

WEST TISBURY
CONSERVATION COMMISSION
MINUTES OF MEETING
April 26, 2016

Present: Prudy Burt, Whit Griswold, Binnie Ravitch, Peter Rodegast, Michael Turnell and Tara Whiting

Staff Present: Maria McFarland

Also present for all or part of the meeting: Chris Alley, John Brannen, Sheri Caseau, Brad Chase (via telephone), Linda Coutinho, Matthew Dix, Kent Healy, John Hoy, Jeffrey Maida, Ashley Medowski, Glenn Provost and Adam Turner

The meeting was called to order at 5:00 P.M. Tara Whiting, Chairman presiding.

Minutes: The minutes of the March 22 meeting were tabled to the next meeting.

Public Hearings/Meetings:

Informal Meeting with Sheri Caseau, Water Quality Planner and Adam Turner, Executive Director of the Martha's Vineyard Commission:

This meeting was arranged at the request of the Conservation Commission to meet the new executive director and to discuss working with the MVC on water quality issues in West Tisbury.

Mr. Turner told the board that he is interested to listen and understand how the MVC can be of service to the Town by doing testing and characterizing the environmental conditions of the Town's water bodies. He said his main focus is island wide regional planning and grant writing.

Issues Discussed:

Ice House Pond testing: Binnie, who sits on Land Bank Advisory Board and lives next to Ice House Pond, asked Mr. Turner about plans to monitor water quality in fresh water ponds. Sheri said that John Scherlis is pushing to revive the testing on island wide fresh and brackish water ponds. Sheri stated that Ice house Pond will get some testing this summer that will paid for by the Riparian owners.

Role of the Water Alliance: Prudy said she wanted to make sure that the MVC continues to be a resource for the Town and expressed concerns about communicating with the Water Alliance rather than directly with the board. She would like this board to be the first stop if there is work proposed in West Tisbury.

Tisbury Great Pond/MA Estuaries Report: Prudy pointed out that there are inaccuracies that need to be fixed. She has unresolved questions and said Bill Wilcox (formerly water quality planner at MVC) has concerns that he tried to resolve with Ed Eichner at MEP, to no avail. She also expressed concern that the follow up water quality sampling at the sentinel sites in Tisbury Great Pond, as outlined in the MEP report, has never been done by MVC staff. Without this data, we have no way of knowing if what we are doing is working or not, or if more needs to be done. Additionally, she is concerned about redundancy of efforts moving forward. While MVC indicated plans to do island wide testing of all water bodies on the island, the TGP riparian owners have already contracted with Kent Healy and Bill Austin to do the water quality sampling in Tisbury Great Pond and Brad Chase of the Division of Marine Fisheries is working with The Nature Conservancy to do water quality/ level sampling in James Pond.

Kent Healy said that in Tisbury Great Pond, he and Bill Austin are checking salinity, visibility (Secchi disk) and temperatures. Prudy expressed a concern about differences in testing protocols.

Mr. Turner replied to the issues raised by Prudy saying that there may be disagreement on some of the numbers in the report but at this point in time it doesn't matter. What is important is how to proceed to clean these things up. He said he would be proactive pushing solutions. Mr. Turner offered to arrange a meeting with Roland Samimy and Brian Howes of the MA Estuaries project. Maria was asked to follow up directly with Mr. Turner.

Mr. Turner invited the board to the May 12th conference on innovative alternatives for waste water treatment that is being hosted by the MVC. No action was taken.

Map 7 Lot 13/SE79- 365: continued public hearing under the requirements of G.L. Ch.131 § 40, as amended and the West Tisbury Wetlands Protection Bylaw and regulations to consider a **Notice of Intent** filed by Schofield, Barbini & Hoehn for a project to relocate an existing shed and construct a single-family dwelling, and to perform associated site work including underground utilities and site restoration in the Buffer Zone. The project is located at 367 Lambert's Cove Road, Assessors owned by Glenn O. Medowski, Trustee of the Glenn O. Medowski Revocable Trust.

Chris Alley submitted a revised project plan and went over the revisions. The following notes were added to the project plan.

