

Conservation Commission

Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

February 2, 2017

I. Call to order

Mr. Palumbo called to order the meeting of the Conservation Commission at 7:00 PM on February 2, 2017. Mr. Palumbo explained all of the reviews, unless otherwise stated, are joint reviews. Applications will be processed pursuant to the Massachusetts Wetlands Protection Act, M.G.L. c. 131, s. 40 and pursuant to Article 3.7 of the Town of Bourne Wetlands Protection By-law.

Note: Mr. Palumbo addressed the audience and explained the 5, 5, 5 rule; which allows the applicant / representative five minutes to make a presentation to the Commission members, Commission members will take five minutes to seek clarification if needed, the conservation agent will also give a report and five minutes of public input is allowed. He asked for all to silence their cell phones.

Mr. Palumbo noted that the meeting was being recorded and asked that anyone in the audience who was recording or videotaping to acknowledge such to the Commission. The proceeding listing of matters are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may be discussed to the limited extent permitted by the Open Meeting Law. All items within the meeting agenda are subject to deliberation and vote(s) by the Conservation Commission.

Members Present: Robert Palumbo, Thomas Ligor, Betsey Kiebala and Associate Member, Elise Leduc.

Excused Members: Robert Gray, Susan Weston, Melvin P. Holmes and Paul Szwed.

Also Present: Sam Haines, Carol Mitchell, Amanda Crouch-Smith, Gina Vesty, Jeremy Packard, Zachary Basinski, Steven Candella, Nancy Candella, Brad Saunders, Kevin Buruchian, Jim Mulvey, Bruce Silverbrand, Cameron Larson, Michael Steller, Rick Hayes, Paul O'Keefe and Paul Forgione.

Request for Determination:

1) Colonial Gas

File # CC17-001

Tighe & Bond

88 Sagamore Road, Bourne

Install approximately 200 linear feet of gas line within 100 feet of a Wetland Resource Area.

Materials Reviewed – Site Photographs, Site Plan of Record, DEP Wetlands Change Mapping and a public comment email from Shane Hocter representing an abutter.

Gina Vesty of Tighe & Bond addressed the board. She described the proposed project; adding 200 linear feet of service line to the residence located at 88 Sagamore Road from the existing gas main. Ms. Vesty mentioned the abutter has easement concerns and National Grid has proposed alternative placements of gas lines.

Agent Comment – Mr. Haines performed a site visit on February 2, 2017, this is a straightforward installation. The proposed location is fairly developed with gravel, grass and planted shrubs; however, the proposed line goes through the property of 59 Algonquin. Mr. Haines received public comment from Shane Hocter, the Real Estate Agent representing the property owner. He asked for a continuance until such a time that the property owner may be represented at the hearing. The property owner is presently out of the country. Mr. Haines stated there have been past easement concerns and the abutting property owner is very concerned with not having the opportunity to review the filing more closely.

Board Comment – Ms. Leduc asked what alternative placements are being considered as Ms. Vesty stated in her presentation. Amanda Crouch-Smith of Tighe & Bond referred to the plan and discussed possible alternatives. A brief discussion ensued.

Public Comment – None.

Mr. Palumbo entertained a motion to continue the matter to February 16, 2017. **Mr. Ligor moved and Ms. Leduc seconded to continue the matter to February 16, 2017.** With no discussion, the motion carried. 4-0-0.

Notice of Intent:

1) Karl Spilhaus

File Number: SE7-1967

Representative: CLE Engineering

88 Monument Neck Road, Monument Beach

Rehabilitation of an existing timber pier within a V Flood Zone and Wetland Resource Area.

Materials Reviewed – Site Photographs, Site Plan of Record, Exhibit A-Project Narrative and DEP Wetlands Change Mapping.

Jeremy Packard of CLE Engineering addressed the board and discussed the proposed project; to reconstruct an existing timber pier. He stated the existing timber pier has been in place, as far as he knows, since the 1930s. In 1994, an Order of Conditions was issued and maintenance work was performed. Mr. Packard referred to the plan and noted the location of the Wetland Resource Area, Coastal Bank, Coastal Beach and Buffer Zone. He stated the proposed reconstructed pier will be in the same footprint with the same profile as it is today and discussed how the site will be accessed for construction. He is proposing to use untreated timber piles with the possibility of using CCA treated.

