

WEST TISBURY
CONSERVATION COMMISSION
MINUTES OF MEETING
December 12, 2023

The meeting was held via Zoom in accordance with the Governor’s order suspending certain provisions of the Open Meeting Law, 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 5:20), Chris Lyons, Peter Rodegast, Ernie Thomas, and Michael Turnell

Absent: Geraldine Brooks

Staff Present: Maria McFarland

Also present for all or part of the meeting: Chris Cottrell, Rebecca Cournoyer, Brandon Franeuf, and Bill Plapinger,

Whit Griswold called the meeting to order at 5:05 PM.

At the request of Rebecca Cournoyer, Whit asked the members to reopen the approval of the minutes of September 26. He explained that he has been having an ongoing communication with Rebecca Cournoyer who has a problem with some of the activities at 274 Indian Hill Road. However, she feels she was misquoted or misrepresented in the minutes of September 26. It’s a minor correction in the paragraph that reads,

“Rebecca Cournoyer had questions about the recordings of the meetings and said that this winter she noticed a bobcat in the wetland near Indian Hill road. It was suggested that Rebecca put her complaints about this property in writing. She replied that she would consider doing that. Rebecca was told that once the minutes were approved the recordings are deleted.” Whit said her problem was with the word “complaints”.

Whit went on to say that he has listened to this tape. He found that he had said, “if you have any observations or concerns”... Whit said that Rebecca told him that she felt that “complaints” was too strong and that because she's had a little pushback from the property owner, she doesn't want to add fuel to that fire. According to Whit, Rebecca thought that the word “complaint” might do that.

Whit asked the board to vote to change the word “complaints” to “observations and concerns”. A motion was made by Michael seconded by Ernie to change the minutes of the September 26 meeting as stated.

Discussion on the motion:

Peter said that in the interests of peace in the neighborhood, he was ok with making this change. Whit noted that Maria was not thrilled about this because she thought it might open a can of worms with other people wanting the Commission to change minutes after the fact. Roll Call Vote: Ernie -aye, Fred – aye, Michael – aye, Peter – aye, and Whit – aye.

Continued Public Hearing:

Map 15 lot 1/ SE79-456: Public hearing under the requirements of general laws chapter 131 paragraph 40 as amended, and West Tisbury wetlands protection bylaw and regulations to consider a notice of intent filed by Ecosystem Solutions Inc on behalf of Christopher Cottrell for a project located at 274 Indian hill road to install greenhouses, turkey trailers and clear trees in the Buffer Zone.

Whit started the hearing by saying that he, Maria and Peter did a site visit earlier today to look at the restoration work being done by Breezy Pines Landscaping. They have staked both the 50 foot and 100-foot setbacks around both the bordering vegetated wetland and the isolated wetland. The bordering vegetated wetland runs along the west side of Indian Hill Rd.

[At the last public hearing (September 12) on the Notice of Intent, the Commission stated that they would not entertain an approval of any new proposed work under this Notice of Intent until the restoration work required under the Enforcement Order was completed . The NOI was continued because of the violation and the Commission decided to issue an enforcement order for restoration.]

Whit continued that to the best of our ability to judge what's been done, it appears that all of the required work (except the plantings)has been done. The shed was moved, the road was moved, the garden was removed, and that section of gravel and pea stone within the Buffer Zone were substituted for roadways or paths that had wood chips placed on top of the paths. The section of piping that was within the Buffer Zone has been removed as has the filter fabric.

Whit asked Peter to comment on what he took away from the site visit today.

Peter replied that Whit's description was pretty accurate. The work is not complete yet because there's a lot of planting that still has to be done that the Commission required but has to wait until the spring planting season. Peter noted that the work was all very recently done with a lot of fresh leaves and wood chips sprayed around on top of them. The soil was muddy indicating where it had been recently churned up but it looked like so far, they've done what they were asked to do. There is a lot of activity there outside of the Buffer Zone in every corner of the property which is concerning.

Whit followed up by saying that at the site visit, Chris mentioned that he might want to postpone the NOI in order to give the restoration plan time to work, to get the plants in in the spring.

Whit asked Chris if he talked this over with Brandon. Brandon replied that Chris would like to get the area planted, stabilized, and established first before moving on with the NOI. Brandon said this was reasonable [and actually a little surprising] because he thought Chris might want to go a little faster. Brandon and Chris are fine with slowing things down a little bit if the Commission is okay with it.

There was a long discussion about when to continue this matter to and when to do the site visits, ending with a decision to continue the public hearing until April. This will give Chris time to get the planting done in March which should be enough time to know if the plants take or not. Site

visits will be done in July and in October which is the end of the growing season. Whit said he thought the NOI would be continued for a full growing season.

Peter made a motion, seconded by Michael that with the consent of the applicant, the public hearing on this NOI will be continued to April 23, 2024 at 5:25 Site visits will be scheduled as noted above.

There was a lengthy discussion on the motion of when to continue the NOI intertwined with a discussion about completion of the restoration work and the plants to be used. Based on this discussion the following issues were resolved with respect to the NOI only:

- The NOI will be in suspension until restoration work is complete or has gone through at least one growing season
- Brandon suggested NOI be continued to April, October, March and July to keep it alive for the required two years.
- No work on Chris's proposal to create a farm [new agricultural work]will be approved until the restoration is completed.

For a second time, Whit called for a vote on the motion to continue this public hearing to April 23rd 2024 at 5:25 PM and to do site visits in April and October.

