrics (biodiversity and water quality) have improved, USACE may issue a Certificate of Compliance. |
| Years One through Seven - severe weather event(s) destroys, or disease decimates the oyster population. | Adaptive Management Plan | Year Two or similar effort, and continue with the Plan, thus adding additional years to the mitigation plan timeline. Jump start the enhancement by following Year Two cultch / seed protocol or similar actions as proposed by the Shellfish Department and reviewed with the USACE. (Year Two protocol includes 10 lines of cultch and 80,000 to 100,000 seed) |
| During the Workplan period (i.e., after Year Seven but before a Certificate of Compliance has been issued) - severe weather or disease destroys the oyster population. | Adaptive Management Plan | Viewed as if this event had occurred after having already received a Certificate of Compliance. Jumpstart by implementing the Year Two components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE. The number of restarts or Year Two initiatives will not exceed five (5) attempts over the life of the Mitigation Plan, after which no further action is required. |

MITIGATION PLAN SCENARIOS

| AFTER ISSUANCE OF CERTIFICATE OF COMPLIANCE | | |
|---|----------------------------|---|
| Scenario | Applicable Document | Required Action |
| Years 1 - 10, AFTER issuance of Certificate of Compliance - oyster population falls below 25 /square meter. | Long Term Management Plan | The Shellfish Department will close the area (consistent with MA DMF regulations) to allow the population to naturally increase. If populations do not recover (after one year) or continue to fail, there would be a jump start by implementing the Year 2 components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE. |
| Years 1- 10, AFTER issuance of Certificate of Compliance - severe weather event or disease destroys the oyster population | Long Term Management Plan | Jump start by implementing the Year 2 components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE. |
| Years 10 and beyond, AFTER issuance of Certificate of Compliance - severe weather event or disease destroys the oyster population | Long Term Management Plan | Jump start by implementing the Year 2 components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE. |
| Years 10 THROUGH 15 AFTER Issuance of Certificate of Compliance - oyster population falls below 25 /square meter. | Long Term Management Plan | Jump start by implementing the Year 2 components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE. |

MITIGATION PLAN SCENARIOS

Years 16 and beyond, AFTER Issuance of Certificate of Compliance - oyster population falls below 25 /square meter.

Long Term Management Plan

Jump start by implementing the Year 2 components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE.

MITIGATION PLAN SCENARIOS

| ANYTIME PRIOR TO OR AFTER ISSUANCE OF CERTIFICATE OF COMPLIANCE | | |
|--|----------------------------|---|
| Scenario | Applicable Document | Required Action |
| Town desires to opt out of the mitigation Plan | Opt Out Clause | <p>The opt Out Clause can be invoked by the Town at any time throughout the life of the Mitigation Plan.</p> <p>Pay a permit fee for the required 7.16 mitigation credits (or fewer credits if mitigation plan results at that time has resulted in a reduction to required credits). The amount of the Fee will be based on the MA In Lieu Fee (ILF) Program, then pertaining.</p> |

MITIGATION PLAN SCENARIOS

| REPORTING REQUIREMENTS | | |
|--|---|---|
| Self-Verification Definition | Self-verification shall include information on oyster density in the reporting year; dates that the Blackfish Creek site has been opened for harvest, and the extent of harvest (commercial, recreational, etc.) for each year since the previous report. | |
| Scenario | Applicable Document | Required Action |
| Years 1 through 10 AFTER Issuance of Certificate of Compliance. | Self-verification shall be provided every two years. With the first report being two years after issued certificate of compliance. | Continued reporting maintains the status of the self-reporting requirements and as such satisfies the permit requirement for all future dredging in Area 2, South Mooring Field, regardless of the time since the previous dredging. Continued success of the blackfish mitigation site offsets any future potential dredging impacts in the footprint of Area 2. |
| Years 11 through 15 AFTER Issuance of Certificate of Compliance. | Self-verification shall be provided every five years. | Continued reporting maintains the status of the mitigation plan and as such satisfies the permit requirement for all future dredging in Area 2, South Mooring Field, regardless of the time since the previous dredging. Continued success of the blackfish mitigation site offsets any future potential dredging impacts in the footprint of Area 2. |
| Years 16 AFTER Issuance of Certificate of Compliance. | Self-verification shall be provided every five years | Continued reporting maintains the status of the mitigation plan and as such satisfies the permit requirement for all future dredging in Area 2, South Mooring Field, regardless of the time since the previous dredging. Continued success of the blackfish mitigation site offsets any future potential dredging impacts in the footprint of Area 2. |

MITIGATION PLAN SCENARIOS

After Year15 following Issuance of Certificate of Compliance.

Permit Modification Request

The Town can request to modify the permit to submit self-verification every 10 years or so or relinquish monitoring reports at 15 years post certification.

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| FY 2024 | | | FY 2025 | | | |
|---|---------|------------|-------------|---------|------------|---|
| Item | amount | price | total | amount | price | total |
| Racks | 55 | \$100.00 | \$5,500.00 | | | |
| 4mm bags | 100 | \$7.75 | \$775.00 | | | |
| 9mm bags | 333 | \$7.75 | \$2,580.75 | | | |
| Bag Assembly | 433 | \$2.00 | \$866.00 | | | |
| Zipties | 1332 | \$8.60 | \$120.40 | | | |
| Condos - 8 bay | 13 | \$240.00 | \$3,120.00 | | | |
| Candy Striped Poles | 5 | \$10.00 | \$50.00 | | | |
| Buoys | 10 | \$22.00 | \$220.00 | | | |
| Poly Line Roll | 1 | \$150.00 | \$150.00 | | | |
| Cultch | 2.5 | \$1,250.00 | \$3,125.00 | 2.5 | \$1,250.00 | \$3,125.00 |
| Fuel (cultching and relay) | 96 | \$5.29 | \$507.84 | 96 | \$5.29 | \$507.84 |
| Oil (cultching and relay) | 4 | \$30.00 | \$120.00 | 4 | \$30.00 | \$120.00 |
| Oyster Seed R6-8 Hatchery (100K/price is per 1,000) | 100 | \$37.85 | \$3,785.00 | 100 | \$37.85 | \$3,785.00 |
| Quahog Relay | 0 | 0 | 0 | 70 | \$27.25 | \$1,907.50 |
| JM OT (cultching/relay) | 20 | \$53.27 | \$1,065.47 | 20 | \$53.27 | \$1,065.47 |
| CM OT (cultching/relay) | 20 | \$47.69 | \$953.75 | 20 | \$47.69 | \$953.75 |
| WSD labor planting and farm ops | IN KIND | | | IN KIND | | |
| Baseline Survey | | | \$4000 | | | |
| Chapter 91 Permit Amendment | | | \$40,000 | | | |
| Monitoring Survey(s) | | | \$20,000 | | | \$20,000.00 |
| | | | \$86,939.21 | | | \$31,464.56 |
| | | | | | | <i>*same for five years but we need to expect increases in prices</i> |

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**Appendix D– Table of Potential Adaptive and Long Term
Management Scenarios**

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MITIGATION PLAN SCENARIOS

| PRIOR TO ISSUANCE OF CERTIFICATE OF COMPLIANCE | | |
|--|--------------------------|--|
| Scenario | Applicable Document | Required Action |
| Year Seven - oyster population has not reached 25/square meter. | Adaptive Management Plan | Continue the cultch and seed for additional years and/or implement additional actions to increase the population. However, if the oyster population has steadily increased in prior years (but not reached 25/square meter) and the other metrics (biodiversity and water quality) have improved, USACE may issue a Certificate of Compliance. |
| Years One through Seven - severe weather event(s) destroys, or disease decimates the oyster population. | Adaptive Management Plan | Year Two or similar effort, and continue with the Plan, thus adding additional years to the mitigation plan timeline. Jump start the enhancement by following Year Two cultch / seed protocol or similar actions as proposed by the Shellfish Department and reviewed with the USACE. (Year Two protocol includes 10 lines of cultch and 80,000 to 100,000 seed) |
| During the Workplan period (i.e., after Year Seven but before a Certificate of Compliance has been issued) - severe weather or disease destroys the oyster population. | Adaptive Management Plan | Viewed as if this event had occurred after having already received a Certificate of Compliance. Jumpstart by implementing the Year Two components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE. The number of restarts or Year Two initiatives will not exceed five (5) attempts over the life of the Mitigation Plan, after which no further action is required. |

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MITIGATION PLAN SCENARIOS

| AFTER ISSUANCE OF CERTIFICATE OF COMPLIANCE | | |
|---|---------------------------|---|
| Scenario | Applicable Document | Required Action |
| Years 1 - 10, AFTER issuance of Certificate of Compliance - oyster population falls below 25 /square meter. | Long Term Management Plan | The Shellfish Department will close the area (consistent with MA DMF regulations) to allow the population to naturally increase. If populations do not recover (after one year) or continue to fail, there would be a jump start by implementing the Year 2 components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE. |
| Years 1- 10, AFTER issuance of Certificate of Compliance - severe weather event or disease destroys the oyster population | Long Term Management Plan | Jump start by implementing the Year 2 components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE. |
| Years 10 and beyond, AFTER issuance of Certificate of Compliance - severe weather event or disease destroys the oyster population | Long Term Management Plan | Jump start by implementing the Year 2 components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE. |
| Years 10 THROUGH 15 AFTER Issuance of Certificate of Compliance - oyster population falls below 25 /square meter. | Long Term Management Plan | Jump start by implementing the Year 2 components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE. |

DRAFT

MITIGATION PLAN SCENARIOS

Years 16 and beyond, AFTER
Issuance of Certificate of
Compliance - oyster population
falls below 25 /square meter.

Long Term Management Plan

Jump start by implementing the Year 2 components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE.