- Current mowing within the area indicated on the plan shall be discontinued and the wetlands allowed to restore naturally.
- The 25 foot setback to be staked by Schofield, Barbini & Hoehn, Inc. and delineated at not less than 50' intervals with documentation approved by the West Tisbury Conservation Commission.

As a means to comply with the performance standard at Section XI C. 3, and to have no net increase in nitrogen loading in James Pond, the applicant has agreed to remove a bedroom in the main house and restrict the use of the studio by means of a covenant with either the Conservation Commission or the Board of Health.

The leach field and tanks that are already installed were designed to handle 8 bedrooms. The covenant calls for the property owner to reduce the number of bedrooms in the main house from 6 to 5 and agree that the studio will not be hooked into the system. A new tank and pump chamber will be added for the new two bedroom house. The 2 bedroom reduction means that the current system will be over designed. The order of conditions can reference the covenant. Chris read the proposed covenant for the record.

Commissioners' comments/questions:

Prudy asked how the covenant would be enforced. Maria explained that it is probably more appropriate for the covenant to be granted to the Board of Health because the Conservation Commission doesn't have jurisdiction over the number of bedrooms a property can have for septic system purposes.

Chris said he spoke to John Powers, Board of Health agent to see if his board would be the holder of the covenant. Chris said that John did not think that would be a problem. The Commission will send the Board of Health a memo asking them to accept the covenant.

Prudy stated for the record that the wetlands immediately adjacent to the project site are not the only wetlands on the property and that an Order of Conditions for this project does not grant permission to do

any cutting or mowing around the other wetlands on the property or down to the pond. Any addition work will require the filing of a new Notice of Intent and a permit from the Commission.

Chris asked how the monumentation should be done. Maria said she has a couple of samples.

Public comment: None

With the agreement of the applicant, a motion was made and seconded to continue this public hearing to May 10 at 5:10 PM so that Chris can sort out the covenant with the Board of Health. All in favor.

James Pond/SE79-364: continued public hearing under the requirements of G.L. Ch.131 § 40, as amended, and the West Tisbury Wetlands Protection Bylaw and regulations to consider a **Notice of Intent** filed by the West Tisbury Board of Selectmen and Herring Warden for a project proposed at James Pond and Map 6 Lots 13 and 20. The project consists of work associated with the breaching the barrier beach at James Pond including dredging the associated meander for the purpose of restoring a fish passageway, placement of fiber rolls and salt marsh plantings.

Maria and Brad updated the board.

The NHESP comment letter dated March 11, 2016 was noted for the record.

The NHESP letter has several conditions that the board needed to discuss in order to get a handle on the scope of what is required to obtain NHESP approval.

No work can be done between April 1 and August 31 so until the end of August, only hand work will be done.

NHESP will require a site plan showing dimensions of the propose fiber roll installation including the number of rolls to be installed, and the density and composition of same.

Details regarding salt marsh planting including a species list, planting density and plant source are needed.

They also need details on the proposed width depth and length of the channel to be cleared. Brad doesn't think NHESP will have a problem with the use of fiber rolls; they just need more details.

Brad commented that the NHESP letter calls for a site plan, but it doesn't say it needs to be a stamped engineered plan. A survey plan would be less expensive.

The report from Greg Berman of the Woods Hole Sea Grant is still being worked on. Greg did a second site visit to take pictures using a drone and took sand depth measurements. Brad and Greg need to discuss Greg's observations and recommendations before the report is finalized. Greg is away until April 29.

Brad has been working with Matt Pelikan about possible grant funding from The Nature Conservancy for water quality monitoring in James Pond.

Brad said he has reviewed all of the MVC water quality data reports that were issued between 2003 and 2009. He plans to connect new work with past by using the same stations for testing. He wants to make sure any new testing complements the testing that was done in the past. Brad noted that the MVC reports mentioned a tide gauge in the upper pond. If that tide gauge is still there it would be great if someone

could take weekly observations. Brad asked if the tide gauge referred to in the MVC reports was still in place. Maria will try to find out.

John Hoy, Herring Warden reported seeing scales almost every day and that he and volunteers have been doing weekend maintenance of the channel by hand shoveling.

