

**Town of Scituate
Conservation Commission
Town Hall Selectmen's Hearing Room
Meeting Minutes
November 13, 2013**

Meeting was called to order at 6:20 p.m.

Members Present: Mr. Snow, Chairman, Mr. Harding, Ms. Scott-Pipes and Mr. Schmid.

Also Present: Patrick Gallivan and Carol Logue, Secretary

Agenda: Motion to amend the agenda to add discussion of a letter to Planning Board regarding the open space at 214 Clapp Road Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Presentation: Al Bangert, Hunter's Pond Dam

Sarah Grady, MA Bays Program and North & South River Association and Paul Shea were present. Last night at the Selectmen's meeting there was an overview with Al Bangert regarding the Gulf of Maine feasibility study for Hunters Pond and Bound Brook. The dam is in poor condition. Dam safety inspection was requested and the consultant for the Town, Princeton Hydro concurred. People involved: Pat Gallivan, Penny Scott-Pipes, Jason Burtner, Eric Hutchins, Nick Wildman from Fish & Game, Al Bangert, Paul Shea and Sarah Grady. Consulting engineers evaluated the dam, spillways, sediment sampling, delineation of wetland resources, soil sampling, and testing; still collecting data. Selectmen voted in support of the project. There are many interested groups. This project will include habitat restoration, ecological benefits, recreation and safety issues. The Ladds, owners of the property are aware of the issues. Everyone is aware the dam needs work. The question is repair or removal. Repairing is more expensive; to remove the dam restores it back to similar wetland system that once existed. Herring would come into Hunters Pond and Bound Brook up to Lilly Pond in Cohasset. This is Phase I. Other grants are being applied for; leaning toward removal of the dam. Costs and ecological benefits are greater. Sarah Grady - brief summary: The primary spillway is concrete. The road embankment makes up the majority of the dam structure; would not just remove the concrete section, but the whole width along Mordecai Lincoln. Hunter's Pond is a 2 acre impoundment. This is the first dam from the ocean. The first Dam was built in 1690, breached in 1969, current dam constructed in the mid-80s. Since then the dam has essentially been preventing sediment from going downstream, pond is filling in. Because dams slow down the water, a sediment delta is created, which in the summer is densely vegetated. There is submerged aquatic vegetation in the wetter sections; in the middle it is nearly full of sediment, only about 6" deep. Regulated resource areas: inland bank, the center point BVW, land under water bodies and waterways; bordering land subject to flooding and when the project proceeds and becomes a stream channel there will be riverfront area. Conversions are considered beneficial. The project will be reviewed involving Chapter 91, 401 Water Quality, Army Corp Dam Safety, and MEPA. In 2013 GZA was contracted by the Town to complete a dam safety inspection. They provided recommendations for maintenance, repair and cost estimates. Rated it poor and estimated the cost of \$450,000 to \$750,000. There's the concrete spillway and the road bridge over the dam, and a culvert that runs underneath the barn at Mordecai Lincoln Road. The culvert is in poor shape, somewhat of a threat to the barn. Gulf of Maine Council Grant covers preliminary evaluation, delineation of resources, primary hydrology and hydraulics and how they would behave at different flood levels, historic review, public meetings to solicit public input and a preliminary design. Sediment within impoundment is not very mobile, a lot of it would stay in place, and is not very contaminated. Stream has already formed 2 channels. Mordecai Lincoln Road starts to overtop in a 100 year storm event - 1% likelihood, which occurs more often than thought. By removing the dam would not impact flooding and will not turn into a salt pond. It is important to maintain flow over the spillway and the accessory culvert. Steps for removing: demolish the spillway, concrete curtain, fish ways, and reconfigure the upstream outlet for appropriate flows. The channel would be encouraged to flow in a certain pattern over 700 linear ft. following the original flow paths, creating 2 acres of natural floodplain. Cost of that would be \$263,000, but could be additional costs altering the bridge and barn. Sediment will not impact the marsh. By removal it opens up the opportunity to get the Herring back. Mr. Snow: there used to be another pond, Echo Lake; took ice from that. It was between Booth Hill Road, 3A and Henry Turner Bailey Road. Bound Brook runs through that. When it gets to Lilly Pond there is a dam at the end of Beechwood. Aaron River has a dam. Bound Brook runs under Beechwood St. Restored fish ladders upstream, but the Herring can't get there. Paul Shea: this is a perfect opportunity to have the fish come from the Gulf River up Bound Brook and get to Lilly Pond. Would they get to Aaron River? No, probably just Lilly Pond. Is there naturally occurring Herring? There are some strong runs in the region. North river has a lot of Herring coming into it; would expect the same thing in the Gulf River. In other locations where dam removal has occurred, it usually takes them some time to reestablish, but could be stocked. Are there smelt? Yes. Both Scituate and Cohasset fishing fleets could benefit. Removal eliminates operation and maintenance for the culvert, dam and road. Great opportunity for CPC funds covering Historical and Recreation. Ms. Scott-Pipes: Have submitted a CPC application and Jason Burtner is going for a grant. Hoping CPC would fund \$100,000. Historic Bike Trail goes right there and the town is receiving a piece of property. This is in direct line with recreation and of course conservation; able to combine lots of interest. All of that together, this is a pretty rare opportunity. There is funding opportunity available through Fish and Wildlife; due the end of January. Right now looking for town support and applying for the grant. The role of the barn will be investigated. Hoping for engineering, design and permitting within the next few years. If everything goes exactly as planned, the construction or deconstruction could go out to bid in 2015. Have had two meeting with neighbors; complete change, not contentious, they realize the expense and no one wanted to maintain the dam. Mr. Ladd is part of the group. Mr. Snow: interesting to see how this progresses. Sarah Grady: Supporting role in Plymouth. Worked with Jones River Watershed last week removed Wapping Road Dam, along Rt. 106, off Billingham. Also working on two projects on the 3rd Herring Brook, Tack Factory and Mill Pond; preconstruction probably next fall. Tack Factory is in the final design of permitting. This is all happening with a lot more support than even a decade ago. Probably coming back to request support letters, but for now asking for a vote of support. Motion to support Hunters Pond / Bound Brook Project Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Request for Determination: McDonough, 14 Ocean Front Street (remove & replace existing asphalt)