DRAFT

MITIGATION PLAN SCENARIOS

| ANYTIME PRIOR TO OR AFTER ISSUANCE OF CERTIFICATE OF COMPLIANCE | | |
|---|---------------------|---|
| Scenario | Applicable Document | Required Action |
| Town desires to opt out of the mitigation Plan | Opt Out Clause | <p>The opt Out Clause can be invoked by the Town at any time throughout the life of the Mitigation Plan.</p> <p>Pay a permit fee for the required 7.16 mitigation credits (or fewer credits if mitigation plan results at that time has resulted in a reduction to required credits). The amount of the Fee will be based on the MA In Lieu Fee (ILF) Program, then pertaining.</p> |

DRAFT

MITIGATION PLAN SCENARIOS

| REPORTING REQUIREMENTS | | |
|--|---|---|
| Self-Verification Definition | Self-verification shall include information on oyster density in the reporting year; dates that the Blackfish Creek site has been opened for harvest, and the extent of harvest (commercial, recreational, etc.) for each year since the previous report. | |
| Scenario | Applicable Document | Required Action |
| Years 1 through 10 AFTER Issuance of Certificate of Compliance. | Self-verification shall be provided every two years. With the first report being two years after issued certificate of compliance. | Continued reporting maintains the status of the self-reporting requirements and as such satisfies the permit requirement for all future dredging in Area 2, South Mooring Field, regardless of the time since the previous dredging. Continued success of the blackfish mitigation site offsets any future potential dredging impacts in the footprint of Area 2. |
| Years 11 through 15 AFTER Issuance of Certificate of Compliance. | Self-verification shall be provided every five years. | Continued reporting maintains the status of the mitigation plan and as such satisfies the permit requirement for all future dredging in Area 2, South Mooring Field, regardless of the time since the previous dredging. Continued success of the blackfish mitigation site offsets any future potential dredging impacts in the footprint of Area 2. |
| Years 16 AFTER Issuance of Certificate of Compliance. | Self-verification shall be provided every five years | Continued reporting maintains the status of the mitigation plan and as such satisfies the permit requirement for all future dredging in Area 2, South Mooring Field, regardless of the time since the previous dredging. Continued success of the blackfish mitigation site offsets any future potential dredging impacts in the footprint of Area 2. |

DRAFT

MITIGATION PLAN SCENARIOS

| | | |
|--|------------------------------------|--|
| <p>After Year15 following Issuance of Certificate of Compliance.</p> | <p>Permit Modification Request</p> | <p>The Town can request to modify the permit to submit self-verification every 10 years or so or relinquish monitoring reports at 15 years post certification.</p> |
|--|------------------------------------|--|



Ryan Curley <ryan.d.curley@gmail.com>

FW: Wellfleet Harbor Dredge Mitigation Plan

Ryan Curley <ryan.d.curley@gmail.com>

Tue, Aug 8, 2023 at 3:12 PM

To: Helen Miranda Wilson <helmirwil@c4.net>, Shellfish Advisory Board <SAB@wellfleet-ma.gov>

At this point a funding article can not make the warrant. There is a possibility of doing it at the annual town meeting and funding year 1 via the current borrowing authorization (I need to note that the DOR objected to this approach with Maurices). If there isn't funding approved by the town meeting, it will come from the existing line items of the Shellfish Department. The current borrowing authorization will be expended either this fiscal year or next. I do not have an exact balance remaining but over \$5m has been expended for the dredging and associated costs to date.

----- Forwarded message -----

From: Carolyn M. Murray <CMurray@k-plaw.com>

Date: Thu, Jul 27, 2023 at 12:19 PM

Subject: Re: Wellfleet Harbor Dredge Mitigation Plan

To: Ryan Curley <ryan.d.curley@gmail.com>

Cc: Richard Waldo <richard.waldo@wellfleet-ma.gov>

Ryan,

It could be either. If Town employees place the cultch, inspect and monitor the sites, they do so as part of their regular duties and do not receive any additional compensation for inspecting a site subject to the Mitigation Agreement as opposed to inspecting other sites. In this instance, the costs of employee wages to inspect are simply part of the operating budget, with no additional cost to be incurred. This is no different than a road repavement project, for example, where a Highway Superintendent or DPW Director inspects the work performed by a third party.

It is my understanding that Town employees currently cultch certain areas now, not as part of the Mitigation Agreement, so there must be an existing line item in the operating budget from which cultch is purchased. If we needed additional funds to purchase cultch under the Mitigation Agreement, we could use these funds already in the operating budget or, if we want to track the costs associated with the dredging and Mitigation Agreement separately, **the better approach would be to seek funding under a separate article at Town Meeting.**

Sent from my iPhone

On Jul 27, 2023, at 12:02 PM, Ryan Curley <ryan.d.curley@gmail.com> wrote:

Thank you for the prompt response. Would it be funded via a separate article, or would it be in the annual budget at next year's town meeting?

I know staff was not expecting any of the costs associated with the Mitigation Agreement to come from their budgets, and the board was told it would not come out of their current budgets as well. The current borrowing authorization has been spent down, I do not have an exact number, but there is a high degree of probability that the current borrowing authorization will be entirely spent in FY24.

From: Carolyn M. Murray <CMurray@k-plaw.com>

Sent: Thursday, July 27, 2023 11:45 AM

To: Ryan Curley <ryan.d.curley@gmail.com>

Cc: Richard Waldo <richard.waldo@wellfleet-ma.gov>

Subject: Re: Wellfleet Harbor Dredge Mitigation Plan

Ryan,

I have reviewed the full Mitigation Agreement as it existed about a month ago. I have not seen a revised draft where Herring River was dropped as a mitigation site.

My understanding as to the approximately \$50,000/year cost to inspect, prepare reports and even to place cultch is that this will be done by Town employees in the course of their regular duties and so the costs associated with those tasks will be through the annual operating budget, not the dredging borrowing article. Even if a third party will impeccably and monitor, it is still my opinion that the \$7.5 million could be used to pay a third party for tasks required under the Mitigation Agreement.

I recognize that not having a definitive end date-although I understand this may continue for 5 or 10 years until a compliance certificate is achieved- make it difficult to estimate the total cost of the project. **This is one of the reasons I suggested inserting the language that the Town's duties and obligations under the Mitigation Agreement are subject to appropriation of funds.**

Sent from my iPhone

On Jul 27, 2023, at 10:54 AM, Ryan Curley <ryan.d.curley@gmail.com> wrote:

Hi Carolyn,

There was never a question of whether the borrowing previously approved for dredging could be utilized for permitting expenses. The question I have been asking is not due to a cost associated with the initial implementation if there was a definitive end date that would represent the total expenditures. However, there is no such end date.

The question was about the operating costs associated with the agreement that would continue years into the future for an indeterminate period of time. In the mitigation agreement, there is an annual operating cost of around \$51,000 (table on page 11) with no definitive end date. Those costs include \$20,000 for a third-party monitor and \$30,000 in clutch seed and labor costs. While the town hopes to enter into the less intensive period of the monitoring plan after year 5, we can only do so if the performance metrics have been met. There is a significant degree of uncertainty if the metrics will be met by year 5 of the implementation phase because we are dealing with living animals subject to the vagaries of nature. At a minimum, this cost will go through year 5 of the agreement; however, this period could extend further into the future as specified in Appendix D, Table of Potential Adaptive and Long-Term Management Scenarios. Multiple scenarios would continue the implementation period further into the future. The first scenario is if the metric of 25 oysters per sq meter is not met by year 7 that the required action is to:

"continue the culch and seed for additional years and or implement additional actions to increase the population" see page 58 of the pdf.

In the case of weather or disease not reaching the metrics by year 7, the adaptive management plan calls for additional years to the implementation phase.

Additional factors could be weighed in favor of achieving compliance or against attaining compliance.

There is also a permanent long-term maintenance plan that the town is responsible for. This is the significantly less costly portion of the mitigation plan. Still, it is a permanent ongoing expense. In years 1-10, after receiving a Certificate of Compliance, the Long Term Management Plan, if the metrics then fall below the required metrics, including due to weather or disease or just that it drops below 25 oysters per square meter that the plan would then revert to the year two portion of the implementation phase. There is no cost estimate on the three different phases of the Long Term Management Plan after a certificate of compliance is issued, years 1-10, years 10-15, and years 16 and after

8/9/23, 1:34 PM

Gmail - FW: Wellfleet Harbor Dredge Mitigation Plan

So, a **\$51,000** yearly cost will continue for a time to be determined. Hence, there is no definitive total cost associated with the implementation phase due to the uncertainty of its end date or the possible need to expand the efforts to meet the metrics.

Also, have you been able to review the mitigation agreement in full? The Herring River site was dropped a while ago.

On Thu, Jul 27, 2023, 8:33 AM Richard Waldo <Richard.Waldo@wellfleet-ma.gov> wrote:

Please read below, it is our plan to move forward with submission of the mitigation plan to the ACOE.

Richard J. Waldo
Town of Wellfleet - Town Administrator
300 Main Street
Wellfleet MA 02667
Phone 508-349-0300 ext. 1115
Fax 508-349-0305
Email: richard.waldo@wellfleet-ma.gov

From: Carolyn M. Murray <CMurray@k-plaw.com>
Sent: Wednesday, July 26, 2023 4:14 PM
To: Richard Waldo <Richard.Waldo@wellfleet-ma.gov>
Subject: Wellfleet Harbor Dredge Mitigation Plan

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Rich,

You requested an opinion as to whether the Town Meeting vote authorizing \$7.5 million for the harbor dredging project can be applied towards certain costs associated with the proposed Harbor Dredge Mitigation Plan to be entered into between the Town and the Army Corps of Engineers. As you are aware, the April 2019 Annual Town Meeting approved the following motion under Article 12:

ARTICLE 12: Wellfleet Harbor Dredging

MOTION: I move that the sum of **\$7,500,000** is appropriated for the purpose of **paying the costs of dredging of the Wellfleet Harbor and for the payment of all other**

costs incidental and related thereto, and that to meet this appropriation, the Town Treasurer, with the approval of the Selectmen, be and hereby is authorized to borrow said amount under and pursuant to G. L. c. 44, §7 (9) or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; provided, however that no sums shall be borrowed or expended hereunder unless and until the Town shall have voted to exclude the amounts necessary to pay debt service on any bonds or notes issued pursuant to this vote from the limits of G. L. c. 59, §21C (Proposition 2½). Further, any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount. (Emphasis added.)

