

**Town of Scituate  
Conservation Commission  
Town Hall Selectmen's Hearing Room  
Meeting Minutes  
January 27, 2016**

Meeting was called to order at 6:17 p.m.

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

**Also Present:** Patrick Gallivan, Agent, Carol Logue, Secretary

**Agenda:** Motion to amend the agenda to discuss a support letter for the Cushing field CPC project Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

**Vocational Life Skills Summer Program Workers:** In attendance were Matthew Flanagan, Paul Guerriero, Christopher Michaud, Alexandria Rau and Sarah Ann West, many parents and Gail Varrasso. Frank Snow thanked the kids for their hard work on Driftway Park. Commission truly appreciates the work they do. Also thanked them for inviting the Commission to the Community Breakfast. Ms. Varrasso stated that this year they did get paid for their work, but in years past it was volunteer. The school is proud of them also. Mr. Snow handed out Maria Sub Gift Certificates, pin on name tags and certificates. Mr. Snow mentioned about Scituate having lots of trails around town and hoped that they would enjoy them. One of the boy's brother is a scout and has does some great work for the Commission. It was announced that this summer the work schedule will be July 11 to August 18. Watch yourselves on Channel 9.

**Request for Determination:** Scituate DPW, various streets (2016 water main improvement project)\*  
Sean McCarthy from DPW was present at the hearing. Entering 3<sup>rd</sup> year of uncast waterline replacements that stretch into smaller sections of town. Selected areas here and there for another 3.7 miles. Requiring silt sacks around catch basins along the project routes. Resource areas were determined by GIS. When plans are finalized they will show erosion controls around the resource areas; can walk the routes to determine placement; would help to know for the bidding phase. Hope to bid in late February or early March and get mobilized in April. Ms. Scott-Pipes: only concern is the staging area; we know what happened on Lawson Road. At Lawson Road the line went well off the roadway and insertion valves had to be installed, that is why they were in the area. Mr. Gallivan: Someone should have contacted the Commission. Don't want to see that happen again. Be careful with staging areas and maintain erosion controls. The locations are identified and will be further identified on the construction plans. On any that have to be dewatered, don't want it pumped into the wetland, at least without some separation. Don't remember anyone ever having separation tanks. Maybe it could be written into the bid that the contractor had some sort of sediment tanks. This is two separate projects, just over 3 miles each, small sections on various streets. Every storm drain has the sack whether there is a resource area or not. Mr. Harding: if a surprise comes up, notify the office. The forman wasn't aware what was happening at Lawson Road; there was a breakdown in communication. Give a little heads up when the preconstruction will be. 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)." Before work begins there shall be a preconstruction with the contractor and the project supervisor to discuss various issues including location of erosion controls, dewatering and proposed location of the staging area. The Determination File # shall be placed in a visible location during the project. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Order of Conditions:** Town of Scituate/Bangert, Country Way (multi use trail)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Order of Conditions:** DeConcilis, 142 Humarock Beach Road (septic repair)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Order of Conditions:** Forde, 31 Hawthorne Street (elevate)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Order of Conditions:** Tornetta, 2 Atlantic Drive (dune restoration & drift fence)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Order of Conditions:** Turner, 6 Atlantic Drive (dune restoration & drift fence)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Order of Conditions:** Dobie, 128 Central Ave. (dune restoration)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.  
DEP is waiting to see the orders. Didn't work too well in Truro, but has worked well in Dennis.

**Order of Conditions:** Brennan, 8 Aquinnah Path (new build)\*  
Septic plan is being revised, but don't think the location will be changed. If it is they will have to come back. Motion to condition the project Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Coastal Advisory Committee:** Frank Snow attended; Rebecca Haney & Jason Burtner discussed alternative possibilities; height of seawalls for instance. It was a productive and positive discussion, but the committee is in its early stages. A lot of questions of how much sea level rise

we should plan for; don't know if it will be 2' or 8'. Nancy Durfee put in and received a grant to have a consulting firm come in and do a complete analysis to provide advise and prioritize. This study may show something else; there is lot they can look at.

