

WEST TISBURY
CONSERVATION COMMISSION
MINUTES OF MEETING
March 26, 2024

The meeting was held via Zoom in accordance with the Governor's order suspending certain provisions of the Open Meeting Law, M. G.L. c.30A sec.20. Public participation will be via remote participation (Zoom) pursuant to M. G. L. Chapter 20 of the Acts of 2021.

Present: Fred Barron, Whit Griswold, Angela Luckey (arrived at 5:20pm), Chris Lyons, Michael Turnell and **Ernie Thomas**

Absent: Peter Rodegast and Geraldine Brooks

Staff Present: Maria McFarland

Also present for all or part of the meeting: Prudy Burt, Bryan Collins, Cody Coutinho, Kris Horiuchi, Andrew Scott Lester, and Reid Silva,

Whit Griswold called the meeting to order at 5:16PM

Minutes:

Continued Public Hearings

SE79-452: a public hearing under the requirements of M. G.L. Ch.131 § 40, as amended, and West Tisbury Wetlands Protection Bylaw and regulations to consider a **Notice of Intent** filed by Sourati Engineering Group, LLC, for a project to remove an unpermitted revetment from the 1960's and replace it with a 267' rock revetment, flanked by 50' arrays of fiber rolls and gabion baskets on the north and south ends of the revetment to protect an existing circa 1930 cottage at **271 John Cottle Road (Map 6 Lot 6) owned by Paul's Point Area Realty, L.L.C.** Sand nourishment is also proposed. Access to the site will be via an existing driveway on **245 John Cottle Road (Map 6 Lot 7.2), owned by Harrowby Property Co, LTD, and 257 John Cottle Road (Map 6 Lot 7.4)** owned by Dunster Realty, L.L.C. A 690 ft temporary construction access road on the beach is proposed between the existing driveway at 257 John Cottle Road and the site of the proposed shore protection. Michael Turnell recused himself from this project.

At the applicant's request, a motion was made by Ernie seconded by Chris to continue this public hearing to May 14, 2024 at 5:25 PM Roll Call Vote: Angela-aye, Chris-aye, Ernie -aye, and Whit-aye. Michael recused himself.

Map 43 Lot 1.2/ SE 79-465: a public hearing under the requirements of M. 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 Nancy Go and Lobster Coop LLC for a project to cut and prune brush and trees to create one new view channel within the Buffer Zone to Land Subject to Coastal Storm Flowage, Coastal Bank and Priority Habitat. The project location is known as **98 Watcha Club Road.**

Kris and Reid presented the project. Reid went over what was presented at the last meeting. The house is constructed and the pool is being worked on. Kris said the concern is that this project complies with the language of the state regulations which covers vista pruning.

Commissioner's comments/ questions

Discussion centered on how low to cut the scrub oak and whether the huckleberry would be pruned.

Michael asked what the applicant wanted to do with the huckleberry mat. Kris answered that the property owners want to keep it at the height it is now. The property owner wants to prune the scrub oak to a height lower than the huckleberry and then maintain it to stay below the height of the huckleberry.

In Whit's opinion the applicant should be allowed to take the clump of scrub oak down. Michael did not think the scrub oak should be flush cut.

Ernie asked someone to explain which area is the scrub oak. Ernie said he didn't have an opinion on taking out the scrub oak. Reid said that square footage of the scrub oak area within the green string is 1,627 square feet.

Michael added that he was fine with the proposed limbing and cutting of the mature trees. Michael is concerned about where the applicant is trying to gain the view from; at ground level standing or sitting in a chair on the ground or standing/ sitting on the deck. In his opinion, this question needs to be answered.

Kris said the scrub oak would remain and the root mass will remain.

Chris Lyons said that he thought the scrub oak was going to be cut to the level of the green string around the scrub oak area as seen at the site visit. Kris said that line is 2.5 feet.

Maria asked Kris to clarify that that the applicant would like to cut the scrub oak to whatever the height of the huckleberry is now and how often they would like to do maintenance pruning. Kris replied that the property owner wants to manage the scrub oak so that it doesn't exceed the height of the huckleberry.