The Town is in the process of negotiating a mitigation agreement with the Army Corps of Engineers, under which the Town agrees to cultch certain areas to promote oyster propagation and improve water quality with respect to two mitigation areas: one along Herring River and another along Blackfish Creek. The cultch would be purchased from a third-party and Town employees would place the cultch and inspect the propagation progress in the mitigation areas. Town employees would be paid their regular salaries through the annual operating budget. You have informed me that the Mitigation Plan (or alternatively, payment of a fee in lieu of mitigation) is a condition of the Town obtaining the necessary permits to conduct the harbor dredging. Since the Mitigation Plan is a condition of securing a permit to dredge the harbor, it is my opinion that the costs associated with implementing the Mitigation Plan constitute "costs incidental and related thereto" and, therefore, the above appropriation may be used to implement the Mitigation Plan.

Please contact me with any further questions.

Thank you,

Carolyn M. Murray, Esq.

KP | LAW

101 Arch Street, 12th Floor
Boston, MA 02110
O: (617) 654 1726
F: (617) 654 1735
C: (617) 257 9581
cmurray@k-plaw.com
www.k-plaw.com

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8/9/23, 1:34 PM

Gmail - FW: Wellfleet Harbor Dredge Mitigation Plan

—
Sincerely,
Ryan Curley
(508)-246-4718
Ryan.D.Curley@gmail.com

2 attachments



image001.png
7K

 **mitigation 7.18.23.pdf**
2873K



Ryan Curley <ryan.d.curley@gmail.com>

Fwd: Wellfleet: Harbor Dredging Mitigation Plan

Richard Waldo <Richard.Waldo@wellfleet-ma.gov>
To: Ryan Curley <ryan.d.curley@gmail.com>
Cc: Barbara Carboni <Barbara.Carboni@wellfleet-ma.gov>

Tue, Jul 18, 2023 at 3:40 PM

Please see below.

Richard J. Waldo
Town of Wellfleet - Town Administrator
300 Main Street
Wellfleet MA 02667
Phone 508-349-0300 ext. 1115
Fax 508-349-0305
Email: richard.waldo@wellfleet-ma.gov



From: Carolyn M. Murray <CMurray@k-plaw.com>
Sent: Tuesday, July 18, 2023 3:12 PM
To: Richard Waldo <Richard.Waldo@wellfleet-ma.gov>
Subject: RE: Wellfleet: Harbor Dredging Mitigation Plan

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Rich,

The question raised by the Chair can be addressed by adding the following provision to the mitigation plan.

AVAILABILITY OF FUNDS: It is expressly understood that any duties to be performed by the Town hereunder or any supplies or services to be procured to carry out the Town's obligations under this Mitigation Plan are subject to the appropriation of funds by the Wellfleet Town Meeting.

8/9/23, 1:36 PM

Gmail - Fwd: Wellfleet: Harbor Dredging Mitigation Plan

Let me know if you have any further questions.

Thank you,

Carolyn M. Murray, Esq.

KP | LAW

101 Arch Street, 12th Floor
Boston, MA 02110
O: (617) 654 1726
F: (617) 654 1735
C: (617) 257 9581
cmurray@k-plaw.com
www.k-plaw.com

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From: Richard Waldo <Richard.Waldo@wellfleet-ma.gov>
Sent: Tuesday, July 18, 2023 2:05 PM
To: Carolyn M. Murray <CMurray@k-plaw.com>
Subject: FW: Wellfleet: Harbor Dredging Mitigation Plan

FYI in yellow.

Richard J. Waldo
Town of Wellfleet - Town Administrator
300 Main Street
Wellfleet MA 02667
Phone 508-349-0300 ext. 1115
Fax 508-349-0305
Email: richard.waldo@wellfleet-ma.gov



From: Ryan Curley <ryan.d.curley@gmail.com>
Sent: Tuesday, July 18, 2023 1:54 PM
To: Richard Waldo <Richard.Waldo@wellfleet-ma.gov>; Barbara Carboni <Barbara.Carboni@wellfleet-ma.gov>
Subject: Re: Wellfleet: Harbor Dredging Mitigation Plan

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That was not my question, but it is helpful non the less. My question is that the Mitigation agreement commits the Town to assume certain costs that are not capital costs and instead are operating expenses. However, there has been no appropriation approved by the town meeting to fund these operating costs, and thus absent the approval of the town meeting, the town can not enter into a contract for these expenses. Specifically, the third-party monitoring is a requirement in the Mitigation agreement and would be a contracted service, but we have no funding for such a service. The propagation could be funded by the shellfish propagation fund, but that will be an issue, and it would be better to have an appropriation made for shellfish propagation related to the mitigation agreement.

On Mon, Jul 17, 2023 at 1:28 PM Richard Waldo <Richard.Waldo@wellfleet-ma.gov> wrote:

Please see opinion from counsel below on financial considerations with entering into a long term commitment with the Army Corp of Engineers.

I have another question into them regarding the necessity of an easement on Audubon property for clutching and monitoring activities. They have assured me I'll have an opinion before tomorrow nights meeting.

Richard J. Waldo, P.E.

Town Administrator

Town of Wellfleet

Office: (508) 349-0349

Cell: (508) 424-8940

Richard.Waldo@wellfleet-ma.gov

Begin forwarded message:

From: "Carolyn M. Murray" <CMurray@k-plaw.com>
Date: July 12, 2023 at 7:53:03 AM EDT
To: Richard Waldo <Richard.Waldo@wellfleet-ma.gov>
Cc: "Katharine L. Klein" <KKlein@k-plaw.com>
Subject: Wellfleet: Harbor Dredging Mitigation Plan

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Rich,

You have asked whether the Harbor Mitigation Plan to be entered into between the Army Corps of Engineers and the Town, and which may extend for 5-10 years, is subject to the 3-year limit on contracts found in G.L. Chapter 30B. In my opinion, this is not a contract subject to Chapter 30B, and therefore, the 3-year limit on contracts is not applicable.

As you are aware, G.L. Chapter 30B, §12(b) states: "(b) Unless authorized by majority vote, a procurement officer shall not award a contract for a term exceeding three years, including any renewal, extension, or option. Such authorization may apply to a single contract or to any number or types of contracts, and may specify a uniform limit or different limits on the duration of any such contracts." However, this limitation only applies to contracts subject to this statute. Chapter 30B, §1 outlines the types of contracts the statute governs, namely the procurement of supplies and services or the acquisition and disposition of real estate. Under the Mitigation Plan, the Town is not procuring supplies or services of a third party; rather, the Town is committing that the Town, through its employees and agents will undertake certain obligations, such as the inspection, monitoring and reporting on the mitigation areas. Where the Town is committing to perform certain tasks under the Mitigation Plan, Chapter 30B and its 3-year limit on the term of a contract do not apply. This is not to suggest, however, that no work to be performed under the Mitigation Plan will be subject to Chapter 30B. For example, if the Town purchases cultch from a third-party or hires a contractor to place the cultch in the designated mitigation areas, that purchase of supplies or procurement of services would be subject to Chapter 30B. Also, as we have discussed previously, if easements are required on Town or private property to carry out the Mitigation Plan, the acquisition or disposition of such easements would be subject to Chapter 30B, §16.

Further, it is my understanding that the Town is receiving some financial assistance from either the state or federal government for the harbor dredging project. Chapter 30B, §12 (34) (d) provides: "Where a procurement involves the expenditure of federal assistance or contract funds, the provisions of this chapter shall not apply to the extent that such provisions prevent compliance with mandatory provisions of federal law and regulations." Although I am not aware of any specific provisions of federal law that would impact compliance with Chapter 30B, it is possible that this provision could be applicable to certain tasks under the Mitigation Plan.

Let me know if you have any further questions.

Thank you,

Carolyn M. Murray, Esq.

KP Law, P.C.

--

Sincerely,

Ryan Curley

(508)-246-4718

Ryan.D.Curley@gmail.com



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: August 22, 2023

III

MINUTES

| | |
|-------------------------|---|
| REQUESTED BY: | Executive Assistant |
| DESIRED ACTION: | Approval of Amended Meeting Minutes of July 11, 2023, July 13, 2023, & July 18, 2023, and July 25, 2023, |
| PROPOSED MOTION: | I move to approve the amended minutes of July 11, 2023, July 13, 2023, and July 18, 2023, and July 25, 2023. |
| ACTION TAKEN: | Moved By: _____ Seconded By: _____ Condition(s): |
| VOTED: | Yea _____ Nay _____ Abstain _____ |

**Wellfleet Selectboard
Hybrid Meeting
Zoom/ 715 Old King's Highway, Wellfleet
Tuesday July 11, 2023
Meeting Minutes**

Members Present: Ryan Curley, chair; Barbara Carboni, Vice Chair; Michael DeVasto, Kathleen Bacon, John Wolf

Others Present: Richard Waldo, Town Administrator; Rebekah Eldridge, Executive Assistant; Kevin LaRocco, Deputy Chief of Police; Suzanne Grout Thomas, Community Service/Beach Director; Jay Pawa, Sacred Surf School, LLC; Leigh Cremin, Collective Dynamics; Rebecca Arnoldi, Be Body & Earth; Jeffrey Korgen, Planning Board Applicant; Chris Merl, Resident; Tim Sayre; Dan Murray, owner of the Beach Comber; Curt Felix; Suzane Reverby, Kevin LaRocco; Deputy Chief; Lt. Turner; Suzanne Grout Thomas, Beach/Community Service Director; Rebecca Arnoldi, applicant for use of town property, Gerry Parent, Chair of the Wellfleet Planning Board

Chair Called the meeting to order at: 7:00pm

I. *Announcements, Open Session and Public Comments*

Note: *Public comments are limited to no more than two minutes per speaker. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.*

Merl spoke to the board about a scallop dinner at the Congregational Church on the 16th of July, he also explained he will not be able to attend the July 13th meeting as an applicant as he will need to be fishing. Merl spoke to the board about his concerns regarding the conduct of Board Member DeVasto.

Murray, General Manager of the Beach Comber: he spoke about the Cahoon Hollow beach issues, he questioned the enforcing of alcohol drinking on the beach. He read a complaint letter to the board about the vibe that is being killed on the beach. He explained there are many other ways that the town can enforce safety.

Bacon spoke to the board; stating that there has been 2 members of the board that have asked for a reorganization of the board and has been ignored and wanted this known for public record.