**CPC Application re:** Trails for Cushing School and pathway from field to High School. Mr. Gallivan was asked to look at the pathways to see if there would be a problem putting asphalt down. He found no issues. Did they tell you they wanted to enlarge the field? Believe approximately 10' all around; told him to come see you. They only talked about the trail. Think it is the side toward Chittenden at the end of Aberdeen, and the other part of the field toward practice fields at the high school. Ms. Scott-Pipes will let him know to come back with a plan.

**Wetlands Hearing:** Diamond Development, 290 Hatherly Road (new build)\*

Stephen Bjorklund and Brad Holmes were present at the hearing. Abutters' notification was submitted. This is an undeveloped lot abutting the pond system at the Egypt Beach area. Resources: BVW, FEMA flood zone, land subject to coastal storm flowage and buffer to BVW. At the back side of the pond is a perennial stream which connects to the culvert to Sheeps Pond; 200' riverfront runs to the roadway. Proposing to construct a single family dwelling as close to the street as possible with proposed mitigation and wetland restoration. Driveway at front and serviced by sewer. The project occupies a portion of the 50' buffer zone. Submitted a detailed mitigation proposal to offset any impacts to the 50' buffer zone. Site is heavily dominated by non-native species. Ms. Scott-Pipes: couldn't find the 50' and 100' buffer on the plan. So many lines on the plan, but the 50' buffer is shown, it goes through the house and cuts through the back corner of the garage. Another aspect is the riverfront area and compliance with the 5,000 sq. ft. or 10% lot coverage. Designed to be just under 5,000 sq. ft.. Have detailed analysis of the riverfront area; 5,000 sq. ft. replaced with native plantings. There is an area used for dumping that will be removed and restored. Ms. Scott-Pipes: It appears this is not a disturbed piece of property, have to stand by the 50' buffer and say no disturbance. Understand it is a great mitigation plan, but in 5 years it will all be phragmites again; this is not a rebuild; would definitely need a continuing condition to remove phragmites. Mr. Holmes feels it is a degraded property and buffer zone. Bylaw does allow for exceptions in the 50' buffer, on a case by case basis. Mr. Gallivan: not only is it the 50' buffer issue, but the 5,000 or 10% is only if you leave the inner 100' riparian zone undisturbed on an undeveloped lot. To prove something could be done with this lot you'd have to go through the performance standards for the resource areas. The house would be in the 50' buffer and riverfront area; this is a difficult site to develop. Mr. Harding: Lot to overcome; pushing the envelope. Plantings are nice but don't think it does it. Project only impacts two resource areas: land subject to coastal storm flowage and riverfront. There is a clause that if the lot predates 1996 riverfront regs, which this one does, you have to try to the maximum to the extent possible to comply with the 5,000 sq. ft. or 10%. The only thing it can't comply with is the 100' inner riparian zone, but because of that clause, it does allow the project to meet that exception. If it was a newly created lot, couldn't do it. Brad read the pertinent paragraph from the riverfront regs. We also have minimized yard around the house. Mr. Gallivan: will check into that clause more. The other part Tom Liddy from Lucas questioned whether there was a coastal bank. There is a gentle slope, don't believe there are any steep slopes constituting a coastal bank. May need to run survey profiles. With land subject to coastal storm flowage there is always some type of bank. Mr. Bjorklund: in the riverfront guidelines, if there was a preexisting non-conforming lot, the act itself wouldn't take away rights to use the property. Also it was laid out before Zoning, probably back in the 1950s. Property needs a garage for storage, there is no basement and it is a pretty small house. Trying to minimize impacts, willing to do more mitigation if possible. Certain times people can stay out of the 50', but there was an approval on Border Street, 6' away from the wetlands. Mr. Gallivan: replanting buffer to BVW, but when it is in the riverfront and coastal storm flowage, may prefer to be left undisturbed. Could discuss with DEP before the hearing is closed. There is a neighbor's shed on the property; will work with them and try to relocate it for them. Mr. Holmes: not proposing any phragmites improvement, mitigation is from the wetland up. In theory phragmites shouldn't be coming up further than the wetland line. Robert Reardon, 298 Hatherly Road: lived there a long time. There are a lot of ducks and nests of swans that move around the pond every 3 or 4 years, think they will be disturbed if this property gets disrupted. When something is disturbed, everything gets disturbed. Lower level was never touched. It is such a small lot, once in a while things should be left to nature. Beauty of nature is a great deal better than what we do; it will be gone. Mr. Bjorklund: planting plan tried to maximize the buffer zone; could pull back mitigation in the 100' inner riparian zone. Mr. Gallivan: It is well over the 5,000 sq. ft if you enhance that area. Need to survey to see if there is a coastal bank, which would mean another resource. Motion to continue the hearing to February 17, 2016 at 6:40 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Wetlands Hearing:** Diamond Development, 105 Hatherly Road (ANRAD)\*