Maria asked if this view channel, a portion of which is in Priority Habitat has been submitted to NHESP for approval. She asked the members if they wanted a time of year restriction on clearing the habitat because of nesting birds. Maria explained that a time of year restriction is a typical condition placed on such a project by NHESP. Reid responded that the original proposal that included 2 view channels did go to NHESP. They haven't sent in the new plan yet but they will. The original approval said there was "no take" of Priority Habitat. Reid agreed to follow up with NHESP.

Mike summarized by saying the scrub oak will be pruned to 30 inches and that maintenance be done once every two years. Kris said it was fine.

Angela said for consistency sake there should be a time of year restriction after the original work is done.

Maria also pointed out that there are several paths, one of which cuts through a wetland and is most likely where canoes/ kayaks have been launched. Since this is a new property owner the new owners will want to decide if they plan to continue to use this path, and if so, come back with an application for a raised boardwalk over the wetland area.

The public hearing was closed. A motion was made by Ernie seconded by Chris to approve this project with the conditions as noted above.

Discussion on the motion. Angela asked if this would be revisited if NHESP came back with anything. Yes, it will be revisited.

There was a long conversation about putting a time of year restriction on work to create the view channel because of nesting birds. In the end it was agreed that the applicant be allowed to do the work until April 15.

Shrub oak will be cut to 30 inches. The time of year restriction will run from April to October. Future maintaining will be done October to April 1.

Angela said she would be concerned about bats. Prudy Burt mentioned woodcocks, whippoorwills and 10 other species. Reid argued that construction will be ongoing so generally the site is noisy.

There being no further discussion on the motion, Whit called for the vote. Roll Call Vote: Chris - aye, Ernie -aye, Angela -aye, Michael -aye, and Whit-aye.

Old Business:

Brandy Brow: This was an informal meeting with Andrew Lester of the Complete Streets committee regarding improving the path at Brandy Brow.

Mr. Lester said he would provide some paper documentation of the design and description of his services. There are two areas of the path that he would like to address. The first is on the fact of the hill near the bench. His intention is to “re-lease” the trail on the upper section which means he would cap it and put some soil on it and compact it so it will shed water in one direction. Where the roots are located in that near the lot boundary line. Andrew said he could spend a day trimming the invasive roots and improve the pathway dramatically. He would then add some appropriate aggregate material that is compactable with a plate compactor. That would allow the trail to shed water and reflect rain. This would allow the trail to be “multi use” as the Land Bank trail easement calls for. Andrew also talked about a buttermilk and moss process to naturalize the whole area. It wouldn't be noticeable after the first season. Andrew said he has done it in hundreds of installations. He will provide all the documentation including pictures of projects he has worked on.

Commissioners Comments/ Questions

Ernie asked if he was proposing putting a stone wall on one side of the path to level it out. Andrew said it was a back slope and an out slope which is on the right side of the path. He said he would shore up the out slope by removing the roots and then building it up by filling in with material. There are various ways to do it using rebar to create a curve or stacking loose rocks or filling in with soil and rocks. He called it an out-slope bench retainer. Whit said it has the effect of a stone wall. Andrew said it would not be visible from the road side.

Michael said the trail is old. Whit said he didn't think the trail was that old. It started when Rez Williams wanted a way to walk to the center of town. Andrew said there was a tiny path with vegetation on both sides.

He doesn't want to make it wider, he just wants to improve the surface to make it safer for its intended purpose which is connecting the path to the Land Bank trail easement over Wells driveway to the pond, for pedestrians. The path is not good for people with mobility issues.

Andrew told the members that the Complete Streets Committee has found a way to improve this for free with no cost to the town. Completing the little corner there and making it safer. They would follow the Land Bank easement regulations allowing it to be “multi-use”. Andrew was reminded that the Land Bank trail easement stops at the property boundary line with Brandy Brow.

Michael asked Maria what happens if someone gets hurt on town land. Maria said that was a question for the Town Administrator, which is why Maria recommended that the Commission ask the Complete Streets Committee take this request to the Select Board, even though the Commission is the manager of Brandy Brow.

Maria said she had talked to the Town Administrator about the liability and the Town Administrator has approved the wording for the signs that are being made.

Chris said the trail easement says there is a right to use the trail for equestrians, walkers and non-motorized vehicles (bicycles). There are land Bank maps on the posts on the Mill Brook side and at the base of the path on Brandy Brow. Chris agreed that this is a matter for the Select Board. Chris asked if the roots could be removed and have the signs say people should walk their bikes.