Mr. Packard stated in the past, the applicant would remove the float at the end of the season and would pull it up the Bank; which caused extensive damage. The applicant is now proposing to carry the float on a tractor up the bank and store it seasonally on a shell driveway located on his brother-in-law's adjacent property. Previously, it had been stored on the beach.

Board Comment – Mr. Ligor asked which portion of the Bank the applicant proposes to drive on. Mr. Packard referred to the plan and asked that the Commission allow the applicant to maintain a 10'x10' path on the Bank to allow room for the tractor. He stated a drift fence would be installed to allow the vegetation to regrow.

Mr. Palumbo asked the representative for other options in removing the float as he doesn't feel the one presented is a viable option. Mr. Packard stated he discussed another option with the applicant; using a marina to install and remove the float. This option is acceptable to the applicant.

Mr. Ligor asked if the entire pier is being removed and also asked if the work will be completed from a barge. Mr. Packard stated yes, it's a complete replacement in-kind and the proposed work will be performed from a barge by Beacon Marine; adding that Beacon Marine is very familiar with working in coastal areas and understand how fragile the area is.

Mr. Ligor asked if the piers will be jetted in. Mr. Packard stated they'll be driven in.

Mr. Ligor asked if a shellfish study will be performed. Mr. Packard stated a shellfish study will not be conducted because they are using the existing footprint; otherwise one would be proposed.

Mr. Ligor asked what size gap is being proposed between the new treads. Mr. Packard stated the gap will be 1 inch and briefly discussed the vegetation growing under the pier.

Ms. Leduc asked if a survey had been performed to assess vegetation growth at the end of the pier. Mr. Packard stated a diver found no Eel Grass growing in that area. Ms. Leduc questioned whether or not the 1 inch tread gap will continue the entire length of the pier to allow for future vegetation growth. Mr. Packard stated it will, stating they'd be willing to bevel the edges to allow for even more sunlight infiltration.

Mr. Ligor asked if the piles will be untreated. Mr. Packard stated they are proposing to use Greenheart pilings if that's what the Commission requires; however, based on availability and cost, they'd like to request permission to use CCA treated piles.

Agent Comment – Mr. Haines stated this pier was previously permitted under DEP file number SE7-1948 and has an active Chapter 91 license. In addition, the Commission did permit previous maintenance work in 2003 under DEP file number SE-1461, Mr. Haines could not find a Certificate of Compliance for that filing. Mr. Haines referred to the photographs and noted there is some debris on the beach; which may be a result of past maintenance. The float is currently being stored on the beach, even though float storage was prohibited by Condition #30 with the previous Order. This may have led to the pathway being created. Mr. Haines distributed photographs of the site that were taken in 2003, the pathway was created after these photos were taken. There was an existing Condition in the previous Order that said remediation measures are necessary for the current disturbance of the vegetation that is a result of past vehicle operations on the Coastal Beach. Replanting of disturbed vegetation with native appropriate species is a Condition of this permit that must be complied with.

Mr. Haines expressed concern over pedestrian access. He stated there are boulders under the existing pier and dilapidated stairs with a pathway around them. There's also signage that indicates pedestrian use is allowed; however, the submitted plan does not show any access. A discussion ensued.

Mr. Haines questioned Mr. Packard's statement that all work will be performed from the barge when the Notice of Intent clearly shows there will be some swamp mats installed for access. Mr. Packard stated Beacon Marine originally thought all work would be conducted from the barge; however, the last few piles closest to the shore are unreachable from the water. Their intent is to place crane mats down on the existing access, drive a small tractor with rubber treads to the pier, conduct their work within one day, remove all equipment from the beach and restore the pathway.

Ms. Leduc asked if they'll be replanting any disturbed vegetation. Mr. Packard said yes, they will hire a landscape subcontractor.

Mr. Haines discussed the comments received from the Division of Marine Fisheries involving the use of CCA and AQC pressure-treated lumber which can leach copper arsenic into the marine environment. They recommend using either non-treated local hardwoods or synthetic lumber. If the Commission approves this project, Mr. Haines recommends adding a few Special Conditions; 1) all debris as a result of the currently approved maintenance and past maintenance activities be removed from the site and properly disposed of, 2) upon completion of the project the applicant must apply for a Certificate of Compliance for both this project and the previous pier maintenance filing SE7-1461, 3) no grounding of barges as discussed, 4) all areas of disturbance will have to be revegetated with native vegetation, 5) after the construction phase, no equipment will be allowed; the floats must be removed off site via barge or boat and cannot be transported over the Coastal Dune or Coastal Beach.