Stephen Bjorklund and Brad Holmes were present at the hearing. Abutter's notification was submitted. Westerly side of Hatherly Road. BVW in the corner shown in pink. Tom Liddy from Lucas Environmental walked the site and in his opinion the delineation is accurate. Plan shows the 50' and 100' buffer. Mr. Bjorklund: there is an existing house, garage and circular driveway and house and garage. Actually removing the house from the 50' buffer. Reviewed the whole property; there are no other wetland areas on the site. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote. Motion to issue an Order of Resource Area Delineation Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Wetlands Hearing:** BTZ Realty Tr./Costello, Lots 31 & 32 Fieldstone Road (concrete driveway to access 2 lots not included in filing) (cont.)

Greg Morse, Morse Engineering and Leo Costello were present at the hearing. Mr. Snow has the one copy of a plan submitted today showing ortho overlay to see approximately where the house locations will be outside the 100' buffer. Highlighted in blue where the crossing will be. Also provided actual plot plan that has all the bearings and distances. Ms. Scott-Pipes: there is another building out there. Submitted the latest photo he could get off line. The building is not on BTZ property. Building you see is way over in another area; it is Costello property, but not BTZ's. We asked for something that showed all the structures on the property. Mr. Snow: where is the crossing? Mr. Morse: Crossing is at Longmeadow and Fieldstone to provide access for two homes, in an existing field and horse paddock. Looked at alternatives for access, but Longmeadow Road required zoning approval and they wouldn't allow. Also there would be a larger wetland crossing if you came off of Bittersweet Lane, 60' in length. There are no other access points on this property. When were the lots formed for BTZ? In 1986. Original lots on Fieldstone were created in 1957. Showing all the work in Commission's jurisdiction. Houses and driveway will be subject to a Planning Board review. The Commission could set a condition that would limit development to the two proposed homes. Proposal is under 2500 sq. ft. of alteration. The original crossing proposed 20 years thought it would be closer to 4,000 sq. ft. of alteration. That plan proposed a 20' wide section with cape cod berm, grading was much wider, bringing in elevation of roadway up with 3700 sq. ft of fill at the time. The current design is for 16' wide, which is acceptable for a two lot subdivision. Goal is to keep the houses out of the 100' buffer. Haven't done the perk test, each lot will be 5 acres in size. Actual upland area is 3 to 3-1/2 acres. Any potential for access at the end of Townsend Road. Didn't delineate the whole 25 acres. Ms. Scott-Pipes: not in favor of wetland crossing. Mr. Harding: with the mitigation, don't think we can refuse the access. If it is the best access with the best mitigation that's what we asked for. Mr Parys: kind of agree with Richard. Can see the limited

access they have. Mr. Gallivan: may want to close unless you want additional info. Both these lots have wetlands on them. The only info would want to look into, a crossing with no house plans, probably OK, but would like to run it by DEP. Can condition no more than two homes. Allowed to file just for driveways, DEP has a separate filing fee. There would need to be a stormwater permit. Planning will be doing a site plan review. Mr. Bjorklund: Planning Board would do the stormwater, unless it is done after April. Motion to close the hearing Mr. Harding. Second Mr. Parys. Motion passed by unanimous vote.

