

WEST TISBURY CONSERVATION COMMISSION
MINUTES OF MEETING

September 12, 2006

Present: Prudy Burt Chair, Judy Crawford, Patricia Durfee, Patrick Phear, Peter Rodegast, Debra Swanson, Tara Whiting and Maria McFarland

Also present for all or part of the meeting: George Brush and Doug Cooper

Prudy Burt called the meeting to order at 5:00 P.M.

Hearings

Map 35 Lot 1 - Continuation of the public hearing under the Wetlands Protection Act and the West Tisbury Wetlands Protection Bylaw to consider a **Notice of Intent** filed by Sourati Engineering Group on behalf of John Rosenmiller for a project at 70 Pond View Farm Road owned by Janice Manter. The applicant seeks permission to perform the following activities: cut and maintain the 100 ft buffer zone up to a 10 ft wide buffer strip to be established along a bordering vegetated wetland and Muddy Cove; cut and maintain the vegetation over 36" tall within the 10' wide buffer strip; cut and maintain a path through the 10' wide buffer strip to the dam; cut and maintain vegetation on the dam between Muddy Cove and the pond; cut and maintain vegetation between the east side of the pond and the property line; cut and maintain vegetation up to 5' around the existing high bush blueberry bushes within the bordering vegetated wetland; cut and maintain two four-foot wide paths through the 10' wide buffer strip to the edge of Muddy Cove south of the dam; construct and maintain two sections of livestock fencing and maintain a 6' wide path for livestock access to the pond. With agreement from the applicant's representative, the hearing was opened and a motion made to continue the hearing to September 12th at 5:10 PM. The motion to continue was seconded and the vote in favor unanimous. On August 30 2006, the applicant filed an amendment to the Notice of Intent that these activities are exempt from the performance standards of the wetland regulations under an agricultural exemption. A tape of this hearing is available at the Commission office.

George Brush submitted a redraft of the special conditions for this project. The Commission compared this draft with its draft, identified the differences and discussed them in detail. After a lengthy discussion the following issues were decided.

- Cutting of woody stem vegetation over three feet in height in the buffer strip may occur once a year in the spring.
- All of the paths may be maintained to a height of three inches.
- With respect to the BVW area around the blueberry bushes mowing to facilitate harvesting will take place once a year in the early summer. The width of the mowed area will be three feet wider than the canopy of the bushes and the height of the mowing will be to three inches.
- The language regarding amendments to the Order of the Conditions was reworded so that an amendment would be done at the applicant's request.

- The special condition covering site visits by the board will be deleted as it is covered in the boilerplate general conditions on the DEP form.
- The special condition covering the mowing of the remaining 75 feet of the buffer zone is left to the owner's best judgment using sound management practices.

Maria was instructed to circulate the revised special conditions for review prior to the next meeting.

George suggested that the Commission send his client a letter regarding the issues surrounding the farm pond. George was reminded that the farm pond issues are separate from the scope of work covered under this Notice of Intent and would not be addressed in this Order of Conditions. It was suggested that the applicant submit a letter of inquiry to the Commission.

With agreement from the applicant's attorney, a motion was made and seconded to continue this hearing to September 26, 2006 at 5:10 PM. All in favor.

Minutes: The minutes for the August 8, 2006 meeting were reviewed and approved. (The Commission did not meet on August 22nd.)

Old Business

Map 35 Lots 1.1 and 1.13. Settlement Agreement: Prudy updated the board. Maria added that the Commission filed an appearance in these matters so that it could participate in the settlement discussions. Now that these settlement discussions have finished, there are elements of the agreement the Commission is not happy with that may require future enforcement action. On advice from MACC and DEP counsel, the Commission can either file an opposition challenging the proposed terms of the settlement that it is not in the interests of the Act, object to the settlement agreement and hold out for a formal hearing or not sign it and withdraw as a party to the proceedings. Patrick made a motion that the Commission withdraw from the proceedings and not sign the settlement agreement. Tara seconded adding that we find out how to proceed. Maria was instructed to ask permission to have the motion to withdraw reviewed by town counsel. The vote in favor was unanimous.

Mill Pond – At their meeting on August 30th the Selectmen approved the use of wetlands filing fee money up to \$4,000 to pay for a study of the Mill Pond by Aquatic Control Technology Inc. (ACT). A motion was made to hire ACT to perform the study as set forth in their proposal dated August 2, 2006 and to use wetlands filing fee money be used to pay for the study. The motion was seconded and the vote unanimous. Maria will make the necessary arrangements with the town accountant and Keith Gazaille of ACT. The abutters have been notified that ACT will be walking the wetland area up to Scotchmen's Lane.

Administration

Map 32 Lot 126 (SE 79-243) Linda Hearn, Trustee of Linda Realty Trust submitted a letter and plan requesting approval of a modification to a seasonal floating dock. The Commission reviewed the letter and plan. A motion was made and seconded to approve the requested modification. All in favor. Maria was instructed to send Linda a letter saying the modification is

approved and does not require any new special conditions. Then another site visit can be done a Certificate of Compliance issued.

Map 1 Lot 4 (SE 79-228 and 230) Certificates of Compliance were signed.

Map 22 Lot 2.3 (SE 79-208) Certificate of Compliance was tabled to the next meeting.

Use of E-mail Patrick wanted to remind everyone that we cannot discuss matters by e-mail that would amount to deliberations on business that must only occur at a public meeting. [Note: It is not a violation of the open meeting laws to use e-mail to distribute materials, correspondence, agendas or reports so that members can prepared for upcoming meetings.]

There being no further business on the agenda, the meeting adjourned at 7: 15 P.M.

Respectfully submitted,

Maria McFarland
Board Administrator