Felix spoke to the board stating that there is a crisis in leadership, stating there was significant overreach because of the chair, and he is stating that if the overreaching continues from the chair there will be more issues in Wellfleet. He stated he felt the Selectboard should be reorganized to keep in the spirit of.

Reverby, spoke to the board about the issues about the board and stated there needs to be reorganization of the board before the town goes into receivership.

II. *Consent Agenda*

There were no items on the consent agenda to be voted on or approved.

III. Community Updates

A. Police Department fourth of July weekend update

LaRocco and Turner briefed the board and public on the weekend of July 4th he stated there was a letter to the board, with a decrease in busses due to the weather. He stated this year there were 36 buses compared to last year there were 109 buses. Wolf questioned the Chief about the large presence of the police at the beach. LaRocca explained that they are there to educate the public with the new regulations not to ruin the beachgoers time on the beach. The board spoke to the Lt. and Chief thanking them for their service and time on the beach. Waldo stated that after this season they would go back to the Park Service to discuss the season and moving forward with drop off locations.

NO ACTION WAS TAKEN

IV. Public Hearing

Chair Curley opened the public hearing at 7:16pm:

A. Beach Rules and Regulations ~ Maguire's Landing/Lecount Landing Beach to be a resident and Taxpayer Beach permanently ~ Suzanne Grout Thomas
Thomas spoke to the board making this a permanent decision, so it doesn't need to be brought back in front of the board in the future. DeVasto made the point that this is just a parking privilege for residents and taxpayers, the beach is open to all. Sayer spoke to the board asking to amend the motion stating it is for parking.

Chair Curley Moved; Board Member Wolf Seconded; and it was voted to approve McGuire's Landing at Lecount Hollow to be a resident taxpayer parking only.

Roll Call Vote: 5-0

V. Use of Town Property

A. Sacred Surf School, LLC ~ Jay Pawa ~ Whitecrest Beach, surf lessons for groups of no more than 10 people.

Jay was not on the meeting,

Chair Curley Moved; Board Member DeVasto Seconded; and it was voted to approve Jay Pawa of Sacred Surf LLC, to use Whitecrest Beach for surf lessons for small groups for a fee of \$385.00.

Roll Call Vote: 5-0

B. Collective Dynamics ~ Leigh Cremin ~ varies sidewalk and grassy areas to do street performances with her 2x2 chalkboard for "Word Play" ~ see application for further details.

Chair Curley Moved; Board Member DeVasto Seconded; and it was voted to approve the various places in Wellfleet to perform word play with a chalk board and chalk ending September 30, 2023.

Roll Call Vote: 4-1 (Bacon voted No)

C. Rebecca Arnoldi ~ Nature classes/walks ~ Newcomb Hollow, Mayo Beach August through September.

Arnoldi spoke to the group explaining her nature walks and what she plans to do with them. There was discussion of a fee.

Chair Curley moved; Board Member Carboni Seconded; and it was voted to approve the use of Newcomb Hollow and Mayo Beach for nature walks

and calming classes for a fee to be negotiated with the Community Service Director.

Roll Call Vote: 5-0

VI. *Board/Committee Appointments and Updates*

A. Appointment of Jeffry Korgen to the Wellfleet Planning Board

Korgen spoke to the board about his application. The board asked if Korgen knew anything about zoning and housing, he spoke to both. Stating he didn't have a lot of knowledge with zoning, and he spoke about housing and his work on studying land trusts. Curley asked him to review the housing production plan.

Chair Curley Moved; Board Member Seconded; and it was voted to approve the appointment of Jeffry Korgen to the Wellfleet Planning Board as a voting member, for a term of three years to end June 30, 2026, to be sworn in by the town clerk and to take the required ethics class online before voting at a public meeting.

Roll Call Vote: 4-0-1 (DeVasto abstained)

DeVasto spoke to the board members stating that there was a discussion to reorganize the board. Chair Curley stated that this would be an illegal motion and DeVasto was out of order.

DeVasto moved; Board Member Wolf Seconded; and it was voted to reorganize the board at the agenda on the next meeting.

Roll Call Vote: 4-1 (Curley voted no)

There was much discussion on this, and it was decided that town counsel will look over this motion and determine if it is legal. Town counsel joined the meeting later in the agenda, Waldo asked if the Chair could address the previous concerns and the Chair didn't wish to go back to this item.

VII. *Zoning Bylaws for Special Town Meeting Warrants*

A. Inclusionary Zoning

Chair Curley spoke to the board about this bylaw stating the Harry Terkanian amended it a little to take most of the math out of it. The board spoke about some of the amendments and the bylaw.

Parent spoke to the board about posting a public hearing regarding the zoning. He then stated that this is a very short amount of time for zoning bylaws to be on a warrant.

Curley explained to Parent that the Planning Board spoke about all these zoning bylaws previously. Parent explained that these were changes and there still hasn't been a final version sent over to them for them to review. DeVasto spoke in favor of Parent's remarks.

Chair Curley Moved; Board Member Wolf Seconded; and it was voted to refer the Inclusionary Zoning Bylaw as a draft to the Planning Board and town counsel for comment and respond to the town administrator.

Roll Call Vote: 5-0

B. Cottage Colonies

Chair Curley stated that this was a straightforward bylaw. Parent agreed. The board had a few questions for the increase of numbers.

Chair Curley Moved; Board Member Bacon Seconded; and it was voted to refer The Cottage Colonies Zoning Bylaw Amendment to the Planning

Board and town counsel as a draft to follow the town administrator's schedule.

Roll Call Vote: 5-0

C. Intensity of Use of Multi-Family Dwellings

Chair Curley spoke to the board and has been seen by the Planning Board and town counsel and has not been changed. The board discussed this bylaw, including septic and the watershed permit.

Chair Curley Moved; Board member Wolf seconded; and it was voted to defer the Intensity of Use of Multi-Family Dwellings Zoning Bylaw Amendment for a public hearing to be held within 65 days.

Roll Call Vote: 4-1 (DeVasto voted no)

D. Developments of Significant Planning Interest and Food Establishments

Bacon stated she wanted this to be send to the Planning Board and town counsel in draft form and to town counsel for review. She stated this needs to go back to them with changes. DeVasto stated he has trouble with this bylaw stating that he believes this could cause unending litigation. Parent stated that this could make most if not all the restaurants in Wellfleet preexisting nonconforming. The board continued to discuss this bylaw and how it would be determined.

Board Member Bacon Moved; Chair Curley Seconded; and it was voted to refer the Development of Significant Planning Interest and Food Establishments to the Planning Board for a public hearing to be held within 65 days.

Roll Call Vote: 4-1 (DeVasto voted No)

E. Definition of Trees

Board Member Bacon Moved; Chair Curley seconded; and it was voted to refer the Definition of Trees to the Planning Board for a public hearing to be held within 65 days.

Roll Call Vote: 4-1 (DeVasto voted no)

F. Cutting of Timber Amendment

Sayre spoke against this motion stating that the board doesn't have the right to not allow the members to strip property owners. The board discussed having the building commissioner be the person to allow the cutting of trees.

Chair Curley Moved, Board Member Carboni Seconded; and it was voted to refer the Cutting of Timber Zoning Bylaw Amendment to the Planning Board for a public Hearing as amended to be held within 65 days.

Roll Call Vote: 5-0

G. Landscape and Tree Preservation Bylaw

The board moved onto this bylaw Chair Curley explained that this was a vote at town meeting to ask the Selectboard to draft a bylaw.

DeVasto stated that he is against this bylaw, and he feels the town shouldn't be telling residents they can't cut trees on their own property. Wilson spoke to this article.

Chair Curley Moved; Board Member Seconded, and it was voted to refer the Landscape and Tree Preservation Bylaw to the Planning Board and town counsel as a draft for comments to follow the town administrator's schedule.

Roll Call Vote: 4-1 (DeVasto voted no)

H. Locally Notable Trees

Wolf stated he couldn't find the definition of locally notable trees. Chair Curley read the definition.

Board Member Bacon Moved; Board Member Carboni Seconded; and it was voted to refer the Locally Notable Trees Zoning Bylaw to the Planning Board for a public hearing to be held within 65 days.

Roll Call Vote: 5-0

I. Zoning Enforcement Penalty

Parent stated there are Zoning Bylaw violations all over town. He stated that he has spoken with the Building Commissioner and stated that \$50 for the 3rd offense is something that doesn't cause a violator to change. He stated the higher the fee the more compliant the offender would be.

Board Member Bacon Moved, Board Member Carboni Seconded; and it was voted to refer the Zoning Enforcement Penalty Bylaw to the Planning Board for a public hearing to be held withing 65 days.

Roll Call Vote; 5-0

VIII. *Special Town Meeting Warrant*

A. The board will review and may take votes on articles for the September town meeting.

Board Member Bacon asked the board and chair if the Animal Control Bylaw could be taken out of order with respect to Officer Berrick who was present for the meeting, Chair Curley Moved this item up so the animal control officer.

Chair Curley Moved; Board Member Seconded and it was voted to insert and recommend the amended working for the animal control bylaw.

Roll Call Vote: 5-0

IX. *Business*

A. Special Town Election ~ Date to be chosen ~ Selectboard.

Chair Curley asked if there was a date that worked for the election, Waldo stated that in speaking with the town clerk she would not like to have an election the day after town meeting. He explained there were other days in September that wouldn't work due to Yom Kippur and an event being held at the Community Center. He mentioned October 2nd or October 9th. Chair Curley questioned the tax rate being able to be set on time. Bacon stated waiting that long for a special election wouldn't be in the best interest.

Waldo stated that he would work with the clerk about September 27th or 28th for a special election.

NO ACTION WAS TAKEN

X. *Selectboard Reports*

Carboni spoke about establishing a scholarship fund. She stated she met with the proponent of the article.

Wolf spoke about the dredging task force regarding the dredging mitigation.

XI. *Town Administrator's Report*

Waldo gave some points on his report. He acknowledged the Chamber of Commerce for the fourth of July parade. He also stated that the town received a

grant for fiber optics, and he met with the Cable Committee earlier in the day, to try and help with getting service to the beach.