He said he has a new idea about how to open up the channel. Brad will discuss John's idea with Greg.

Prudy asked if Brad was aware of any other grant funding opportunities. She wondered if the Division of Ecological Restoration would be a resource.

Maria mentioned that she talked to Mia Halter of Natural Resources Conservation Services about funding opportunities. They have money, but the project has to be done on private property.

Peter mentioned that Adam Turner may be able to assist.

A motion was made and seconded to continue to June 14 at 5:10 PM. All in favor.

Map 11 lots 39 and 109.1/SE 79-36: a public hearing under the requirements of G.L. Ch.131 § 40, as amended and the West Tisbury Wetlands Protection Bylaw and regulations to consider a **Notice of Intent** filed by the Martha's Vineyard Land Bank for a project to expand the Manaquayak Preserve by constructing 365 ft. of new trail and installing an elevated boardwalk and viewing platform in an isolated wetland/potential vernal pool for access to Rainwater Pond. The project is located at 40 Pepperbush Way owned by the Martha's Vineyard Land Bank and Nation Lots Realty Trust respectively.

This project is being reviewed under 310 CMR 10.53 (j) and Bylaw sections XVII and VIII for the boardwalk and platform. Paths for public access on conservation property less than 3 ft. wide in the Buffer Zone are exempt under 310 CMR 10.02 (b) 2a. Paths in the no-disturbance zone under the bylaw require a waiver under Sections III N and IV. The Land Bank is requesting a waiver under the bylaw for construction of trails and the boardwalk/platform in the first 50 feet of the buffer zone.

Matthew Dix presented the project.

Boardwalk and Platform:

Matthew said they have classified Rainwater Pond as land subject to flooding. It is a depression that floods and meets both the state and bylaw definition of land subject to flooding by ground or surface waters. There are also two small uncertified vernal pools adjacent to the new path they are constructing.

He described this wetland as a glade of meadow grasses that fill up the acreage that is currently defined by water.

The new trail loop will lead to a spur trail ending at a 24 foot long elevated boardwalk and viewing platform. The platform will have railings and be surrounded by woven fencing to keep people and dogs from entering the resource area or interfering with wildlife that may be present. Locust will be used for the frame of the boardwalk and will be topped with mesh grating. A schematic of the design was reviewed.

There will be signs advising people that dogs should be leashed. Land Bank properties are open to dogs and bikes.

Path near two vernal pools: This trail will pass two small vernal pools. Wood chips will be used for erosion control. The proximity to these vernal pools is closer than Matt would like, but he is constrained by property lines.

Commissioners' Comments/Questions:

Peter asked if the survey trail that exists will be allowed to grow back. Matt replied that they would be. They were needed to determine property boundaries.

Prudy asked if the spur trail to the boardwalk within the No-Build zone could be reduced from 4 to 3 feet wide which would be 50 square feet less alteration.

Matthew hopes to have the boardwalk/platform in by the end of the month and the new trailhead in use in June.

The hearing needs to be continued until the board receives the comment letter from NHESP.

A motion was made and seconded to continue the public hearing on this project to May 10 at 5:25PM.

Map 34 Lot 10.1/SE79-366: a public hearing under the requirements of G.L. Ch.131 § 40, as amended, and the West Tisbury Wetlands Protection Bylaw and regulations to consider a **Notice of Intent** filed by Vineyard Land Surveying & Engineering, Inc. on behalf of S. Tucker Taft and Phyllis Yale, Trustees of 55 Carl's Way Trust, owner of property located at 55 Carl's Way, **Map 34 Lot 10-1**. The applicant would like to mow and maintain an existing meadow in the buffer zone to a bordering vegetated wetland adjacent to Tisbury Great Pond.

This project is being reviewed under 301 CMR 10.02 and 10.53(1), and Sections III N and IV of the Bylaw. The applicant has filed a request for a waiver.

Glenn Provost represented the property owner. This application is to finalize approval to maintain the area shown in green on the project plan as a field. The area is pink will be delineated in the field as a no disturbance zone. The area to be mowed is about 50x120 or about 6,000 square feet.