**Wetlands Hearing:** Farrell, 12 Postscript Lane (septic repair)\*

Greg Morse from Morse Engineering was present at the hearing. Abutters' notification was submitted. Septic repair for an existing three bedroom home. Resource: land subject to coastal storm flowage in an AE flood zone at elevation 10'. Entire site is within the flood plain area. Served by a cesspool now, being replaced by a septic tank and leaching chamber. Minimal grade change; within 6" of existing grades. More than 200' from the river. Board of Health is still reviewing the plan. Could you condition upon Board of Health acceptance? Save as much vegetation as possible. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**DuVoisin Land Swap:** Mr. Snow had a discussion with TA. Should hold a meeting and notify abutters, including the Damon family and Conservation Way to let people know that it is up for consideration. It is not a simple process; have to go to Selectmen, town meeting and legislature. There seems to be confusion whether we are interested or not. Pat and Frank will talk to Mr. DuVoisin to see what might work. Important to let people know what we are thinking and how we will access the property in terms of parking. Thought we'd have two areas for vehicle access. Mail notice to abutters and have a meeting February 17 at 7:00 p.m. Will need a map of the property. Board of Selectmen were waiting to hear what we thought.

**Stormwater Bylaw Update:** Meeting last night. Chance for Water Resource Committee / John Clarkson and N&S River Watershed Association / Samantha Woods to have input on the bylaw. They had a lot of comments; brought up a number of points. Many things can be cleaned up to make it simpler; some things have to be addressed in the bylaw and a lot gets done when the regulations get developed; this is just around the bylaw. Main issue is the amount of alteration that triggers stormwater. John Clarkson is going to have his board review what's done so far and get comments back next week. He may write something up. It would be nice to be able to get all the information in one place.

**Middle School Greenhouse:** Mr. Bucca was present asking if the Middle School might consider a greenhouse. Hoping Commission would support him and either he or the Commission discuss with the schools. Someone from the school had come in to talk to the Commission about possible agricultural areas; find out from Bill who that was. The Life Skills program have a garden. Think it is a good suggestion.

**Safety building trail update:** discussed some erosion issues with Laurie Bates, the town's rep at the site. Also discussed the replacement trail behind the berm. Howard Matthews met with her, he thinks it would run fairly straight. Looking to do the trail fairly soon; it is all fenced off. The other thing people are upset with all the clearing. They can't visualize the clearing of that large an area until it happens. That land is not under the care and custody of the Commission. That site was proposed for a school, then there was a large recreational building proposed with a pool. There were multiple hearings held and even joint meetings with Planning Board; talked about mitigation and enhancement plantings. As upsetting as it is, it went through the whole process. It is not like an individual made the decision. Folks need to be aware. If they want to see land conserved, support CPC and acquisition of open space to see that areas get protected. When that site is complete it will be enhanced in several ways. Ms. Scott-Pipes: There was two town meetings and then a ballot vote; a lot of work was done.

**Trails:** Mr. Snow – going to meet with Ernie Foster and Howard Mathews about layout out and marking trails on some of the new areas.

**Enforcement Issues:**

**Lawson Road:** Rod Rezendes, KR Rezendes was present. Sean McCarthy was here earlier and enlightened us regarding the water line. Brought pictures and a drawing. The trees had already been cleared and brush was piled up. The operator made room for us to install two 8" insertion valves by pushing the brush toward the wetland. This area wasn't shown as a wetland. Afterward used as a stockpile area at the edge of the road, didn't have to go back in. They cleaned all the brush out and abandoned the water line in place. Mr. Gallivan: do you have a wetland person? No. Could put grass in. Maybe should look at it in the spring and see what it looks like. Previously disturbed probably the turn of century. Clerk of works believed needed 400' of erosion controls; think they used about 30'. Be careful in the areas where dewatering. Try to use a distilling basin and have an overflow.

**140 River:** This issue goes back a way. Enforcement Order at one point and parents were asked to file with Corps of Engineers, never got any answers. Wall is in the river and crushed stone was put in behind it. James Triglia was present. A few years back mother put a wall up without speaking to anyone; Atty. Nylén was involved. It is approximately 60' long, about 6' to 10' from the foundation to the house, opened at one end. After last winter, there was so much erosion, the sonotube fell from the back deck. Deck was leaning; put support back up and put down some crushed stone. Any kind of work in that area, you need to file with us. The wall is in the river with no permit. It involves an application with the Army Corp. Mr. Parys: we were going have them remove it. The attorney said they would file with Chapter 91; that a minimum of 6 years ago. If you need to support your deck, you need to come to us. Seawalls are against the law. Mr. Gallivan had several conversations with the Corps. If it has to be removed it will certainly undermine the foundation. Contractor put the wall up, it is not a velocity zone. Should have a structural engineer look at to see if it works. That's all been done. Still think Army Corps needs to weigh in and we have authority because it is a resource area. You need to contact the Army Corps, let us know when you do and get engineered drawings and file with the Corps. We need to see evidence that this happened. You or Nylén contact the Corps of Engineers. Get correspondence in the mean time and let us know what is happening by February 17<sup>th</sup>. Talk to Pat next week.

