

## **CONSERVATION COMMISSION MINUTES**

**Thursday, March 17, 2016 ~ 7 pm ~ Lower Conference Room, Bourne Town Hall**

Chm. Gray called meeting to order at 7:00 pm and explained the Commission's procedure pursuant to the Wetland Protection Act M.G.L. c. 131, s. 40 and the Bourne Wetland Protection Bylaw Article 3.7.

Note: Chm. Gray addresses the audience in regards to recording a public hearing. If anyone wishes to record a public meeting, they are free to do so, however, it must be known by the Board and the public. All cell phones are to be placed on vibrate or turned off during the meeting.

Members present: Chm. Gray, V. Chm., Peter Holmes, Betsy Kiebala, Susan Weston and Thomas Ligor, Paul Szwed and Associate Member Elise Leduc

Members absent: Rob Palumbo

### **Notices of Intent:**

1) Richard Buttrick  
DEP File Number SE7-1937  
31 Baxendale Road, Cataumet

David R. MacLean & Associates representing – applicant seeks to construct beach access stairs over a coastal bank within an AE Flood Zone and within 100 ft of a Wetland Resource Area. Mr. Buttrick would like to rebuild what was at this property when his father lived there, approximately in the late 1970s. He will replace existing stair in the same location. In addition, he would like to take down a scrub pine and plant indigenous plantings in its place. He seeks to duplicate what he once had. A total of 7 pair of sauna tubes will be used.

Brendan Mullaney – the remnants of the stairs are in bad shape; no major tree removal and removal of vegetation are minor. The plan looks really good and is to replace what originally was in place. No concerns with the project.

No board comment. No public comment.

Kiebala moved and seconded by Palumbo to close the public hearing. Unanimous vote.

Brendan Mullaney – Draft Order of Conditions: All General Conditions, Special Conditions pursuant to MGL, Chapter 131, Section 40 1,2,3,9,12,13, 16-24 and Special Conditions pursuant to the Bylaw 7,8,9. Special Conditions 20 & 24 to continue in perpetuity.

Ligor moved and seconded by Kiebala to move the Draft Order of Conditions to Final Order of Conditions. Unanimous vote.

2) Massachusetts Maritime Academy

DEP File Number: SE7- 1936  
101 Academy Drive, Buzzards Bay

Chm. Gray notified the board and public this hearing will be continued to 4/7/16 at the request of the applicant.

**Issuance of Order of Conditions:**

1)Town of Bourne  
DEP File Number SE7-1931  
Barlows Landing, Pocasset Harbor, Pocasset River and Little Bay

Applicant seeks to perform maintenance and improvement dredging with associated beach nourishment at Barlows Landing, Pocasset Harbor, Pocasset River and Little Bay within AE and VE Flood Zones and within Wetland Resource Areas

Brendan Mullaney – this hearing was closed on 3/3/16. He handed out draft copies to the board of additional Special Conditions.

Brendan Mullaney – Draft Order of Conditions: All General Conditions, Special Conditions pursuant to MGL, Chapter 131, Section 40 1,2,3,9,12,13,16-22, 24 and Special Conditions pursuant of the bylaw 7,8,9 and Special Condition 20 & 24 to continue in perpetuity. Additional Special Conditions are as follows:

**ASC-1)** All pertinent project areas must be staked out prior to construction and maintained during construction, including but not limited to shellfish lines, applicable wetland resources areas, limit of work, etc.

**ASC-2)** In order to minimize impacts on winter flounder, alewife, blueback herring, and horsehoe crab resources, all dredging, nourishment and silt producing activities are prohibited from January 15 through July 30 to protect spawning and juvenile development.

**ASC-3)** No construction equipment shall be stored in the intertidal area.

**ASC-4)** Disposal of dredged material on the beach should be consistent with MassDEP's Beach Nourishment Guide. All fill should be deposited above the mean high water mark to minimize impacts on intertidal habitat and beach fill material should be of equal grain size and appropriate slope to avoid premature loss from the beach and impacts to nearshore bottom habitat.

**ASC-5)** Areas indicated as maintenance dredging on the plan of record are regulated under MGL Ch. 131, 40 Section 27 and therefore future dredging for the maintenance dredging portion of the plan of record within 10 years of the date of issuance can be done without additional Notice of Intent filings. Notification does need to be given in writing via certified mail to the Conservation Commission and the Board of Selectmen with the name and address of the applicant and when the work is to be performed.