Board Comment – Mr. Ligor thought another Special Condition pertaining to pedestrian access should be mentioned. Mr. Haines stated that is a standard Condition.

A brief discussion transpired concerning the pathway and whether or not continuing to drive a tractor over the area would have an adverse effect on the Bank. Mr. Haines feels it will adversely affect the condition of the dune and Coastal Bank and reiterated that the previous Order stated all disturbance would be revegetated.

Public Comment – None.

Mr. Palumbo entertained a motion to close the hearing. **Ms. Kiebala moved and Mr. Ligor seconded to close the hearing.** With no discussion, the motion carried. 4-0-0.

Mr. Haines - Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers 1, 2, 3, 9, 12, 13, 15, 16, 17, 19, 20, 21, 22, 24, 30- 41 and Special Conditions pursuant to the Town By-law numbers 5, 6, 8, 9 as well as the additional Special Conditions listed in the Agent Comment section.

With no discussion, **Ms. Kiebala moved and Mr. Ligor seconded to move the Draft Order of Conditions to the Final Order of Conditions including all of the Special Conditions stated by the agent.** The motion carried. 4-0-0.

2) F. Gerald O'Neill

File Number: SE7-1968

Representative: Bracken Engineering, Inc.

58 Monument Avenue, Monument Beach

Removal and reconstruction of an existing seawall within a V Flood Zone and Wetland Resource Area.

Materials Reviewed – Site Photographs, Site Plan of Record and DEP Wetlands Change Mapping.

Zach Basinski of Bracken Engineering addressed the board and discussed the proposed project; to replace 76 linear feet of dilapidated seawall. The replaced section will be in the same footprint and all areas will be reestablished to preexisting conditions. There is an existing set of concrete steps that lead to the beach, the applicant would like to either reconstruct concrete steps or install a set of removable wood steps. He stated the site is not located within Natural Heritage Priority Habitat. Temporary sandbags are proposed out on the beach for workability, temporary dewatering bags will be utilized and the proposed work area will be accessed from the main land side.

Mr. Basinski stated they were contacted by the neighbor and may be meeting with him to potentially replace a section of his seawall. This will require a separate filing.

Board Comment – Mr. Ligor asked what type of wall the replacement will be. Mr. Basinski stated it will be poured concrete.

Ms. Leduc asked how many days the construction will take. Mr. Basinski stated 1-2 weeks. Ms. Leduc asked what type of material will be stockpiled on the site. Mr. Basinski stated rebar, extra erosion control measures and any dirt that may need to be removed and then trucked back on; no equipment will be left on site.

Mr. Palumbo asked if the tides will impact the work schedule. Mr. Basinski stated most of the work will be done above the tideline; however, the demolition and the installation of the footing will have to be timed accordingly.

Mr. Ligor asked if the demolition will be done by hand. Mr. Basinski stated they'll be saw cutting and hand removing the cut pieces.

Agent Comment – A site inspection was performed on January 27, 2017. It is a standard seawall construction. The plan calls for the removal of the concrete abutments and that BMPs are being utilized. Mr. Haines expressed concern that the dewatering bags are sometimes problematic and recommends adding a Special Condition that additional erosion controls be stockpiled on site. Another concern he has is concrete washout and would like to add a second Special Condition that any concrete washout must be taken off site. A third Special Condition will require the material storage area be covered with poly sheeting overnight.

A brief discussion transpired with regard to the two stair replacement options that were presented.

Additional Board Comment- Mr. Ligor asked how the concrete will be brought in. Mr. Basinski stated a concrete truck with a pumper will be used to pump in the concrete.

Agent Comment – Mr. Haines asked if the stairs are above Mean High Water. Mr. Basinski stated they are.

Public Comment – Michael Stellar, the adjacent property owner, addressed the board. He stated he has approximately 15 feet of wall on his property that also requires reconstruction and would like to file a Notice of Intent prior to the commencement of the wall reconstruction, that way the area is only disturbed once.