XII. *Topics for Future Discussion*

Art Shacks at the Beach need to be put on an upcoming agenda.

XIII. *Vacancy Reports*

Carboni would like to talk about the rights of Public Access Committee

XIV. *Minutes*

A. June 20, 2023, ~ Board Member Bacon Moved; Chair Curley Seconded; and it was voted to approve the meeting minutes of June 20, 2023, in draft.

B. Roll Call Vote: 5-0

XV. *Adjournment*

Chair Curley Moved; Board Member Bacon Seconded; and it was voted to adjourn.

Roll Call Vote: 5-0

Meeting Adjourned: 10:11pm

**Wellfleet Selectboard
Hybrid Meeting
Zoom/715 Old King's Highway
Thursday July 13, 2023; 6:30pm
Meeting Minutes**

Members Present: Ryan Curley, Chair; Barbara Carboni, Vice Chair; Michael DeVasto, John Wolf

Members Absent: Kathleen Bacon

Finance Committee Members Present: Kathy Granlund, Chair; Bob Wallace, Stephen Polowczyk, Ira Wood, Jenn Rhodes

Others Present: Rich Waldo, Town Administrator; Rebekah Eldridge, Executive Assistant; Catherine Pomeroy, accountant consultant; Nancy Civetta, Shellfish Constable; Jude Ahern; Tim Sayre, Adrien Kmiec, Shellfish Advisory Board applicant; Bradford Morse, Shellfish Advisory Board Applicant; Nemanja Krsmanovic, Shellfish Advisory Board Applicant; Chris Merl, Shellfish Advisory Board Applicant; Alfred Pickard, Ginny Parker, Lisa Dexter, shell fisher woman, Helen Miranda Wilson, Resident, Diane Brunt, resident; Richard Blakely

Chair Curley called the meeting to order: 6:35pm

I. *Announcements, Open Session and Public Comments*

Note: *Public comments are limited to no more than two minutes per speaker. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.*

Chief Pauley stood up to the microphone and read a statement to the board and public, stating that town leadership is at an all time low, speaking his full support of the town administrator and the need for this board to reorganize.

DeVasto spoke to the public regarding the motion that was made and voted on at the previous meeting, he was upset that it was not placed on tonight's agenda.

Brad Morse spoke to the board stating that the board was taking up the time this room needs for a meeting. Blakely spoke to the board that he was against reorganization.

II. *Year End Budgetary Transfers*

A. The finance committee will approve any transfers that need to be made at this meeting for the end of the year. ~ Finance Committee, Selectboard, Town Administrator

Granlund explained to the board that this is a normal process for the town at the end of every fiscal year. Polowczyk spoke to the boards and public about budgets and how these transfers take place. Sayre asked some questions about the budget, why there was more money in one account verses another account. Sayre continued to go back and forth with the board and finance committee regarding the negative accounts. Chair Curley explained the process.

Pomeroy spoke to the board and public explaining the legal aspect of this vote to transfer.

Chair Granlund moved; board member Wood seconded; and it was recommending the budgetary transfers listed in the packet for tonight's meeting.

Roll Call Vote: 5-0

Chair Curley Moved; Board Member Carboni Seconded; and it was voted to approve and recommend the \$5for the budgetary transfers.

Roll Call Vote: 4-0

Board Member Wood Moved; Board Member Polowczyk seconded, and it was voted to adjourn the finance committee portion of the meeting.

Roll Call Vote: 5-0

Board Member Devasto recused himself from the Shellfish Portion of the meeting as a board member.

III. *Deputy Shellfish Constable Appointments ~ Seasonal Positions*

A. Erika Smith

B. Mark Howard

Chair Curley Moved; Board Member Wolf Seconded and it was voted to appoint Erika Smith and Mark Howard as seasonal Deputy Shellfish Constables for the town of Wellfleet, Starting June 28, 2023, through September 30, 2023, and again May 12th through June 30, 2024.

Roll Call Vote: 4-0

Board Member DeVasto returned to the board and stated he received a determination form the state that he was able to vote on the Shellfish Advisory Board but was going to stay recused.

IV. *Shellfish Advisory Board Applicants*

A. **Adrien Kmiec ~ Voting Member application received June 5th to move from alternate member to voting member.**

The board questioned Kmiec on his experience with the shellfish community, he stated he has been an alternate for 6 months and would like to be a full-time voting member. Pickard asked about how he feels about bringing corporations coming into the town. He stated he felt he understood both sides. Parker questioned if he would be able to be biased because Nancy Civetta is his sister-in-law. He stated he didn't feel this would be an issue.

B. **Bradford Morse ~ Application received May 11, 2023, to be on the board in any capacity.**

Morse came to the table and was spoken to by the board, he stated there are a lot of issues going on at the ocean, he gave a little bit of information about his background and stated that he knows a lot that is going on throughout the town and to be able to sit on the board and get involved in town matters. He stated his care for Wellfleet and gave some background. It was asked of Morse when he submitted his application. Wolf questioned his feeling for corporations being able to hold a grant. He stated he doesn't like the idea and then explained why he felt this way.

- C. **Nemanja Krsmanovic** ~ Application Received June 1, 2023, to be on the Shellfish Advisory board in any capacity.
Ahern asked him how many grants he was working. He explained to the board before he decides. He stated he believes in empathy and that people should help each other.
- D. **Helen Miranda Wilson** ~ Application received June 12, 2023, to be on the Shellfish Advisory Board as a Voting Member – **Withdrew her application.**
- E. **Chris Merl**, application received June 28, 2023, to be on the board as a voting member. Chris Merl was unable to be at the meeting but submitted a letter to the board stating that he was fishing but wanted to be a part of the board because he has been a long time shellfisherman and would like to give back to the town of Wellfleet. Board Member Wolf read the letter from Merl.
Chair Curley spoke about all the applicants and how important it is to have them be a part of the board. DeVasto spoke as a resident, stating that if Merl were voted on that would be the 5th member of the Wellfleet Shellfishermen's Association and felt it would be unfair. An argument ensued.
Board Member Carboni Moved; Board Member Wolf Seconded; and it was voted to approve Adrien Kmiec as the voting member on the Shellfish Advisory Board. For a term of three years with the term to end June 30, 2026.
Roll Call Vote: 2-1 (Wolf Voted No)
Board Member Wolf Moved; Chair Curley Seconded; and it was voted to appoint Brad Morse as an alternate member to the Shellfish Advisory Board. For a term of three years with the term to end June 3, 2026.
Roll Call Vote: 3-0.

V. **Business**

- Civetta spoke to the board stating that the two people before them have not obtained commercial shellfish license and she stated that because this is a fairly new policy, so she is requesting that they approve both hardship exemptions.
- A. **Mary Mallory commercial permit hardship exemption**
Mallory was discussed first, and what her hardship would be if she wasn't able to obtain a commercial permit. Carboni stated she supported the constable and vote in support of this.
Chair Curley Moved; Board Member Carboni Seconded; and it was voted to direct the shellfish constable to issue a commercial shellfishing permit to Mary Mallory per section 6.1.5 Hardship Exemption.
Roll Call Vote: 3-0
 - B. **Kathleen Murphy commercial permit hardship exemption**
Civetta spoke to this exemption, stating that Murphy was going to try to do a corporation and because that was denied she then wanted to be named to the grant and has requested a hardship. Chair Curley stated he felt it doesn't qualify for a hardship. Board Member Wolf spoke to the board disagreeing with Chair Curley. Murphy spoke to the board stating she has a lot of equipment on the grant and if she didn't have a commercial license.

Board Member Carboni Moved; Board Member Wolf Seconded; and it was voted to direct the shellfish constable to issue a commercial shellfishing permit to Kathleen Murphy per section 6.1.5 Hardship Exemption.

Roll Call Vote: 3-0.

- C. Letter to Legislature in support of Bill S261 & H60

Board Member DeVasto returned to the table.

Chair Curley spoke to the board about this letter that has been drafted where legislature is holding meetings that allows universal school meals for all children to receive school lunch programs. Chair Curley stated that Martha Gordon wrote the letter and thanked her for her support.

Board Member Carboni moved, Chair Curley Seconded, and it was voted to approve the letter drafted to send a letter to the legislature in support of Bill S261 & H600

Roll Call Vote: 4-0

- D. Open Meeting Law Complaint ~ Chad Williams – taken out of order to move after the financial transfers.

Waldo spoke to the board regarding this complaint and stated that town counsel has written a response to Mr. Williams on behalf of the town.

Board Member Carboni moved; Board Member Wolf seconded; and it was voted to have town counsel submit the letter as written to the attorney general on behalf of the town.

Roll Call Vote: 4-0

- E. Principal Clerk, shellfish job position description

Chair Curley read the job description of the principal clerk to the board and public. There was a lot of discussion on the changing of job positions. Brunt spoke to the board stating she had issues. Stating that she had to much help.

Chair Curley Moved; Board Member Wolf Seconded, and it was voted to approve the reorganization of the Principal Clerks job description.

Roll Call Vote: 4-0

VI. *Public Hearings 7PM*

In accordance with MGL Chapter 130 Sections 52, 57, 58, 60, and 68 and all applicable Town Shellfish Regulations, notice is hereby given that the Wellfleet Selectboard will hold a hybrid public hearing on July 13, 2023, at 7:00 p.m. to consider the following:

Chair Curley Opened the public hearings:

Curley spoke of the need to find accommodations with those grant holders who were over the maximum allowed acreage at no fault of their own as well how to address transfers from one generation to the next.

- A. Application received on 4/14/2023 from Brent Valli (Wellfleet, MA) and Sandra Mitchell (Wellfleet, MA) for the renewal of shellfish grant license #s 95-21/22 consisting of approximately two acres on Egg Island for seven years beginning March 1, 2023, and expiring March 1, 2030.

Civetta spoke to the board and advised the board to approve this renewal for even years. Chair Curley spoke to the board about his renewal.

Chair Curley Moved; Board Member Wolf Seconded; and it was voted to approve the renewal of Brent Valli and Sandra Mitchell's shellfish grant license #95-21 and #95-22 consisting of approximately two acres on Egg Island for seven years beginning March 1, 2023, and expiring March 1, 2030. Roll Call Vote: 3-0.

