

WEST TISBURY  
CONSERVATION COMMISSION  
MINUTES OF MEETING  
September 26, 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:** Whit Griswold, Angela Luckey, Chris Lyons, Ernie Thomas, and Michael Turnell

Absent: Fred Barron, Geraldine Brooks, and Peter Rodegast

**Staff Present:** Maria McFarland

**Also present for all or part of the meeting:** Paul Caval, Becky Cournoyer, Ashley Hunter, Bill Plapinger, and Scott Stevenson

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

A public hearing under the provisions of Chapter 176 of the Acts of 2022 to consider a ban on the use of certain classes of electric bicycles on the unpaved paths in the Margaret K. Littlefield Greenlands located at 200 Great Plains Road, Map 18 Lot 1.

Whit asked Ashley Hunter, an abutter to Greenlands, and the person that brought this matter to the Commission, to give members a recap of his thinking about this issue.

Mr. Hunter said that he is concerned because of the speed and the size of electric bicycles. They are growing in popularity and it could be detrimental both to the trails and the safety of other users. E-bikes have the capability of hitting 20 miles per hour or better. From the standpoint of safety and impact on the trails he thinks they should not be allowed.

Whit said that this could be a can of worms as it will be hard to enforce a ban. He asked members to weigh in.

Commissioners Comments/ Questions:

Michael said he don't want to open a can of worms either and agreed that a ban will be hard to enforce.

Ernie stated that he hasn't seen the condition of the paths at Greenlands, but based on the ones he has seen on island, one won't last long going 25 miles an hour.

Ernie asked Mr. Hunter if he thought that someone using an electric bicycle that can go 20 miles an hour is dangerous. Mr. Hunter replied that he thinks the potential is there. More importantly, trying to differentiate one from another level of bike to another is where there would be an issue

Ernie added that the electric bikes that he has seen are totally motorized vehicles. They can go 60 miles an hour. He has seen them on paths near Island Farms. He agreed that it will be hard to enforce a ban, He then spoke about the older folks he knows that use electric bicycles now because it's a better way to get around. They don't want to go on the road so they take all these back paths.

Chris commented on the new Massachusetts electric bicycle law which has guidelines to follow. The guidelines are just that, they are suggestions. No one can really enforce them. So, the best we can do is maybe post these bicycle law guidelines somewhere and have signs that say no motorized bikes. Towns can prohibit electric bikes using any natural surface trail.

Angela said that the Commission should separate the levels of bikes and noted that from the email we got from the Division of Conservation and Recreation, they don't allow them on unpaved paths. Even though we can't enforce a ban, signage will help.

Whit said if there is a lot of abuse then a different approach will be needed. He agreed that older people are using these bikes to get around.

Whit asked how many access points to the paths exist. Maria answered that there is one official one in the State forest and an unofficial one at a path with a marker on Great Plains Road. She added that there already is a sign posted agreement that says no motorized vehicles, but it doesn't say anything about bicycles obviously, because regular bicycles are allowed.

Maria said that in talking with the Land Bank, who manages the trails for the Town that Harrison Keisel, the property manager has offered to install some split rail fencing if that would be helpful.

Mr. Hunter said there are two access points off Great Plains Road one of which is actually an old ancient way.

There being no other public comment, the public hearing was closed. A motion was made and seconded to ban the use of all levels of Electric Bicycles in the Margaret Littlefield Greenland. Signs will be posted. Roll Call Vote: Angela-aye, Ernie -Aye, Michael – aye, and Whit- aye.

## **Old Business**

### **Map 15 Lot 1/ 274 Indian Hill Road: Review and ratification of Enforcement Order.**

The members worked through the language of the enforcement order. While this was not a public hearing on this matter, the Chair allowed Mr. Plapinger, and Ms. Cournoyer and others to comment at length.

Bill Plapinger, an abutter, tried to get the Commission to change the wording of the Enforcement Order to say that there were also violations to the Series A wetland near Indian Hill Road. Based on the delineation done by ESI, the Commission did not make this revision. He said that once the Commission issues the Enforcement Order the neighbors are going request that the Commission issue an Order of Resource Delineation which is appealable to the DEP.

Mr. Plapinger was told that someone would have to apply for that. The Commission doesn't just issue permits. Mr. Plapinger stated that this wasn't his understanding from talking to DEP.

He went on to say that there's still no explanation about the differences between the current delineation and the one from 2018, which he said was done in a careful and professional way, despite its dismissal. The board has been supplied with numerous pieces of evidence, both videos, photos, and other things that suggest that there have been violations in other than the isolated wetlands, and that the board seems unwilling to acknowledge or explore it, or undertake any investigation whatsoever. He went on to say that despite the evidence that there have been numerous things done to the property, and that the only testimony you have that it hasn't is Mister Cottrell's, agent. He continued by saying that DEP has offered to him to look at this project for the Commission. He accused Maria of doing everything she can to keep the DEP away. Mr. Plapinger was cautioned about being rude.

With respect to work done in the Series A wetland near Indian Hill Road on the ESI plan, Mr. Cottrell has applied to clear selective trees in the Buffer Zone to the A series wetland under the Notice of Intent heard on September 12 and continued to December 12.

Scott Stevenson, also a neighbor commented that the property has been "scorched" .

Paul Caval acknowledged that that he is a neighbor to the Thompson's and the Connells who are direct abutters.

Becky 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 Becky put her complaints about this property in writing. She replied that she would consider doing that. She was also told that once the minutes are approved, the recordings are deleted.

When the neighbors challenged the work done by ESI they were reminded that Mr. Faneuf owner of ESI is a wetland scientist who is recognized as being a respected wetland delineator. He trains Conservation Commissioners to do wetland delineations and is a very active member of the Massachusetts Association of Conservation Commission.

A motion was made and seconded to approve the wording of the attachment to the Enforcement Order, to accept the ESI plan dated April 10 ,2023 and also shown on a plan prepared by Vineyard Land Surveying Plan dated August 30,2023 as the plan of record, and to ratify the actions taken at the 9/12 meeting. Roll Call Vote: Chris- aye, Ernie -Aye, Michael – aye, and Whit- aye,

**State Forest/Letter from the Division of Conservation and Recreation (DCR)/ Forest Cutting Plan State Forest/ Pitch pones infected with Southern Beetles.**

Maria reported that the Fire Chief has spoken with someone at DCR who explained that the infected trees need to be taken down to stop the spread of the pine beetle. They assured him that the slash material from the trees will not remain for long. It was uncertain how long the trunks would remain but they aren't as much of a hazard. No action was taken.

**Administrative:**

**Map 38 Lot 2/WTCC2021-02/ Jennie Athearn Road Certificate of Compliance** Maria did a site visit on September 19 for the new house. Photos were reviewed by the Commission.

Maria reported that the applicant needs to submit the as-built plan in accordance with the terms of the Order of Conditions. The house is in the Buffer Zone to Land Subject to Coastal Storm Flowage. The site looks fine. The Board determined that they could approve the COC with the plan to follow.

After the discussion, a motion was made by Ernie, seconded by Mike to approve the Certificate of Compliance In the absence of a quorum Chris Lyons will vote. Roll Call Vote: Chris- aye, Ernie -Aye, Michael – aye, and Whit- aye. ( Vote taken before Angela arrived.)

There being no new business to discuss, the meeting adjourned at 7:10 PM.

Respectfully Submitted,

Maria McFarland  
Board Administrator  
APPROVED 10/10/2023