Rick Hayes, son-in-law of F. Gerald O'Neill, addressed the board and stated because of the current condition of the wall, he's hoping construction can begin in the spring.

Ms. Kiebala moved and Mr. Ligor seconded to close the hearing. With no discussion, the motion carried. 4-0-0.

Mr. Haines - Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers 1, 2, 3, 5, 9-13 18-22, 24 and Special Conditions pursuant to the Town By-law numbers 7, 8, 9, Conditions 20 & 24 shall continue in perpetuity as well as the additional Special Conditions listed in the Agent Comment section.

With no discussion, **Ms. Kiebala moved and Mr. Ligor seconded to move the Draft Order of Conditions to the Final Order of Conditions including all of the Special Conditions stated by the agent.** The motion carried. 4-0-0.

3) Steven L. Candela

File Number: SE7-1964

Representative: Bracken Engineering, Inc.

41 Harbor Drive, Pocasset

Permitting a modified pier/float system on an existing stone groin within a V Flood Zone and Wetland Resource Area.

(Continued from January 19, 2017)

Materials Reviewed – Site Photographs, Site Plan of Record, DEP Wetlands Change Mapping, Minutes from the August 18, 2011 hearing, 41 Harbor Drive Groin, Ramp, Float Permitting Timeline, Site Plan from Chapter 91 License Application (Sheets 1 & 2) stamped May 4, 2015, Historical Photograph from CC13-58, FEMA National Flood Hazard Layer Mapping, Assessors Field Card for 41 Harbor Drive, letter from the Division of Marine Fisheries dated January 3, 2017, and a letter from Massachusetts Natural Heritage and Endangered Species dated January 20, 2017.

Mr. Palumbo informed the applicant that he resides in this neighborhood and sits on the homeowner's association board and is willing to recuse himself if the applicant would like; however, there would not be enough members present to hear this matter if he does recuse himself. The applicant did not want Mr. Palumbo to recuse himself.

Zach Basinski of Bracken Engineering addressed the board and discussed the proposed project. Mr. Basinski stated this project has been before the Commission a few times over the years, most recently was in the fall of 2015 to tear down and rebuild the existing structure that was on the lot at that time. At the time of permitting, it was brought to the representative's attention by the former agent, self-reported by Mr. Candela, that he had done some work on the existing pier and groin. The previous homeowners had built a small wooden dock on the back of the pier, which was licensed with the DEP in 1997. The groin had an existing license from the 1980s. A 2015 storm destroyed the wooden structure, Mr. Candela repaired the structure by installing a new aluminum gangway and walkway across the top of the structure; similar to a structure that was permitted next door. The applicant was not aware that a new filing was required prior to any reconstruction occurring. Mr. Basinski stated the application before the Commission is for the new aluminum gangway that sits on top of the existing stone groin. If approved, the applicant will apply for a new license with DEP

for that section. Additionally, they are seeking to modify the gangway, previously it was an 11' long wooden gangway that went to a 9'x16' wooden float at the end of the pier. The new proposal calls for a 24' aluminum gangway, which is secured to the top of the existing rocks. The gangway and float system at the end is removable. Mr. Candela had a new float system constructed and expanded; similar to the neighbor's float system. They understand that local regulations prohibit the expansion of a float system in a V Zone; however, they feel a precedent has been set by the Commission previously on the abutting project. Their expansion is approximately 112%, the neighbor's expansion was previously approved at 213%. They also feel that this will not have any effect on the abutting Resource Areas. A letter received from Natural Heritage states this project will not result in a take. A letter received from the Division of Marine Fisheries asks that pipe pilings be installed to maintain the 2 ½ -3 foot separation from the bottom because this is located in a mapped shellfish area.

Board Comment – Mr. Palumbo stated he does not have a memory of the abutting project and asked Mr. Haines if there was historical documentation that was presented at that time to allow for the expansion. Mr. Haines stated there was not, it was approved by the Commission and after the Draft Orders were sent to Final, there was a question from the public. Mr. Haines referred to those meeting minutes which state both the chairman and the agent thought there may have been a misinterpretation of the regulations after the Order became final. Based on the regulations, Mr. Haines stated, in his opinion, the neighbor's expansion of the floats and ramp did not meet the general performance standards of the Bourne Wetland Regulations. Mr. Palumbo stated, based on the regulations, he doesn't feel the walkway on top of the groin is an issue. Mr. Haines agreed.