- B. Application received on 5/5/2023 from Jeremy Storer (Wellfleet, MA) for the renewal of shellfish grant license #s 95-13/14 consisting of approximately two acres on Egg Island for ten years, one month and 29 days beginning March 1, 2023, and expiring April 30, 2033.

Civetta spoke to the board about this renewal.

Chair Curley Moved; Board Member Carboni Seconded; and it was voted to grant a waiver to sections 7.8.6 and 7.8.7 and approve the renewal of Jeremy Storer's shellfish grant licenses #95-13 and #95-14 consisting of approximately two acres in Egg Island for ten years, one month and 29 days beginning March 1, 2023, and expiring April 30, 2033.

Roll Call Vote: 3-0

- C. Application received on 5/5/2023 from Jeremy Storer (Wellfleet, MA) and Alfred Pickard (Wellfleet, MA) for the renewal of shellfish grant license # 2000-4 consisting of 2.16 acres on Egg Island for ten years, one month and 29 days beginning March 1, 2023, and expiring April 30, 2033.

Chair Curley Moved, Board Member Wolf Seconded; and it was voted to grant a waiver to sections 7.8.6 and 7.8.7 and approve the renewal of Jeremy Storer's and Alfred Pickard's shellfish grant license #2000-4 consisting of 2.16 acres on Egg Island for the years, one month and 29 days beginning March 1, 2023, and expiring April 30, 2033.

Roll Call Vote: 3-0

- D. Application received on 5/5/2023 from Jeremy Storer (Wellfleet, MA) for the transfer of shellfish grant license #s 95-13/14 consisting of approximately two acres on Egg Island from Jeremy Storer to Jeremy Storer and Brandon Silva (Wellfleet, MA).

Civetta spoke to the board about this application.

Chair Curley Moved; Board Member Carboni Seconded and it was voted to approve the transfer of shellfish grant license #s 95-12/14 consisting of approximately two acres on Egg Island from Jeremy Storer (Wellfleet, MA) to Jeremy Storer and Brandon Silva (Wellfleet, MA)

Roll Call Vote: 3-0

- E. Application received on 5/5/2023 from Jeremy Storer (Wellfleet, MA) and Alfred Pickard (Wellfleet, MA) for the transfer of shellfish grant license # 2000-4 consisting of 2.16 acres on Egg Island from Jeremy Storer and Alfred Pickard to Jeremy Storer, Alfred Pickard and Brandon Silva (Wellfleet, MA).

Chair Curley Moved; Board Member Wolf Seconded, and it was voted to grant a waiver to sections 7.8.6 and 7.8.7 and approve the transfer of shellfish license #2000-4 consisting of 2.16 acres on Egg Island.

Roll Call Vote: 3-0

- F. Application received on 5/30/2023 from Peter Rennert (Wellfleet, MA) and Zach Rennert (Wellfleet, MA) for the transfer of shellfish grant license #s 95-23/24

consisting of approximately two acres on Egg Island from Peter Rennert and Zach Rennert to Zach Rennert.

Chair Curley Moved; Board Member Wolf Seconded and it was voted to approve the transfer of shellfish grant license #95-23 and #95-24 consisting of a total of approximately two acres on Egg Island from Zach Rennert and Peter Rennert to Zach Rennert.

Roll Call Vote: 3-0

- G. Application received on 6/29/2023 from Michael Ramsdell (Wellfleet, MA) and Michael DeVasto (Wellfleet, MA) for the transfer of shellfish grant license #s 855 and 855B consisting of approximately two acres on Field Point from Michael Ramsdell and Michael DeVasto to Michael DeVasto and Kathleen Murphy (Wellfleet, MA).

Chair Curley Moved; Board Member Carboni Seconded; and it was voted to approve the transfer of shellfish grant license #s 855 and 855B consisting of approximately two acres on Field Point from Michael Ramsdell and Michael DeVasto to Michael DeVasto and Kathleen Murphy.

Roll Call Vote: 3-0

- H. Application received on 6/29/2023 from Michael DeVasto (Wellfleet, MA) for the transfer of shellfish grant license # 855C consisting of approximately 1.6 acres on Field Point from Michael DeVasto to Michael DeVasto and Kathleen Murphy (Wellfleet, MA).

Chair Curley Moved, Board Member Wolf Seconded; and it was voted to approve the transfer of shellfish grant license #855C consisting of approximately 1.6 acres on Field Point from Michael DeVasto to Michael DeVasto and Kathleen Murphy.

Roll Call Vote: 3-0

- I. Application received on 6/29/2023 from Rebecca Taylor (Wellfleet, MA) and Myron Taylor (Wellfleet, MA) to transfer shellfish grant license #s 734 and 734A consisting of a total of approximately 3.5 acres on Mayo Beach from Rebecca Taylor and Myron Taylor to Rebecca Taylor.

Chair Curley Moved; Board Member Carboni Seconded, and it was voted to approve the transfer of shellfish grant license #s 734 and 734A consisting of a total of approximately 3.5 acres on Mayo Beach from Rebecca Taylor and Myron Taylor to Rebecca Taylor.

Roll Call Vote: 3-0

- J. Application received on 6/9/2023 from Rebecca Taylor (Wellfleet, MA) for two extensions to shellfish grant license # 734 (to be called 734B and 734C) on Mayo Beach for approximately 1.4 acres total, reconfigured from an extension approved by the Wellfleet Selectboard at its 3/21/2023 public hearing.

Civetta spoke that this is part of the compromise with Osowski. Taylor explained why both were interested in the land. She explained the compromise that the two came to. Curley thanked Taylor for her willingness to compromise.

Chair Curley Moved; Board Member Carboni Seconded; and it was voted to reconsider the vote of the selectboard from March 21, 2023; for the granting of two extensions from Rebecca Taylor #734B.

Roll Call Vote: 3-0

Board Member Carboni Moved; Board Member Wolf Seconded and it was voted to revoke the extension granted on March 21, 2023, to Rebecca Taylor with respect to grant license #734B.

Roll Call Vote: 3-0

Chair Curley Moved; Board Member Carboni Seconded; amend the approve two shellfish grant license extensions to be called #734B and 734C to shellfish grant license #s 734 and 734A consisting of a total of approximately 0.61 and 0.79 acres respectively on Mayo Beach for Rebecca Taylor.

Roll Call Vote: 3-0

- K. CONTINUED FROM 6/6/2023 ~ Application received 1/10/2023 for a grant extension (to be numbered #99-1 Ext) to shellfish grant license #99-1 consisting of approximately .43 acres on Mayo Beach from Angela Osowski (Wellfleet, MA), Robert Mallory (Wellfleet, MA) and Mary Mallory (Wellfleet, MA). New configuration of proposed grant extension submitted on 5/26/2023 equal to 0.35 acres.**

Chair Curley Moved; Board Member Carboni Seconded and it was voted to approve Angela Osowski's and Robert and Mary Mallory's request for a grant extension to be called #99-1ext. consisting of approximately 0.35 acres on Mayo Beach.

Roll Call Vote: 3-0

- L. Application received on 5/26/2023 from Stephen Pickard (Wellfleet, MA), Iris Pickard (Wellfleet, MA) and Benjamin Pickard (Wellfleet, MA) for an extension to shellfish grant license # 2000-2 (to be called 2000-2 Ext.) on Egg Island for approximately 1.23 acres.**

Chair Curley Moved; Board Member Wolf Seconded, and it was voted to approve an extension to shellfish grant license #2000-2 (to be called 2000-2 ext.) on Egg Island for approximately 1.23 acres for Stephen Pickard, Iris Pickard, and Benjamin Pickard.

Roll Call Vote: 3-0.

VII. *Special Town Meeting Warrant ~ continued to July 18th meeting.*

VIII. *Adjournment*

Chair Curley Moved; Board Member Seconded, and it was voted to adjourn the meeting.

Roll Call Vote: 3-0

Meeting Adjourned: 9:10pm

Public Documents:

Spreadsheet for yearend transfers

Letter to Massachusetts Division of Marine Fisheries to appoint Ericka Smith and Mark Howard as Seasonal Deputy Shellfish Constables

Applications to be on the Shellfish Advisory Board

Commercial Permit Hardship exemption for Mary Mallory and Kathleen Murphy

Letter to the legislature to support all school free meals.

Open meeting law complaint and town counsel's response to the letter

Job Description of Principal Clerk with regard to the shellfish department

Public hearing documents lettered A through L

Special Town Meeting Warrant

DRAFT AMENDED *** A full recording of this meeting can be found on the town's website***

Wellfleet Selectboard
Tuesday July 18, 2023; 7pm
Hybrid Meeting
Zoom/715 Old King's Highway
Meeting Minutes

Board Members Present: Ryan Curley, Chair; Barbara Carboni, Vice Chair; Kathleen Bacon, John Wolf, Michael DeVasto (virtual)

Others Present: Richard Waldo, Town Administrator; Rebekah Eldridge, Executive Assistant (Virtually); Will Sullivan, Harbormaster; Chris Allgeier, Dredging Task Force, Curt Felix, Dredging Task Force, Chris Merl, Shellfisherman; Tim Hughes, Resident; Jude Ahern, resident; Sheila Lyons, Barnstable County Commissioner, Susan Reverby, Resident; Tim Sayre, resident; Josh Yeston, Cable Advisory chair.

Chair Curley called the meeting to order at 7:03pm

I. *Announcements, Open Session and Public Comments*

Note: *Public comments are limited to no more than **two minutes per speaker**. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.*

Merl, spoke to the board thanking the board for the support, he expressed the inaccuracy of the statement from DeVasto at the previous meeting stating that if Merl were elected to the Shellfish Advisory Board, he would be the fifth member of the Shellfish Fisherman's Association. He stated this was untrue, also stating he felt that DeVasto was unfit to be chair of the Selectboard and had submitted a complaint. Bacon made a statement recognizing the resignation of John Ryerson and thanked him for his service. She also thanked Chris Merl for the outstanding community event of the scallop dinner bringing the community together.

DeVasto explained he is on the meeting but remotely because he has Lymes Disease and wasn't feeling well.