Ernie commented on the construction, saying he didn’t understand why a storm wouldn’t wash out what Andrew is proposing. He also asked if it going to continue the old time West Tisbury character, He doesn’t use the path, but he would like to see it be safer. Whit said there are lots of Land Bank trails that have roots.

Before Whit left the meeting, he said that in his opinion, this is a terrible place for a park. He explained that the creation this path started when Rez Williams wanted to be able to walk from his house to town and to stay off of the West Tisbury Road. Whit added that he did not think it was necessary to improve the path and that signs are going to be posted. If the sign needs to include “no bikes” or “walk your bike” and “no horses” that’s fine. Whit went on to say that he suspected that the old road that used to run between Brandy Brow and the Garden club used to be known as a fire road. The upper end of it is called Sweet William Way. Whit asked if the Town had ever asked for an easement for access over the Waldron’s/ Wells properties. The town has an easement for access to the existing fire hydrant.

Maria explained that at the time the Land Bank easement was being negotiated, the Conservation Commission sent a memo to the Select Board that the easement be limited to foot traffic. No horses or non-motorized vehicles (bikes) should be allowed. The wording was left in. The Land Bank easement only related to the land over the Waldron and Jenkinson driveways

Prudy Burt, who was a Commission member when the path and easement, was present to provide some institutional memory of how the path at Brandy Brow came to be. Prudy explained that Rez first approached the Commission in 2014 -15. She said that it took a couple of years to get anything okayed by the family because both Bob and Jean Woods had recently passed away and any changes to Brandy Brow requires approval from the family. It is a condition stated in the deed.

Prudy pointed out that the town owns a portion of the road between the Garden Club and Brandy Brow. She wondered if it would make sense to see about getting an easement from the end of where the town owns, to as far as the back side of the library parcel. That would keep people away from those really difficult intersections. Another alternative would be to see if the State would allow the vegetation along the south side of the Edgartown West Tisbury Road which is mostly multi-flora rose and Russian olive to be cleared because it is more level there. Then the path could be picked up where it turns up the hill to the monument. She said is against increased gradations of hardscaping and maintenance and increased use and that bikes should use the road.

Mr. Lester said the Complete Streets committee looked at using the old Maley driveway to the library. He wasn't clear on why it wouldn't work, but said he thought it had something to do with the wetlands. He added that the bikes they are worried about are little kids on bikes, going from Alleys to the pond. He went on to say he didn't understand the resistance. This is a free service to the town to upgrade an existing resource for the town. He said his plan is not invasive. He said it was a 10 to 15-thousand-dollar job that will be done for free.

Andrew agreed that the Complete Streets will take this to the Select Board. He can put together a trail plan like he has done for other municipalities and explain to them what they are looking to do, which is essentially maintain an existing trail. Maria said that she talked with the town administrator who agreed that this was a matter for the Select Board but she thought that the Commission should take a vote to either support the idea or not. Maria suggested that Mr. Lester put a plan together and submit that before going to a Select Board meeting so the board can make a decision.

Prudy said that the Select Board has always deferred to the Conservation Commission on this property.

Michael asked what the signs will say and how much longer will it take. Angela asked what the invasive roots are.

Chris said the issue is children on bikes, not adults. Maria suggested monitoring this to determine how much use this path actually gets. Andrew said they could do the monitoring.

There was a long discussion about siting the trail because both ends are very unsafe. A crosswalk at the west end of the Mill Pond has never happened. And at the library end of the trail easement there is a two-way entrance to the library and Howes House. It is very busy with cars coming in and out all day. The signs (the posts with a hiker with a walking stick on them) were put up by Prudy and Rez as an aid to walkers.

Prudy recounted that when she was a young girl, she and friends used to ride horses from Pond View Farm to the old Ag Hall for horse shows. Prudy said she worked for the Woods family for many years, and had many conversations with them about their wishes for this property.

Chris suggested a joint committee meeting once a plan has been submitted. Then the Conservation Commission can vote on this. No action was taken.

There being no other business to discuss, the meeting adjourned at 6:55 PM.

Respectfully Submitted,

Maria McFarland
Board Administrator