After a brief discussion, Mr. Haines stated based on his interpretation, any expansion of a float does not meet the Bourne Wetlands Regulations. Mr. Haines advised the Commission members that they can either deny the applicant's request or allow the applicant to return with a revised plan for the aluminum walkway and a float system, one that was approved under a previous RDA or the existing Chapter 91 license.

Ms. Leduc asked if the Chapter 91 license covers the float area as it currently exists. Mr. Haines stated there is an approved float; however, it is for the ramp and 9'x16' float without the expansion.

Mr. Ligor asked how the float will be removed in the winter. Mr. Candela stated Matt Swift removes the float and ramp and stores it.

Mr. Palumbo discussed the regulations which state the ramp can't be any longer and the float can't be any bigger, which is what they're seeking.

Public Comment – Jim Mulvey asked if the walkway on the groin is removable. Mr. Candela stated the walkway on the groin is removable. A discussion transpired as to whether or not the walkway should be considered a pier. Mr. Haines provided the Commission with definitions and it is his interpretation that the regulations don't specifically include walkways on existing licensed groins; the Commission has precedent for allowing walkways to safely access a groin. The part of the project that's in dispute is the expansion or modification of the ramp and/or floats.

After a brief discussion, the representative asked for a continuance.

Mr. Ligor moved and Ms. Kiebala seconded to grant the continuance requested by the applicant to February 16, 2017. With no discussion, the motion carried. 4-0-0.

- 4) Bruce H. Silverbrand
DEP File Number: SE7-1969
Representative – Same
Buttermilk Bay, Buzzards Bay, Bourne

Petition for a one acre shellfish grant within Buttermilk Bay.

(Continued from January 19, 2017)

Materials Reviewed – a letter from Massachusetts Natural Heritage and Endangered Species dated February 1, 2017.

Agent Comment – Mr. Haines stated the applicant was waiting on two items; a DEP file number and a Letter from Natural Heritage issuing a no take determination. Both have been received.

Public Comment – Mr. Mulvey asked for the project location. Mr. Silverbrand described the proposed location.

Mr. Palumbo entertained a motion to close the hearing. **Ms. Kiebala moved and Mr. Ligor seconded to close the hearing.** With no discussion, the motion carried 4-0-0.

Mr. Haines - Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers 3, 16, 17, 19, 20, 21, 22, 24, 30, 36 and Special Conditions pursuant to the Town By-law number 8.

With no discussion, **Ms. Leduc moved and Mr. Ligor seconded to move the Draft Order of Conditions to the Final Order of Conditions.** The motion carried. 4-0-0.

5) Sarah Fisher

DEP File Number: SE7-1966

Representative – Environmental Consulting & Restoration, Inc.

8 Fisher Lane, Sagamore Beach

Construct a stairway for residential beach access within a V Flood Zone and a Wetland Resource Area.

(Continued from January 19, 2017)

Materials Reviewed – Revised Site Plan of Record dated January 27, 2017 and a revised Construction Narrative.

Agent Comment – The applicant was to submit a revised plan to include a beach delineation, the distance from the Mean high Water and a better detailed construction narrative detailing the size, height, etc.; which they've submitted.

Cameron Larson of Environmental Consulting & Restoration, Inc. stated he'd be happy to answer any questions.

Public Comment – None.

After a brief discussion, Mr. Palumbo entertained a motion to close the hearing. **Ms. Kiebala moved and Mr. Ligor seconded to close the hearing.** The motion carried. 4-0-0.

Mr. Haines - Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers 1, 2, 3, 9, 12, 13, 14, 16, 17, 19, 20, 21, 22, 24 and Special Conditions pursuant to the Town By-law numbers 7, 8, 9 and additional Special Conditions, 1) as stated in the project narrative, all work must be performed by hand; no equipment is allowed on the Coastal Bank, 2) no construction material may be stored or stockpiled on the Coastal Bank or its 50 foot buffer outside the limit of alteration approved for the stair construction, 3) as stated in the project narrative, all bare areas and areas of soil disturbance created by the construction of the access stairs must be stabilized with Beach Grass or other native vegetation, 4) condition #4 which

states no mowing or clearing of vegetation is allowed on the Coastal Bank or within the 50 foot buffer to the Coastal Bank other than the 4 foot wide grass pathway shown on the plan of record, existing vegetation must be allowed to grow back to maturity, any vista pruning must be approved by the Commission in a subsequent filing. Conditions 20 and 24 continue in perpetuity.