Hughes came to the microphone stating that the town received a complaint from him with regard to the Harbormaster and stated the town also received a cease and desist letter from him and residents regarding the harbor dredging, he continued stating the town could avoid a lawsuit from him if they bring the dredging to town meeting.

Chair Curley thanked him for his comments.

II. *Consent Agenda*

A. Collective Bargaining Ratifications

- WEA

Chair Curley Moved; Board Member Bacon Seconded; and it was voted to adopt the consent agenda as drafted.

Roll call vote: 5-0

III. *Board Reorganization*

Chair Curley made a statement about being the chair of the selectboard, and he was looking forward to stepping down and taking some time.

Wolf nominated Barbara Carboni as chair, Curley seconded.

Ahern asked if the public was ever going to know what happened to put this item on the agenda. Curley stated that town counsel has put a letter together regarding the charter.

Blair spoke to the board stating that something has happened and as taxpayers they deserve to know, Bacon stated that yes something happened, and it would be revealed in time. DeVasto asked if any other board member was interested in being chair of the board.

Bacon then nominated herself to be chair, she stated to the comment made by Blair, and stated that something did happen, and it was bad enough, that the board felt the need to reorganize.

Curley stated that there was a nomination and a second on the chair of Carboni.

It was voted to approve Barbara Carboni as Chair

Roll Call Vote: 5-0

Carboni thanked Curley and stated that there needs to be a vice chair and clerk. She again stated that leadership is needed to rotate.

Curley Nominated John Wolf as Vice-Chair, Bacon Seconded the nomination and it was voted to approve John Wolf as vice Chair.

Roll Call Vote: 5-0

DeVasto Nominated Kathleen Bacon as Vice Chair, Wolf seconded; Bacon stated that she didn't wish to be vice chair.

Bacon Nominated John Wolf as Clerk of the board; Chair Carboni seconded the nomination, and it was voted to have John Wolf as Clerk of the Selectboard.

Roll Call Vote: 5-0

IV. Use of Town Property

A. Baker's Field Pavilion ~ Celebration of Life for Jane Tesson ~ date to be determined based on availability.

Eldridge presented to the board stating that Jane Tesson who was an employee for over 20 years of the town. She explained that Jane's last wishes were to not be sad and to celebrate her life. The date was still to be determined but it would be within the next 2 weeks.

Board Member Curley Moved; Board Member Bacon Seconded; and it was voted to approve the use of Baker's Field Pavilion for a Celebration of Life for a long-time town employee Jane Tesson at a date to be determined with the Recreation Director for availability, the fee is to be waived do to Jane's many years of service to the town.

Roll call Vote: 5-0

V. Business

A. Dredging Mitigation ~ Board Member DeVasto recused himself for this item.

Allgeier came to the microphone to discuss with the board the most recent draft of the mitigation plan made with the Army Corp of Engineers. Wolf questioned the methodology for assessing the baseline oyster parameters, stating he was unclear on how this would work. Allgeier stated that GEI the engineers for the mitigation were on. Wolf had more questions for Allgeier regarding the draft

document. Curley stated that he would like to move this to town meeting. There was discussion on the funding of this project.

Reverby questioned what would happen if the dredging was voted down at town meeting and what would the consequences be of that. Curley spoke to that and stated it would establish the will of the people. Sayer, spoke to the board stating his concern is the culching of the grounds giving the square meters. The holding of the bid was questioned, Waldo stated that the town did ask the successful bidder for an extension of time and the town now has until August 23, 2023. It was questioned what would happen if they missed this deadline, Waldo explained that the town would need to rebid the project. Chair Carboni questioned if they did do this, when would the dredging take place? It was explained the dredging would happen in October. Lyons spoke to the board stating that the dredging has been planned for many years and the dredging needs to happen. She stated the opinion of her and the town who originally voted to do this dredging, she explained this is necessary to do this project. She asked the board to please make this decision. Felix came to the microphone and spoke to the point about the permit costs and the mitigation plan. The discussion about the mitigation plan and the dredging project listing the pros and cons of this project. Bacon stated the board has discussed this at numerous meetings and it was time to vote on this tonight. Waldo stated the grant funds are available until December 20, 2024. Curley gave his advice and input on the mitigation plan.

Board Member Wolf Moved; Board Member Bacon Seconded; and it was voted to accept the most recent mitigation draft agreement as presented at tonight's meeting, subject to clarification from town counsel about the operating expenses associated, with the mitigation agreement and the funding mechanism.

There was more discussion on funding, easements, and culching. The Audubon was discussed and the acreage that they oversee and own.

Roll Call Vote: 4-0-1 (DeVasto was recused)

Board Member Curley Moved; Board Member Wolf Seconded; and it was voted to approve the letter prepared by administration requesting participation in the Mass Audubon Sanctuary.

Roll Call Vote: 4-0-1

Board Member Bacon left the meeting ill (8:15pm)

B. Financial Update

Chair Carboni questioned Waldo about the financial updates for the town, Board Member Curley questioned if the sales tax for the town was ready, and Waldo explained that it wasn't now, but they have some of the revenues up. Curley asked about the email from the DOR and asked Waldo to speak on the letter and his response. Waldo spoke about the letter that was sent and the status of the fiscal 2022 audit. Discussion of when the auditors would come to meet with the board. Waldo gave some information on the end of the fiscal year. Discussion on free cash and the next steps with the tax recap. He informed the board that the interim town treasurer has a lot of knowledge and will help the town put

their money in appropriate accounts to increase interest and make the money that town can make.

C. Town Administrator Development Plan

Waldo spoke to the board per his contract he is required to further his education. He stated the MCPPO training is completed, and he did receive his MCPPO designation. He gave a run down of his upcoming educational goals.

Board member Curley Moved; Board member Wolf Seconded, and it was voted to approve the town administrator's professional development plan as presented at tonight's meeting.

Roll Call Vote: 4-0

D. Departmental Goals

- Administration
- Human Resources
- Police
- Fire
- DPW
- Building Department
- Community Services
- Town Clerk
- Shellfish Department
- Harbor Master

The board spoke to the department head goals. Each Department gave a brief update and goals they wish their departments accomplish.

Selectboard goals were discussed and when they would be due to the town meeting. It was decided that the board would get their goals into the Administration office by August 3, 2023.

E. Special Town Meeting Warrant

Chair Carboni spoke to the board asking how long they wanted to spend on the warrant tonight. It was discussed that the zoning bylaws were set for the most part they could spend some time on the other articles. Waldo began with asking the board to vote on a date for the special town election.

Board member Curley Moved; Board member Wolf Seconded; and it was voted to approve Wednesday September 27, 2023, from 12 noon to 7pm, to be held at the Wellfleet Adult Community Center.

Roll Call Vote: 4-0

The board moved to the packet with new articles, the Town Planner was mentioned and discussed stating that the town needs a planner this position provides support to the building commissioner, the Planning Board, and the Zoning Board of Appeals. The board discussed this position.

Board member Curley Moved; Board Member DeVasto seconded; and it was voted to insert a warrant article for a town planner.

Roll Call Vote: 4-0

Waldo continued discussing and reviewing the warrant.

Board Curley Moved; Board member DeVasto seconded; and it was voted to insert Article 1 prior year invoices into the Special Town Meeting Warrant.

Roll Call Vote: 4-0

Board member Curley Moved; Board member Wolf Seconded; and it was voted to insert Article 2 FY2024 Budgetary transfers into the Special Town Meeting Warrant.

Roll Call Vote: 4-0

Waldo continued with the next article which was the wastewater article, he gave an explanation and information on the warrant article. The board discussed the funding and the ability to receive a grant.

Board Member Curley Moved; Board Member DeVasto Seconded; and it was voted to insert Article 3, 95 Lawrence Road Wastewater treatment facility into the Special Town Meeting Warrant.

Roll Call Vote: 4-0

The board moved onto article 4, Waldo discussed with them borrowing and appropriating funds.

Board Member Curley Moved; Board member DeVasto Seconded, and it was voted to insert an article, Enhanced Innovative & Alternate Septic Program into the Special town meeting Warrant.

Roll Call Vote: 4-0

Felix came to the microphone and explained the financial aspect of the IA systems, coming up with a plan to get this going Felix stated was very important.

Curley questioned Waldo on his sewer and wastewater installation experience. Waldo explained it is a large process and everything takes a long time to work through. He stated there are a lot of issues to work out when it comes to sewer, money, were the sewer system will be.

Curley stated he needed to provide an update on the Maurice's warrant article and will have that for the next meeting. Waldo stated the planning board was to have a meeting the following night on the 19th to produce their comments to the selectboard. It was explained by media services that there was no meeting scheduled for the Planning Board.

VI. *Adjournment of Open Session; Enter into Executive Session; M.G.L. c.30A, Sec. 21 This was postponed for a later date to be determined.*

Purpose 3: To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.

- Collective Bargaining
WEA

VII. *Adjournment*

Board Member Curley Moved; Board member Wolf Seconded; and it was voted to adjourn,

Roll Call Vote: 4-0

DRAFT AMENDED *** *A full recording of this meeting can be found on the town's website****

Meeting adjourned, 9:45pm

Wellfleet Selectboard
Hybrid Meeting: 715 Old King's Highway/Zoom
Tuesday July 25, 2023; 7pm
Meeting Minutes

Members Present: Barbara Carboni, Chair; John Wolf, Vice Chair; Kathleen Bacon, Michael DeVasto, Ryan Curley

Others Present: Richard Waldo, Town Administrator; Chris Merl, Susan Reverby, Seasonal Resident; Diane Brunt, resident; Jude Ahern, resident; Wes Stinson, Engineer for Herring River; Paul Millett, Carolyn Murray, KP Law; Officer Berrick, Dog Officer for Wellfleet; Brent Harold, resident.

Chair Carboni Called the meeting to order at 7:05pm

I. *Announcements, Open Session and Public Comments*

Note: Public comments are limited to no more than two minutes per speaker.

The Board will not deliberate or cote on any matter raised solely during Announcements & Public Comments.

Curley made a comment on how illegible certain pages of the packet were. He stated this is an issue he has always had. Waldo stated with many meetings and in office issues and lack of staffing it has been difficult to upkeep the schedule and stated he has hopes that with a new chair and more staff this will improve.