Glenn submitted a 2005 google earth image with an image of the new house onto it to show what the lot looked like prior to the house being built.

Commissioners' Comments/Questions:

Mike asked if the property owner wants to maintain the path to the pond. The first landscaping plan does not show a path to the pond. Glenn said his understanding is that the application is just to maintain the mowed area and not to maintain a path.

Peter reminded that the when the property owner came in for permission to build the house in 2012, permission was granted, with the requirement that the previously cut areas be required to grow back and a landscaping plan submitted.

Whit asked if this owner did the unauthorized clearing. Glenn said to his knowledge, no.

Prudy noted that there are about a dozen cherry tree stumps in the previously cleared area that will grow back in the pink area.

Mike said that the no-mow zone be delineated with markers lot line to lot line and around the perimeter of the area to be mowed. Permanent concrete or granite markers be placed 50 feet apart

The public hearing was closed. A motion was made and seconded to approve this project as described in the Notice of Intent and presented subject to special conditions under the bylaw that the meadow area may be mowed once a year and maintained after the expiration of the order without further approval from the Commission. The area will be permanently marked in the field. The vote on the motion was unanimous.

New Business:

Map 7 Lot 64/Seth's Lane/Schechner: Tara reported that she and Maria met with Mr. & Mrs. Schechner at their property on March 16. The tree stumps that are visible from Lambert's Cove Road are very old. There is no wetland violation on this property. A photograph on file in the Assessor's office from 2009 shows the same landscape as presently exists. A thank you letter will be sent to the property owner with a reminder that any work within 100 feet of the pond requires prior review and approval of the Conservation Commission. A follow up letter will be sent reminding the property owners that future brush cutting may need a permit.

Old Business:

Oak Bluff's Water District/ Solar array proposal: Members provided comments on the draft letter. Peter asked that the letter be clear the board is supportive of solar array projects. A motion was made and seconded to send this letter to the Land Use Planning Committee. All in favor. The letter will be redrafted and circulated.

Greenlands/Town Properties/BOS draft of Rules and Regulations:

Members were asked for comments/ changes to the draft regulations. Prudy said she didn't think that the Board of Selectmen's proposed regulations should overrule the management plan already in place for Greenlands. Maria replied that these regulations wouldn't overrule the management plan. The purpose of these regulations is to address commercial use of town properties. The Greenlands management plan is silent on commercial use.

Prudy said her only question when this came to the board last year was whether commercial use of Greenlands opens up the town to liability. She said she wanted to get an answer from town counsel. Maria explained that the Town Administrator was able to answer her question without going to Town counsel. The town has liability insurance on all its properties.

Under these regulations a commercial user would have to provide the town with a Certificate of Insurance naming the town as an additional insured.

Prudy mentioned several activities that would be permitted under these regulations are prohibited under the Greenlands Management Plan.

Prudy said that this board has never discussed permitting commercial uses in Greenlands.

Maria reminded that horseback riding is already allowed under the Greenlands Management Plan and explained how this matter was left with the Board of Selectmen.

Binnie said that based on the language of the document, the town would not have any liability.

It was suggested that this board meet with the Board of Selectmen to discuss this further. No action was taken.

Administrative

Map 3 Lots 73.1, 73.2 & 79/SE79-298/ Certificate of Compliance/ Alton driveway. A motion was made and seconded to sign off on this project. All in favor.

Correspondence:

In: Copy of email from Bill Veno to Rez Williams re: Welles Easement/Brandy Brow

Out: Map 39 Lot 39/SE79-356: Placement of split rail fence on property line.
Map 13 Lots 4, 5 & 6.1/SE 79-362/ Approval of removal of 6 trees in the buffer zone
Map 32 Lot 48/DeBraganca/ Administrative Review/ Prune one apple tree
Maps 2 & 8 Lots 9.1 and 39/SE79-227 Certificate of Compliance/Black Water Brook
Reservation

There being no new business to conduct, the meeting adjourned at 7: 20 PM.

Respectfully submitted,

Maria McFarland
Board Administrator
APPROVED