Kevin McDonough was present at the hearing. Came in informally a month or two ago. Would like to replace asphalt on same footprint approximately 90' x 3'. Would put plantings in on the left side. How much are you willing to give up? The problem is that a lot of the

neighbors park there. Could shorten by 5' or so on the left. Mr. Snow: The Commission encourages less impervious surface and more vegetation. The DEP has agreed to the same footprint. Mr. Gallivan: any other place to plant? Plan 10' on the right side. Motion for a negative 3 determination - "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any)." with the condition the driveway 10' less than the current on the right side (southern edge) plan with salt tolerant plantings Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Request for Determination: Carpenter, 49 Seaside Road (anchor shed)*

Joel Carpenter was present. Last meeting was asked to look for mitigation; eradicate invasive species and plant maybe some beach roses and talk to neighbors and submit a quick sketch or plan. Discussed the project with the Caswells and Minihans. Mr. Gallivan: the Caswells had come in and they were going to chip in with other neighbors to remove some phragmites, but there is concern that the seeds will blow around. Ms. Scott-Pipes: Not in favor of leaving the shed because of the damage in that area last winter and the phragmites will be right back. Shed should have been removed when the house was sold. The Certificate of Compliance was issued with false statements. Don't think it belongs in that zone. Remember all the debris in the marsh from the storms? Mr. Schmid: little room to play, there is an enormous house right on the water, not too worried about the shed, OK with it being raised and secured, a little concerned it is in a V zone, makes it harder. Mr. Gallivan: Bill brought up a good point about the V zone. Engineering wise seems like it could be secured. Motion for a negative 3 determination with the condition the shed is raised and secured following the plan by Cavanaro and the phragmites removed as outlined in plan from Cavanaro Mr. Schmid. Second Mr. Harding. Motion passed by a 3 to 1 vote.