With no discussion, **Mr. Ligor moved and Ms. Kiebala seconded to move the Draft Order of Conditions to the Final Order of Conditions including all of the Special Conditions stated by the agent.** The motion carried. 4-0-0.

Request to Amend Condition of Orders:

- 1) Massachusetts Maritime Academy
DEP File Number: SE7-1908
Representative – Bourne Consulting Engineering
101 Academy Drive, Buzzards Bay

Amend an existing Order of Conditions SE7-1908 to allow for the installation of interim marina protection measures as an initial phase of the project within a Wetland Resource Area.

(Continued from January 19, 2017)

Materials Reviewed – Site Photographs, Site Plans of Record, letter from Massachusetts Natural Heritage and Endangered Species, letter from Division of Marine Fisheries, Velocity Zone Certification letter and DEP Wetlands Change Mapping.

Brad Saunders of GEI Consultants and Bourne Consulting Engineering addressed the board and discussed their request to amend the Order of Conditions that were issued last spring for the pier and dredging project at MMA. He referred to the site plan and discussed the proposed location of the interim float system. He also discussed their request to amend Condition #39, a letter received from Natural Heritage issuing a no take determination for this project and a letter received from the Division of Marine Fisheries with no restrictions. He stated Mr. Haines requested they submit a certification letter regarding the ability of the floats to withstand wave action given their location in a V Zone, a revised graphic depicting the location of rare species habitat and a graphic depicting the location of the Eel Grass beds in relation to the proposed floats; all of which were submitted.

A second representative from Bourne Consulting Engineering offered clarification stating the amendment will allow MMA to utilize the proposed floats now while the school

awaits funding for the remainder of the project. He stated these floats will tie into the future project; these are not in addition to what was previously approved.

Board Comment – Ms. Leduc asked why the floats aren't being placed in the original configuration. Mr. Saunders stated because the dredging hasn't been done yet, the placement of the interim floats is due to water depth. He added they have requested an amendment with the Army Corps. of Engineers and were told last week they will be receiving the amendment. They've also requested an amendment under Chapter 91 to establish a zone of reconfiguration which will allow the floats to be moved around in that zone. Mr. Haines asked that the representative forward those documents to the Commission once they're received.

Mr. Ligor asked when the original project will be built. Mr. Saunders stated that is a question for the university as it is fund dependent.

Mr. Ligor asked if the proposed amended project will be stable enough for 5-10 years while waiting for sufficient funds to complete the remainder. Mr. Saunders stated it is designed to withstand a catastrophic event. Mr. Haines stated this is why he requested the certification letter.

Agent Comment – Mr. Haines stated this was submitted as an interim project and will be removed once the school has the funds to complete the original project. In terms of the removal, Mr. Haines stated the Commission should consider that if a Certificate of Compliance is requested or if the Order expires, this is what will be in place. Mr. Haines stated the applicants provided the additional information that he requested. With regard to the variance from Condition #39, there doesn't appear to be anything in the regulations prohibiting epoxy coated pilings, his research on the subject basically stated any coating material must be specified by the manufacturer for use in a marine environment and advised that the product be applied and cured off-site. Mr. Saunders agreed.

Mr. Haines stated the Division of Marine Fisheries have no further recommendations for the interim structure and Natural Heritage issued a no take determination. Should the Commission approve the amendment, Mr. Haines stated there were previous Special Conditions that will carry over, but he'd like to add additional Special Conditions to the three listed in the previous Order of Conditions; 4) any epoxy coating material applied to the pilings must be specified by the manufacturer for marine use and applied and cured off-site and 5) this amended Order allows for the installation of an interim marina protection measure and pier as shown on the plan of record dated November 30, 2016.

Additional Board Comment – None.

Public Comment – Mr. Mulvey asked if the sole purpose of the proposed project is for wave attenuation. Mr. Saunders stated it will be used for the protection of the boats. Mr. Palumbo stated it's a pier; boats will be tied to it. Mr. Mulvey expressed concern that the Commission will be approving a mooring facility. Mr. Palumbo stated the project has already been approved, the applicant is seeking to amend what's already been approved. A discussion ensued. Paul O'Keefe of MMA discussed the function of the float, further discussion ensued.