**ASC-6)** Prior to any dredging or construction that is proposed, all shellfish shall be removed and transported from the affected areas under the discretion and supervision of the Department of Natural Resources and the Conservation Department. Any permits that are necessary for this activity shall be obtained prior to transport.

**ASC-7)** If necessary an excavator located on a barge with self-contained scow may be used to remove larger stones or excavate around and relocate larger stones to dredge depth.

**ASC-8)** All conditions, prohibitions, and/or restrictions placed on this project by the Massachusetts Natural Heritage and Endangered Species Program are automatically incorporated into this Order of Conditions.

Palumbo moved and seconded by Kiebala to move the Draft Order of Conditions to Final Order of Conditions. Unanimous vote.

### **Request for Certificate of Compliance**

1) Ernest L. Ross  
DEP File Number: SE7-86  
21 Buttermilk Way, Buzzards Bay  
Project is to reconstruct an existing cement seawall.

Brendan Mullaney – a site visit was conducted and compliance is determined and recommends the board to grant.

Priscilla Koleshis, Century 21 representing - this property is currently under agreement and this information is necessary to take off the deed.

Holmes moved and seconded by Weston to grant request of Certificate of Compliance. Unanimous vote.

### **Other Business**

#### **ISWM – Proposed Article 97 Land Disposition Agreement with Department of Fish & Game**

Mr. Dan Barrett of ISWM – explained briefly that for a long time, almost 16 million gallons of water per year needed to be removed from ISWM which was a large carbon footprint and a huge expense to the Town. For years, we tried contacting Joint Base Cape Cod (JBCC) and they had no interest at that time.

However, JBCC was under new management and contacted Bourne about two years ago; they need water for their system and the Town needs to get rid of some water. We met with DEP and are working to establish water quality requirements. Environmental Management Commission approved the idea. During this process (6 months) we found the land is Article 97, but we need to look at how to handle Article 97 land. Our State Representative Riviera assisted with the meeting with the Commissioners of Department of Fish & Game (DFG). They walked us through the process and said this can be done by the next session (Summer 2016).

They would like to “swap” land with the town so that we will have an easement allowing access to their system and they would like to be co-holder of a Conservation Restriction on two parcels of land off Head of the Bay road (as shown on map handed out to members). The next step is to get this to Town Counsel to determine if it needs Town Meeting Vote. It’s possible it can go through Conservation Commission and then to vote by the Board of Selectmen.

Brendan Mullaney – there is no explicit Conservation Restriction on these parcels. Restrictions were given automatically as acquired by the Town on the deed. DFG wants to be a co-holder with the Conservation Commission which would have ability to enforce the restriction. He feels they see this as important land and don’t want to see lands used for other municipal purposes. If the Town ever tried to do anything with them, it would make the restriction almost impossible to remove.

Ligor moved and seconded by Weston to authorize TA Guerino, Town Counsel and the Board of Selectmen to move forward with Proposed Article 97 Land Disposition Agreement with the Department of Fish & Game. Unanimous vote.

Violation – removal of trees and vegetation within buffer zone to Coastal Bank and Flood Zone – 65 & 69 Bellavista Road, Pocasset

Brendan Mullaney – there was a lot of debris left. He heard from Mr. Federow who is out of State at this time, he stated he removed only one tree on his property which was compromised per his representative.

Mr. Bernie Stelmach - he is here tonight to state there was a huge tree with three sections and was rotting. He was told approvals were given to remove the tree. The gentleman who performed the work stated he had received all necessary approvals – there was also removal on his neighbors property.

Brendan Mullaney - will send a letter to the other party on the other side and make a site visit. He will then assess the area and determine how to remedy. He will bring before the board at the next meeting.

**Excuse Absent Members**

Holmes moved and seconded by Weston to excuse Absent Members. Unanimous vote.

**Approval of minutes**

Ligor moved and seconded by Weston to approve minutes of November 19, 2015 as amended. Unanimous vote.

**Adjourn**

Ligor moved and seconded by Holmes to adjourn. Meeting adjourned at 8:10 PM. Unanimous vote.

Respectfully submitted – Lisa Groezinger, sec.