Order of Conditions: Fern Properties, 214 Clapp Road (9 lot subdivision)

No quorum to vote on the orders. Motion to continue to November 18, 2013 for a special meeting at 6:00 p.m. Mr. Gallivan was told that the report from Natural Heritage was received today. Mr. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Amendment to the Order of Conditions: Cilento, 260 Central Ave. (paving in original footprint)

Bart Cilento was present at the hearing. Abutters' notification was submitted. Removed asphalt under the DEP Emergency Declaration, which he found out was not allowed. Asphalt is removed and requesting to pave in same footprint. Northerly side has an odd shape. Does the asphalt go up to the planter? Yes. Approximately 30' x 35', but may not even be that big. Asphalt protects the septic tank, worried it will be compromised. Mr. Harding: are you using concrete or asphalt? Asphalt. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Certificate of Compliance: 30 Ocean Drive, 68-1543 – needs more work - controversial; 14 Brunswick Street, 68-2040 OK, 5R Dartmouth Street, 68-2441 OK; 6 Cliff Road, 68-2465 OK

36 Brunswick 2 open orders – plantings are on the wrong side and the walkway is too. Main goal was to prevent cars from driving up the passageway. At the end of driveway where the house ends, could request applicant to install environmental posts and some large boulders. It should be done before issuing the Certificate.

Enforcement:

87 Maple: filing has come in and is scheduled for November 25, 2013. Have to open the hearing. TA is discussing with Town Counsel regarding clearing of Town owned property. TA is thinking more than just tree planting, maybe fines. Wetlands have been filled too.

140 River Street: Spoke with Army Corp, doesn't sound like something they would allow either. They said they were sending a letter to the Triglias.

28 Gardiner: neighbor called said there was some new stuff going on. The attorneys are still discussing. Property owner is requesting to get easement resurveyed. DPW is saying they are done with it, feel there no issues with the town.

Kamman, 31 Candlewood: would like to call him tomorrow, need a guaranteed deposit. Lot of plants dead, original order called for replanting. Suggest Walter Hewittson. This has dragged on for a long time; need someone with qualifications. From the original order 10 things not done. Have to have someone over see it. Ms. Scott-Pipes: we do have a planting plan that can be used. No pear trees in the 25' to 50' buffer. Have a list of what he should be planting. Marked up what we asked him to do; this plan is good. Along with that we have what Brad Holmes submitted for plantings. Compared to what was there, we are way ahead. Just want to see the buffer planted. Mr. Gallivan: 30 of the original trees are dead. Need to say to him here is the plan, here is the language, this is what you have to do.

136 Indian Trail: it was left Mr. Gallivan would call DEP. Feels it falls under the bylaw; need to insist an engineer review Grady's plan. Talked with DEP, if beyond the 100' where the fill was placed, no jurisdiction, but if a wetland was created within the 100' buffer, think it would impact stormwater; didn't sound like it was going to be easy. Spoke to Rick Grady and spoke with Pat Brennan who was willing to give a proposal. Asked Mr. Grady to send the plan to him. Mr. Snow: Mr. Brennan can't give solutions; has to be careful about designing other people's projects. It's fine to have some give and take, but not recommend. If he says it will work, that's fine, but if he says it won't, the other engineer has to come back with another plan.

Mr. Snow: passed on the Higgins-McAllister property under the care and custody of the Commission. This is a wonderful piece with steep banks to a small stream; all part of Bates Lane and Carl Pipes area. Property line runs along some property we already have. There is a small dirt dead end road that may be a potential parking spot. Originally had a higher value, but changed property line and they are willing to accept the lower value. Multiple family members are involved. Hopefully the Crosby piece will be following soon. Have been acquiring property in the west end, many have old cart paths. We have some good stewards, Howard Mathews for one. There is parking at Mt. Hope and other parking on a piece Mr. Snow owns. Can use his until time comes we have a real parking area. Single family home has been built up the lane. There is money appropriated by CPC to build a parking area up Bates Lane. Need to get going on that, write a RFP, will need to have a

hearing to agree for the right spot; approximately 50' x 50'. Possibly make 2 or 3 smaller spots that might be more beneficial. Have the funds for a couple of areas, would be nice to get it started.