**11 Concord St.:** Wall that needs to be pulled out as well as the rebar, or jack hammer and pull it out. He has already torn up the marsh. Need a sequencing schedule. Want to know how they are going to do the work and need restoration after it is done.

**140 Humarock Beach/Dodge Road:** Expanded pavers on street, think they will need to file an after-the-fact. Mr. Harding: Is it pervious? There is no motar. They need to show us what they have there. File and have them on the 17<sup>th</sup>; also need to include the perpendicular fence.

**Request for ORAD Extension:** Haufler, Lot 2 Peggotty Beach Road

Mr. Snow went out to the site and saw the 10" or 12" corrugated pipe with water leaving the property and coming out across the street; pretty convinced area is connected. We accepted an ANRAD that said it was isolated. Did the pipe show up on the ANRAD? If it didn't, it is up to the applicant/engineer to give us the right information. If the filing didn't show the correct information, the ORAD is null and void. Talked to both attorneys today, we should have a meeting sometime in February with the two attorneys and a couple members and then have a meeting on March 3. Commission should vote to extend the ORAD; it expires today. Maybe if we extend again it will warm up enough to dig up the street to see about the pipe if necessary; maybe put in some biodegradable dye. Motion to extend the ORAD until March 16, 2016 Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**12 Rebecca Road:** owner called, wall in velocity zone now, but soon to be in an A flood zone; going to have to file.

**24 Webster:** Mr. Gallivan didn't get to it today; will get in touch tomorrow.

Mr. Snow: the project on Curtis: They have no DEP sign up or preconstruction; cleared a lot and crossed another person's land and cut down the apple trees. Had a hard time finding out who the owner and developer were. Came in, didn't know he couldn't do that. Do not want to hear them asking for a Certificate of Compliance. Thinking there should be an Enforcement Order. Frustrated with some people that know better; contractors that go forward without doing what they are supposed to; don't have a problem with a cease and desist or making them wait a month to resolve things; we have been very reasonable. Went out there with Greg Morse and whether it was a mistake or not it should be set straight quickly.

Changing the town bylaw, the Commission could fine up to \$300 a day. If it is a contractor, hit him with a couple of cease and desists. Mr. Parys: with most of these projects it would be sure I'll write you a check and be on your way. Better to have a cease and desist.

Certificate of Compliance: 273 Chief Justice Cushing Hwy.; closing tomorrow. OK for a Certificate of Compliance.

Support letter for Cushing paths. May not be just the paths, but the fields too. Maybe just the part of the field toward Chittenden.

**CORRESPONDENCE**

**January 14, 2015 – January 27, 2015**

1. Living Shoreline Solutions Inc. – Wave Attenuation Devices
2. Recording of OofC - 68-2584 – Barden/Clarke, 258 Central Ave. (in file)
3. Picture of dock at 161 River Street
4. Massachusetts Wildlife Magazine
5. Recording of OofC - 68-2525 – Stewart, 160 Chief Justice Cushing Hwy. (in file)
6. Report - Lucas Environmental – 300 (280) Hatherly Road (in file)
7. Report – Lucas Environmental – 105 Hatherly Road (in file)
8. Recording of OofC – 68-2582 – Joy, 262 Central Ave. (in file)
9. Report from ECR (same as previous) – Wetland Replication Narrative for Lots 31 & 32 Fieldstone Road – Proposed Driveway Plan and Plan Showing Costello Property (in file)
10. Article from Lana Seguin-Spillman, Topsfield Conservation Administrator & Boxford Commissioner: Tips from the Conservation Office by hiring summer interns or some paid, some volunteers.
11. Mitigation Planting Plan for 8 Aquinnah Path (in file)
12. DEP File #68-2592 - 105 Hatherly Road (in file)
13. DEP File #68-2593 – 290 Hatherly Road (in file)

Motion to close Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Meeting adjourned 9:00 p.m.

Respectfully submitted,  
Carol Logue, Secretary