

WEST TISBURY
CONSERVATION COMMISSION
MINUTES OF MEETING
November 7, 2017

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

Absent: John Brannen and Peyton Wallace

Staff Present: Maria McFarland

Also present for all or part of the meeting: Joshua Scott

The meeting was called to order at 5:05 P.M. Tara Whiting-Chairman presiding.

Minutes: The minutes of the September 26 meeting were approved as revised. The minutes of the October 10 meeting were approved as revised.

Continued Public Hearings:

James Pond/SE79-364: 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 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 breaching the barrier beach at James Pond including dredging of the associated meander for the purpose of restoring a fish passageway, placement of fiber rolls and beach grass plantings

Maria reviewed the final revisions to the project plan and Appendix A/ Project Narrative. Brad Chase has signed off on the plan which now shows plantings in two locations. There is one area of beach grass and one of saltmarsh grasses. The plan and narrative will be sent to Natural Heritage and Endangered Species Program and DEP for their review and comment.

Prudy asked if we have permission from the all the property owners for access route and work site. Whit replied he has given all the letters to Maria except his. They will access the work site by entering from Lambert's Cove Road at the former Peltz property, travel across Tom Mullin's property and his beach, and then over 7 feet of the Griswold property. The actual work will be done from Susie Tree's property. Maria will make an aerial map showing the access route for the next meeting. motion was made and seconded to continue the public hearing on this project to January 9, 2018 at 5:10 PM. All in favor.

New Business:

Long Point Boardwalk: Peter reported that he was at Long Point on November 5 and noticed that the boardwalk has been removed and there are substantial tire tracks in the area. Maria will contact Chris Kennedy of the Trustees to find out what is going on. No action was taken.

Old Business:

Board of Health: Tara reported that she attended the October 26 meeting of the Board of Health to ask them to consider revising their regulations to better address nitrogen coming from septic systems adjacent to wetland resource areas. Their current regulations require a 100 foot setback from wetland resource area, but they do not require denitrification systems. She provided them with examples of bylaw regulations from Chilmark, Oak Bluff and the Town of Harwich.

Tara also talked with them about increasing the setback for the use of fertilizers from 20 feet to include the entire buffer zone. The BOH members said they would take our recommendations under advisement.

Peter asked why the BOH is concerned with fertilizers. Fertilizer regulations were adopted island wide by the Boards of Health because landscaping related fertilizers can enter groundwater, ponds and wetlands contributing to excess nitrogen in saltwater and phosphorous in freshwater.

Michael said that imported plants that come into the nurseries that are loaded with fertilizers are an issue that should be addressed.

Tisbury Great Pond update: Members reviewed an e-mail and associated materials received from the Army Corp of Engineers regarding the eelgrass study and water quality testing done by the Army Corp in Tisbury Great Pond in connection with the bomb removal project. No action was taken.

Tiah's Cove Road culvert: Tara mentioned that she is continuing to talk with Richie Olsen, Highway Superintendent, about how to fund a project to replace this culvert. As soon as DEP hires a replacement for Tim Chorey at the Division of Ecological Restoration (DER), Maria will arrange a site visit to have the person look at this project. In the meantime, Richie may want to put a bid package out for the design and permitting of a project that would be the basis of an article for the April 2018 town meeting warrant. Richie can use the assessment of this culvert outlined in the 2012 DER Aquatic Habitat Connectivity Study as a reference. There will be grant money available in 2018 which the town can apply for. The board reiterated its support of this project.

Map 35 Lot 6.3/ SE79-345/ 40 Plum Bush Point Road: Josh Scott was present on behalf of property owner, Phyllis Segal, to ask the Commission to waive the condition in the amended Order of Conditions requiring planting shrubs in the Buffer Zone as mitigation for permission to remove trees in the No-Build Zone.

Josh explained that they did not do the approved work to cut trees in the No-Build Zone in 2017 and that Ms. Segal doesn't see the need to plant additional shrubs when the outer buffer zone is so well vegetated.

Prudy noted that the intent of this condition was to establish a shrub layer to replace the trees being removed. Most of the vegetation in the Buffer Zone is oak sprouts that the property owner will want to continue to prune or cut in the outer buffer zone.

Tara said she was not in favor of waiving this requirement as it was mitigation for permission to do the additional clearing. A motion was made and seconded to deny the request to waive the need to plant shrubs. All in favor. The request is denied.

Josh also asked what Ms. Segal would need to do to obtain permission to remove Phragmites around her dock and if the Commission allows the use of herbicides. The Board does not have a policy on the use of herbicides. Projects are reviewed on a site by site basis. Most recently the Board permitted a project that incorporated the cutting of Phragmites below the water line in an attempt to drown the stems in salt water.

Maria will forward several articles on the various techniques for Phragmites removal to Josh. A project to remove a large stand of Phragmites will require a Notice of Intent.

Administrative

Boiler plate special conditions: Members discussed revising or eliminating the following special conditions:

- “The Commission reserves the right to impose additional conditions on portions of this project or this site to mitigate any actual or potential impacts resulting from the work herein permitted.
- The Commission reserves the right to amend this Order of Conditions after a legally advertised public hearing if plans or circumstances are changed or if new conditions or information so warrant. “

Members reviewed a memo containing feedback from DEP and MACC. Neither of these conditions is appropriate as written. Maria explained that there is a DEP policy for project changes and formal amendments. Requests for amendments need to be submitted by an applicant and should not originate with the Commission.

No additional conditions should be placed on projects after they have started. If there is a problem with a project, the Commission should decide if the problem rises to the level of an enforcement issue and proceed accordingly. These conditions will be dropped from future permits.

Correspondence

In; E-mail from Carol Charette/ Army Corp of Engineers regarding eelgrass survey and algal bloom in Tisbury Great Pond

There being no new business to conduct, the meeting adjourned at 6: 15 PM.

Respectfully submitted,

Maria McFarland
Board Administrator
APPROVED