Mr. Snow – CRs: Need to get them prepared and moving forward. A CR is a set of guidelines that are put on a piece of property listing what can and cannot be done, such as hiking, bird watching, etc. Lind/Litchfield, Country Way property is more to protect the red maple swamp and railroad bed; might be able to have a trail. The other piece would be Hubble property. Ms. Scott-Pipes: are we starting from scratch with the CRs? Is our board doing these? Mr. Snow: Worked with Todd and Jim some. If we look at the CRs and the Conway study to see what are the things that should be considered, habitat management, for example. Can we implement any of their suggestions in this CR? Do we want hunting and no motorized vehicles? In the case of Appleton field deal with farming practices. CR for Litchfield property was signed last night by the Selectmen, Town of Cohasset Water Department holds the CR. Need to tidy up the CRs for the individual pieces. Work with a smaller group of the Commission. Legal counsel can be the holder of the CRs. CPC is working with the state looking at some of the issues. They have a new counsel that is working to get these together.

Mr. Schmid: Looks like there is movement on the Goulston property. Mr. Gallivan: Ms. Vinchesi and contractor are going to have a meeting. State has set some rules.

There are plans to rezone the Driftway behind Dunkin Donuts where the buses are parked. When the MBTA built the line, they built the marsh.

Walden Woods, Stenbeck Place: There is a small isolated wetland they are right up against. Stormwater structures have been built. Pat Brennan is reviewing. Mr. Snow: small piece of jurisdiction, been fortunate that it has been pretty dry, but if they had to dewater, they would have to be very careful. In one direction there is the red maple swamp and in the other direction, Satuit Brook. There are no temporary settling basins. Mr. Gallivan will get in touch with them and let Pat Brennan know too. MBTA paid a quarter of a million dollars for their sediment problems.

Laura Harbottle is talking about RFP for engineer reviews. They had Amory, Beals & Thomas, and John Chessia. Beals and Thomas are pulling out, they don't like the contract language and they are not the only ones. Engineers are having difficulty with the requirements and liability issues. If the work reviewed either doesn't get built correctly or doesn't work properly they are liable; could drastically restrict the quality of consultants. Do we need to sit down with the Planning Board and maybe someone else to discuss? Mr. Gallivan: the present consultants are good, but we do have our own wetland people.

Stockbridge Landing used to be Stockbridge Woods: 40B going for a Superseding Amendment through DEP. John Chessia went through the revised plans and has found some problems. Doesn't meet Stormwater standards and now it is in the Water Resource Area. Mr. Gallivan sent something to Tina Davies today. Hope DEP slows down, and we are all brought in on the discussion. Significantly different than what was originally proposed. There is a new engineer and new property owner and they are coming in with their own ideas, thinking everything is good.

Lot 2 Glades Road – the requirement of DPW infrastructure on Bailey's Causeway was pulled out by the court. The person appealing the project bought the lot and the old order will be closed out without activity. They will be coming in with a new house.

MINUTES

September 30, 2013

Motion to accept the minutes of September 30, 2013 Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

214 Clapp Road: Ms. Scott-Pipes: the Planning Board would like a letter stating that the Commission would like the open space under their care and custody. Fern Properties will need to put a CR on it. Motion to send a letter to the Planning Board to request to be the custodians of the 8.5 acres at 214 Clapp Road Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Rosemary Dobie: Humarock reserve parking issue on the inland side of Central Ave. Someone put a sign up, wanted to bring it to the Commission's attention. Ms. Caisse took a picture. Mr. Harding: Going south it is actually River Street. Mr. Schmid heard the selectmen talking about it.

Mr. Gallivan sent a letter to the new owners of the 3 lots on Central Ave. previously owned by Russell Clark, informing them of the recent filing for the storage of boat trailers and other equipment and explained the Commission's jurisdiction of the various resources.