Maria interrupted to ask if this was a motion for continuing the NOI and to approve the planting plan for the restoration plan or just the NOI.

After another lengthy discussion, the Commission decided to separate the votes.

Peter reiterated that the motion has been moved and seconded to continue the notice of intent until April 23, 2024 at 5:25PM. Roll Call Vote: Angela -aye Michael-aye, Ernie-aye, Peter-aye, Fred -aye, - and Whit- aye.

Discussion on the restoration plan and plantings.

Maria read the proposal for the record. She displayed the plan. The first sketch represents the areas to be restored as determined by the Commission. The second sketch has colored circles in each area each circle represents a plant. The dark green area of restoration represents the area to be restored within the within 50 feet of the wetland area. There are 28 circles in the dark green area representing 28 plants in the 50-foot setback. The spacing of the plant locations are approximately 10 feet apart. The light green represents the area between 50 and 100 feet of the wetland. There are 22 circles in the light green area representing 22 plants in the 50 to 100-foot setback area. The spacing of the plant locations are approximately 20 feet apart. The plants to be used will consist of the plant list previously submitted and any native plants to be transplanted from the property. Maria read the list of plants for the restoration area as stated in the NOI.

- Time of Year: planting can start any time but most likely April

- What to plant: Brandon amended list to include raspberries and blackberries. Brandon reiterated that he would like to amend the plant list to include two species; *Rubus fruticosus* (blackberry)and *Rubus idaeus* (raspberry)
- There will be 2 plants from each of at least 4 varieties on the proposed list.
- Original planting plan set out by Breezy Pines Landscaping to be followed
- Not for commercial consumption. Any plantings for the purpose of harvesting them for commercial sale will have to wait until the restoration work is complete. New agricultural work has to be approved by the CC.
- Fencing around the new plantings is recommended, but will not be required.
- No other work to be done within the Buffer Zone to either wetland while the restoration work is being completed.

Whit asked for a motion regarding the plantings for the restoration plan.

Discussion on the motion:

This discussion was about transplanting plants already on site and what the herbaceous layer will consist of. Michael asked if huckleberry will be transplanted. Angela asked if there should be perennials. Maria suggested that they have Breezy Pines submit what they're planning to transplant from the site.

Whit's computer froze at that moment, so Peter took over chairing.

Ernie made a motion, seconded by Fred to approve the restoration plan as submitted by Breezy Pine Landscaping and amended by Brandon to include blackberries and red Raspberries; that a final planting list include the plants to be transplanted; that there be no stipulation as to when the planting shall start; and further that there shall be at least 2 plants of 4 of the varieties submitted planted. Roll Call Vote: Angela -aye Michael-aye, Ernie-aye, Peter- aye, and Fred -aye.

Peter thanked the Board and Brandon for helping the Commission get through this matter.

New Business:

Map 8 Lots 2 and 2.2/ 18 Solviva Road/ Wetland Violation: Whit reported that on Friday December 8, he, Maria, and Prudy Burt received an email from David Foster who is a neighbor to Anthony Gude owner of the property at 18 Solviva Road. He asked Maria to update the members.

Maria did so, explaining that this is the property once owned by Anna Edey. Maria said that there is an outstanding Order of Conditions for work on Map 8 Lot 2 to install septic tanks and do trenching to serve a structure that sits about 25 ft from the edge of a pond on lot 2. Unfortunately, the unauthorized work was done on lot 2.2 and we don't have a survey of that parcel. Maria shared the photos she took at the site visit. There is a large wetland area on lot 2.2.

She explained that she called Mr. Gude and was able to meet him on site. As she arrived, Island Timber was just leaving.

Mr. Gude was very nice. He told Maria that he didn't realize that his landscaper was doing all that brush cutting and it was more than Mr. Gude had anticipated.

There was some minor tree limbing near the pond on lot 2. Mr. Gude said he decided not to do the approved septic work within the Commission' jurisdiction. They did install the leach field and the septic tanks that are outside the Commission's jurisdiction.

It appeared that the reason for the clearing is to access a small house on lot 2.2 because there is no vehicular access to this house. Mr. Gude told Maria he would like temporary vehicular access to this house so he can restore it.

She informed him that she would speak with the members tonight and that he would most likely receive a letter from the Commission as would Island Timber. Maria noted that this is the second time Island Timber has been involved in unauthorized clearing work. Because we don't have a plan of lot 2.2. Maria suggested that the board ask for a survey to be done in order to find out how much disturbance was done within the buffer zone. Michael agreed that a survey should be done to delineate the wetland.

Maria recommended that the letter to Island Timber explain that if they violate a third time, the Commission will fine them.

A motion was made by Fred, seconded by Michael to send Mr. Gude a notice of violation letter asking him to have lot 2.2 surveyed and to submit that plan to the Commission.

There was no discussion on the motion. Roll Call Vote: Ernie -aye, Fred – aye, Michael – aye, Peter – aye, and Whit – aye. Angela abstained.

Administrative:

Peter said that he would to take some time off from con com work. He isn't ready to resign yet, but would like to take a couple of months off. Maria said she was a little concerned because Geraldine is also away for a couple of months. Maria noted that the board can't make Chris Lyons a full member until somebody resigns. Chris will be able to vote in the absence of a quorum.

There being no other business to discuss, the meeting adjourned at 6:15 PM.

Respectfully Submitted,

Maria McFarland
Board Administrator
APPROVED
JANUARY 9,2024