Mr. Palumbo entertained a motion. Mr. Mulvey interjected and asked for clarification on the motion stating that what the Commission is amending is misleading to the public as this was described as a wave attenuation project. Ms. Leduc asked if it was clear in the original plan, for the full scale project, that this would also be used to moor boats. Several in attendance responded yes. A discussion ensued.

Mr. Palumbo entertained a motion to close the hearing. **Ms. Kiebala moved and Ms. Leduc seconded to close the hearing.** With no discussion, the motion carried.4-0-0.

Mr. Haines – New Draft Order of Conditions based on the Amended Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers 2, 3, 9, 12, 13, 16-24, 30-32, 34-38 and Special Conditions pursuant to the Town By-law numbers 7, 8, 9, 13, 14, additional Special Conditions include, 1) all shellfish within the proposed dredge area must be removed or relocated prior to commencement of dredge activities, the removal or relocation must be performed in accordance with all conditions and requirements determined to be necessary by the Town of Bourne Department of Natural Resources and the Massachusetts Department of Marine Fisheries. A survey must be performed within 6 months of the dredging start to determine shellfish density in the dredge area and pathology testing shall be performed as necessary on the shellfish samples in accordance with the National Shellfish Sanitation Program, 2) no disposal or reuse of dredged materials is allowed under the Order of Conditions within the Town of Bourne. All other applicable permits must be received from federal, state and/or local authorities for the disposal in another location, 3) all documents of record are incorporated into this Order of Condition which will also include the new documents, 4) any epoxy coating material applied to the pilings must be specified by the manufacturer for marine use and applied and cured off-site and 5) this amended Order allows for the installation of an interim marina protection measure and pier as shown on the plan of record dated November 30, 2016.

With no discussion, **Ms. Kiebala moved and Mr. Ligor seconded to move the Draft Order of Conditions to the Final Order of Conditions including all of the Special Conditions stated by the agent.** The motion carried. 4-0-0.

Request for Certificate of Compliance:

- 1) Fred Abbe
DEP File Number: SE7-1098
Representative – Warwick & Associates, Inc.
41 & 45 Winsor Road, Cataumet

Winter storage of seasonal floats on salt marsh.

Agent Comment – Mr. Haines stated Fred Abbe was the applicant for the original filing; however, Warwick & Associates is the applicant requesting the Certificate of Compliance. A site inspection was performed on January 30, 2017. This Order is for two separate parcels and involves multiple landowners. There are currently no floats stored on parcel 45; however, there are currently 5 floats on parcel 41. The Order is expired, therefore, Mr. Haines suggests issuing a Certificate of Compliance for parcel 45 only. Mr. Haines will attempt to notify the property owner for parcel 41 that the Order is expired and they are no longer covered under the Order of Conditions.

Mr. Ligor moved and Ms. Kiebala seconded to grant the Certificate of Compliance for Map 51 Parcel 45 only. With no discussion, the motion carried. 4-0-0.

Other Business:

- Vote excused Absent Members, if necessary – **Ms. Kiebala moved and Ms. Leduc seconded to excuse Robert Gray, Susan Weston, Melvin P. Holmes and Paul Szwed.** With no discussion, the motion carried. 4-0-0.

- Acceptance of Previous Meeting Minutes – Mr. Palumbo entertained a motion to approve the minutes of the December 15, 2016 meeting. **Ms. Leduc moved and Ms. Kiebala seconded to approve the minutes of the December 15, 2016 meeting as written.** With no discussion, the motion carried. 4-0-0.

- Report of the Conservation Agent – None.
- Correspondence – None.
- Any other business that may legally come before the Commission – None.
- Questions and Answers re: M.G.L. Chapter 131 s. 40 and 310 CMR 10.00-10.99 – None.
- Questions and Answers re: Town of Bourne Wetland Protection By-law (Article 3.7) and BWR 1.00-1.16 – None.

II. Adjournment

Ms. Kiebala moved and Ms. Kiebala seconded to adjourn. With no discussion, the motion carried. 4-0-0. The meeting adjourned at 8:52 PM.

Minutes Submitted by: Carol Mitchell