214 Clapp Road, Mr. Gallivan: applicants requested to see the Orders. It can be done either way. I know in the past the applicants were not allowed to see draft orders. There shouldn't be any surprises. Here's what we are planning for orders, is there any egregious ones you do not agree with? We don't have to back down on anything, but would like to avoid an appeal. We have had more appeals than any towns around us. They don't have to like them. For instance if a Perennial stream is in the orders, and there are no perennial streams on the property, they can ask if we could take those out. Ms. Scott-Pipes: totally disagree. They shouldn't be able to dictate to us. They are our orders, they have no say over our orders. We gather information and the orders are what we feel is best for everyone. For instance Lot 2 Glades Road agreed to pay the money for the infrastructure work and then appealed. We let them know it was for mitigation. Mr. Harding: they don't have any input, we discuss the orders and put down what we want. They can disagree and give their reasons why, but on Monday there will be no discussion. Ms. Scott-Pipes: If you want to send them the orders and they send their comments back, that's fine, but they will not be discussed Monday.

Amended Order of Conditions: Cilento, 260 Central Ave. (paving in original footprint)

Motion to condition the project Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

CORRESPONDENCE

October 29, 2013 – November 13, 2013

1. Design Review Committee Agenda for November 5, 2013 – 50 Country Way - Bldgs. A, B, & C contain 30 apartments
2. 50 Country Way – Site Plan Special Permit for Mixed Use Development in the Village Business Overlay District
3. Planning Board Agenda for November 5, 2013 – Discussion 50 Country Way Special Permit Mixed Use Development
4. Recording of Amended OofC – 68-2448 - Carbone, 25 Town Way Extension (in file)
5. Request for CofC – 68-1968 - 101 River Street –Work never done (in file)
6. Architectural design 68-2495 - 17 Seventh Ave. – (in file)
7. Request for CofC - 68-2432 – 25 Mill Wharf Plaza – check, engineer’s verification, no as-built (in file)
8. FEMA – receipt of and acceptance as an appeal. FEMA will evaluate the issues raised. If warranted, FEMA will revise the Preliminary FIRM and FIS report and send revised copies.
9. The Beacon
10. CPC – October 21, 2013 the acquisitions of the Higgins-MacAllister property completed – 18-1-23.
11. Board of Health re: Walden Woods Housing Project on Stenbeck Place – “Nuisance” – windblown and construction generated dust, offensive and injurious to public health. Remove “nuisance” within 2 days
12. MassWildlife re: renewing subscription - \$6.00
13. DPW re: Sewer Betterment – re: Andrea Coan - Lot 14-2-15 – Unbuildable unable to perc, now sewered deemed buildable. Requesting abatement.
14. Notification to Abutters re: 121 Indian Trail (in file)
15. Planning Board Agenda for November 14, 2013 – 305 Country Way – Flexible Open Space Special Permit & Definitive Subdivision Plan & Scenic Road hearing
16. Site As-Built Plan for 38 Gilson Road for a previously requested CofC 68-2442 (in file)
17. Request for CofC for 108 Edward Foster Road – Request, no check, no verification – landscaping in answer to EO
18. Request for CofC for Laurelwood – 29 Laurelwood Drive, Norwell (?) (Lot 12) –No engineer’s verification, no as-built, check enclosed
19. Revised plan for 19 Wood Island Road – structural footprint. Net decrease in roofed areas: Revised: 2,055+/- SF versus Approved: 2,460+/- SF. Salt Marsh distance would remain the same 51’ as approved. Also tree in center of circular portion.
20. Information regarding the acquisition of Higgins-McAllister property that was completed. (in land file)
21. Recording of OofC 68-2494 – 27 Rebecca Road (in file)
22. 68-2152 - North River Marina, Dredging & other Works of Improvement, 12 Chief Justice Cushing Hwy. – Information re: company doing the work, schedule, dredging depth reduced by 1’. Survey plan enclosed (in file)
23. Recent Revisions of Certified Vernal Pools #3101, 3105-3108, 3112, 3113, Scituate Division of Fisheries & Wildlife
24. 49 Seaside Road – Exhibit to Accompany RDA that illustrates Phragmites Eradication (in file)

Meeting adjourned 8:24 p.m.
Respectfully submitted,

Carol Logue, Secretary