There needed to be a recess due to technical issues with the zoom platform.

The meeting continued with more open comments, Merl came to the microphone at the front table, stating that he had a letter for them and asked them to have a discussion on corporations on shellfish flats. He questioned why this was still being discussed. He was given his two minutes and then discussed the infractions of the code of conduct from Board Member Michael DeVasto at the next meeting.

Brunt spoke against the dredging mitigation plan and how Civetta and Sullivan are not being held accountable regarding their jobs. She spoke about the town going into receivership.

Ahern spoke to the board about the fact that the people are not against dredging they are more against the mitigation. She read Curt Felix's words back to the board.

II. *Consent Agenda*

A. Application received July 17, 2023, from Bob Dupuis to be appointed as a member of the Commission on Disabilities.

Board Member Wolf Moved; Board member DeVasto Seconded; and it was voted to approve the consent agenda as written.

Roll Call Vote: 5-0

III. Public Hearings

- A. **CONTINUED** from 06/20/2023 - Verizon New England to place approximately eight-hundred feet (800') of new conduit adjacent to 1065 Chequessett Neck Rd. Wellfleet MA
Board Member Curley Moved; Board Member DeVasto Seconded; and it was voted to continue this hearing to August 8, 2023, at 7pm.
Roll Call Vote: 5-0

IV. Business

- A. Approval of Agreements with Friends of Herring River to Support Herring River Restoration Project Implementation~ Carole Ridley
Chair Carboni recused herself from this agenda item.
Waldo explained that there as a request for this agenda item to be moved to August 8, 2023.
Board Member Wolf Moved; Board member DeVasto Seconded; and it was voted to move this agenda item to the August 8, 2023. Selectboard Meeting Agenda.
Roll Call Vote: 4-0-1 (Carboni Recused).
- B. Herring River Restoration Project Update – Wes Stinson (OPM)
Stinson spoke to the board updating them on the status of the Herring River Project he explained to the board and public the progress that has been made for this project since it began. He explained what has happened and what will be happening in the future, talking about the temporary bridge that will be installed. Board member Bacon questioned where the material that was being excavated material was put, he explained that it is brought to the Duck Harbor Road, area to decant and then the Pole Dike staging area. She asked if the crew for this project were being housed locally, he explained that there are some who make the daily trip from off cape and some who are staying at a local hotel. DeVasto spoke to the board, asking Stinson to speak about the funding for this project? Millett spoke to the board and stated that this project is fully funded through grants. Brunt questioned the amount of staff time questioning the money. The next update will be hopefully given to the board at the next phase, Stinson stated he was thinking October. Curley questioned how the pay for this project works. Stinson gave an update on how the pay requisitions work.
No Action was Taken.
- C. Special Town Meeting Warrant
Referred Zoning Articles (for Comment)
~ Inclusionary Zoning
Waldo explained to the board that the Planning Board was unable to meet to provide comments on these bylaws.
The board decided to go through each article with Murray, Curley stated again that he was displeased with the lack of clean copies sent to the Planning Board. Murray went over the bylaws with amendments. There was a lot of discussion with the amendments and what needed be added and changed. The room rental became a point of conversation, deed restrictions were discussed. Merl spoke to the board about no short-term rentals, maybe having the rentals be six months.

The board came to a decision about units being owner or tenant occupied. Murray will work on that language for the final article.

Board Member Curley Moved; Board Member Wolf Seconded; and it was voted to refer the Inclusionary Zoning Bylaw to the Planning Board to hold a public hearing within 65 days as amended.

Roll Call Vote: 3-2 (Carboni and DeVasto voted no)

~ Cottage Colonies

The board moved to the cottage colonies zoning bylaw. Murray stated she didn't have any substantive changes for this article.

Board Member Bacon Moved; Board Member DeVasto Seconded; and it was voted to refer the Cottage Colonies Zoning Bylaw to the Planning Board to hold a public hearing within 65 days.

Roll Call Vote: 5-0

~ Development of Significant Planning Interest and Food Establishment.

Curley spoke to the board asking them to delay this bylaw and refer it to the Planning Board, so they are able to work on it and give them a deadline.

Board Member Bacon asked to move that the board take this bylaw amendment out of the fall town meeting warrant and allow more time for both boards to work on it.

Curley asked if they could send it to the Planning Board to discuss and work on it and give them a deadline for January, so it could be ready for the annual town meeting, rather than the fall town meeting. The board agreed with this action.

Board member Curley moved; Board Member Wolf Seconded; and it was voted to reconsider the vote of the Selectboard taken on July 11, 2023, to refer the Development of Significant Planning Interest and Food Establishment to the Planning Board for a Public Hearing.

Roll Call Vote: 5-0

Board Member Curley Moved; Board member Wolf Seconded; and it was voted to rescind the vote from July 11, 2023, to refer the Development of Significant Planning Interest and Food Establishment to the Planning Board for a Public Hearing.

Roll Call Vote: 5-0

Board Member Curley Moved; Board Member Wolf Seconded; and it was voted to reconsider and remove the Development of Significant Planning Interest and Food Establishment Bylaw on the special town meeting warrant vote that was taken.

Roll Call Vote: 5-0

Board Member Curley Moved; Board Member Wolf Seconded; and it was voted to refer the Development of Significant Planning Interest and Food Establishment Bylaw as a working document to the Planning Board to develop their recommended language due back to the Selectboard January 31, 2024.

Roll Call Vote: 5-0

Cutting of Timber was the next Bylaw to be discussed. Murray spoke to the board about some questions she had for this bylaw. She explained that she added a few things to the wording regarding the scenic bylaw. This was referred to the Planning Board for a hearing, but the board wanted to see the comments and amendments from town counsel. Murray explained to the board how these changes can be made as the warrant isn't closed yet. The board discussed the changes and wording.

Board Member DeVasto Moved; Board Member Wolf Seconded; and it was voted to submit the updated clean copy of the Zoning Bylaw Amendment Cutting of Timber to the Planning Board for their public hearing.

Roll Call Vote: 5-0

Articles that have not been voted to insert or recommend will be voted on at this time. Waldo shared his screen showing town counsel's amendments.

Officer Berrick came to the table to discuss the changes that have been made to the animal control bylaw. Curley stated he didn't think the dogs on the beach should be included in this bylaw as Beach regulations are subject to change and bylaws are harder to change. The board discussed this with Murray and asked for her comments or changes. The board discussed making the bylaw smaller which Waldo stated along with Officer Berrick and Murray they could do that. The board continued to discuss the various working of the animal bylaw. The board moved on to the Landscape and Tree Bylaw; Murray explained some issues she had with some of the wording and the board worked through those issues.

This bylaw was discussed at great length.

Board Member DeVasto Moved; Board Member Bacon Seconded; and it was voted to remove the Landscape and Tree Bylaw off the fall town meeting warrant and to address the bylaw in the future.

Roll Call Vote: 4-0-1 (Curley abstained)

Locally notable trees were the next bylaw to be discussed. Murray explained any changes that she made were just "housekeeping." It has already been referred to the Planning Board and there are no changes needed.

The Nip Bottle ban was next to be discussed, the town administrator and the police department would be the enforcing agents. The board questioned if the town administrator was usually an enforcing agent. Murray explained that no this was not a normal procedure. They discussed naming another enforcer. The board discussed this again at great length. The main question came down to who does the town want to be the enforcer of this bylaw? They stated that local law enforcement could be the persons enforcing this ban. They asked Murray her opinion on this matter.

Board Member Curley Moved; Board Member Wolf Seconded, and it was voted to insert and recommend the Nips Article into the Fall town warrant as amended.

Roll Call Vote: 5-0

The board moved on to the notable trees, Article 18 Environmental Betterment Stabilization Fund was discussed Curley questioned if the Notable trees bylaw calls for payments to be made to the fund, if not there is no reason to have the article. Notable Trees does not call for payment. Board Member Bacon stated it was the Betterment thing, Board Member Carboni questioned if they needed to take no action, Board member Bacon Stated to just not include it.

Board Member Curley Moved; Board member Wolf Seconded; and it was voted to not include the Environmental Betterment Stabilization Fund from the fall town meeting warrant.

Roll Call Vote: 5-0

Board Member Curley Moved; Chair Carboni Seconded; and it was voted to insert and recommend an article for the reports of officers and committees for the fall special town meeting warrant.

Roll Call Vote: 5-0

Board Member Curley Moved; Board Member Bacon Seconded; and it was voted to insert and recommend other business articles into the special town meeting warrant.

Roll Call Vote: 5-0

- D. Illegal Parking and safety Concerns at Long Pond ~ Discussion on how to improve the safety of the area around Long Pond ~ Brent Harold. **This item was moved ahead of the zoning bylaws.**

The board asked Harold to come to the table. He stated he was in front of the board a few years ago and wanted to discuss the safety of the roads. He discussed the share the road signs and stated he felt there needed to be more signs on the road to help with the safety of pedestrians. The board discussed how this process can work and what he can do. Curley asked Harold to have a map and submit it to the town, so they can work with the DPW and signage company to work on safer roads.

- E. Special Election Warrant – Election of Town Officer (Selectboard - partial term) Waldo introduced the election warrant, he stated because there was a resignation of as selectboard member there needed to be a special election and the board would need to vote to approve this election.

Board Member DeVasto Moved; Board Member Bacon Seconded; and it was voted to approve the special town election warrant as presented with question 2 subject to revision if the board hears from Bond Counsel.

Roll Call Vote: 5-0

V. **Selectboard Reports**

VI. **Topics for Future Discussion**

VII. **Vacancy Reports**

VIII. **Minutes ~ Board will vote on these minutes at the next meeting.**

- A. July 11, 2023
- B. July 13, 2023
- C. July 18, 2023

IX. **Adjournment of Open Session**

Board Member Curley moved; Board Member DeVasto Seconded, and it was voted to adjourn open session and to enter executive session, not to return to open session per MGL Chapter 30; Section 21.

Roll Call Vote: 5-0

Meeting adjourned 10:40pm

X. *Executive Session; M.G.L. Ch. 30A; Section 21.*

Purpose 7: To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements.

- Executive Session Meeting Minutes of June 27, 2023.