

## MINUTES

Tuesday, January 10, 2017  
Oak Bluffs Conservation Commission  
4:00 pm - Town Hall

Members Present: Ron Zentner, Terry Appenzellar, Joan Hughes, Penny Hinkle, Margaret Klugman

Others Present: Dan Martino, Greg Martino, Dick Johnson, Chris Politan, Charles Rock, Tracy Smith, Steve Morris, Cindy Holbrook, John Leite, George Sourati, Perry Patterson

### Martino – Request for extension of Order of Conditions for an aquaculture project and a determination on whether or not use of a tidal upweller requires an additional permit

Mr. Dan Martino stated the special conditions refer to the project as oyster aquaculture using a bottom cage; an upweller is not a bottom cage but rather is attached to the underneath of the raft. He asked if the Order needs to be amended to include the upweller. Ms. Durkee stated that there are no permits for the upwellers in the harbor. Ms. Hughes stated that the upweller is used for spat, which is part of the process. Mr. Greg Martino stated it only expands downward and is an inherent part of the process. Mr. Dan Martino stated that they are seeking a five year extension. A motion was made by Ms. Appenzellar and seconded by Ms. Hinkle to acknowledge that the process includes an upweller, that not including it in the Order was an oversight, and that no further action is needed; the Order will be extended for five years. All voted in favor. Mr. Dan Martino stated that the Net Result buys everything they produce and that they are just trying to meet demand. Commissioners agreed that the project report was excellent.

### Major's Cove Property Owner's Association – NOI for the reduction and eventual eradication of invasive Phragmites from about 0.30 acres of bordering vegetated wetland along Major's Cove, a cove on Sengekontacket Pond

Ms. Klugman recused herself.

Mr. Politan stated that his approach to the project is generic: target with herbicide any Phragmites in contact with native plants and use foliar spray application for the rest. He stated that if the Commission is opposed to foliar work it can be done with the glove technique. He stated that the work within three feet of native plants would be done with the clip and drip method. He stated that he would like to do some spraying. Mr. Johnson stated that if the herbicide hits the ground during spraying it clings to the soil and breaks down. Ms. Appenzellar stated that new literature questions how quickly it breaks down, that she is not comfortable with spraying, and would like to see a pilot project first.

Mr. Politan stated that the work is never over but that after one to three years the follow-up could take about 20 minutes. He stated that if the native plants are not impacted they will aggressively return, including a lot of high salt marsh plants. Commissioners

expressed concern that poison ivy would take over. Ms. Hughes asked what guarantee there would be that a sustained salt marsh would come back as opposed to other plants that the neighbors would then want to cut. Mr. Politan stated that a special condition could require planting if there is not full native cultivation.

Mr. Politan stated that the spraying would only be done on days with two to five mile per hours winds and that powder is added to the herbicide mix to control drift. Ms. Hughes stated that she has studied this form of Phragmites treatment, the research is moving on, and these projects won't be permitted in 10 years. She stated that research from Michigan reveals that Rodeo does not break down as much as was believed, yet she does not see an alternative at this time based on the environmental issues and the expectations of the neighbors.

Mr. Johnson stated that it is a habitat issue and that some scientists have strong opinions that Phragmites destroys habitats. He stated that some scientists are horrified at research into using Phragmites to take up nitrogen. Ms. Hughes cited climate change and the need to adapt as opposed to eradicate. Mr. Politan stated that the down side to not spraying is the added cost to the project. Ms. Appenzellar stated that she would be more comfortable with the foliar application if there was a pilot project; if it is to be done all at once she is less inclined to allow foliar spraying. A letter from Robin Gottesman was read into the record. Ms. Appenzellar stated that the neighbors are using fertilizer on their lawns and that is what's causing the nitrogen problem. She asked if there could be a neighborhood awareness campaign. A motion was made by Ms. Appenzellar and seconded by Mr. Zentner to approve the project with no foliar spraying, with the understanding that if native species don't reappear within 18-24 months the association must come back with a plan for proactive planting, that the methodology be adhered to strictly and with regular reports back on the process and results including photos, and that the association be put on notice that the Commission expects them to be judicious about fertilizing. The motion also included the submittal of a map distinguishing where the glove and drip methods will be used. All voted in favor.

Ms. Klugman returned to the table.

LHH LLC (Holbrook) – RDA for demolition/removal of a single family dwelling and replacement with new single family dwelling, all partially in buffer zone to coastal bank at 14 East Side Road

Ms. Smith stated that the new house will encroach into the buffer zone less than the existing house; 80 square feet as opposed to 300. She stated that the portions in the buffer zone are a porch, a corner of the house, and a bulkhead. Ms. Hughes stated that the reason for the encroachment is the need for separation of septic systems. A motion was made by Ms. Appenzellar and seconded by Ms. Klugman to issue a Negative Determination. All voted in favor.

East Chop LLC – NOI for maintenance of an existing pier in Oak Bluffs Harbor, construction and maintenance of three tie-off piles, and installation and maintenance of water and electric services on pier at 39 East Chop Drive

Mr. Sourati stated that the house recently sold, the pier was properly licensed but without a maintenance clause in the Order. He stated that the request is for a maintenance permit, three new piles, relocation of two existing piles, (and water and electric service). Mr. Morris stated that the owner will have a 61 foot sport fishing boat, it would be safer with additional tie-off piles, the piles will not affect navigable water, the boat draws about 8 feet, the beam is 18.6 feet, many other piers in the harbor have electricity, and there is a wire under the pier now. He stated that the owner is willing to have the electricity at the bulkhead. Ms. Durkee stated that the regs only allow one tie-off pile.

Commissioner comments included:

- The harbor is at risk due to sea level rise so adding structural things is a concern when we don't have a plan to protect the harbor
- Each individual application works for the owner but the harbor is a small public resource and as more owners do this it restricts a fair amount of the harbor from other use
- The pier does not meet current regs because Ts and Ls are not allowed and the applicant is asking for more tie-off piles that are not allowed
- Where could the two existing piles be moved to best accommodate the boat?
- Some harbors just don't easily accommodate huge boats and it gets to a point where boats can't maneuver
- The regs don't allow water or electricity and it is a storm issue; the Harbor Master has electricity on the bulkhead, not the piers, and the Commission is interested in that, in not having wires on the pier
- In winter the piers ice up
- It is a matter of consistency

Ms. Durkee stated that the regs don't address water on piers. Commissioners asked that the applicant consider where the two existing piles could be placed to accommodate the boat and also what can be done to make the water and electricity temporary. Mr. Patterson asked about lighting. Mr. Sourati stated that they are not asking for lighting. A motion was made by Ms. Appenzellar and seconded by Mr. Zentner to continue the hearing to Thursday, January 26, 2017 at 3:00 pm. All voted in favor.

Vote on Minutes of December 13, 2016

A motion was made by Ms. Appenzellar and seconded by Ms. Hinkle to approve the minutes. All voted in favor.

Vote on request for extension of North Bluff seawall/boardwalk Order of Conditions

Ms. Durkee stated that the Order expires next month and there is still some work to do – sidewalks, coastal bank vegetation, etc. A motion was made by Ms. Appenzellar and seconded by Ms. Klugman to extend the Order for five years. All voted in favor.

#### Laird – Extension of house by 18 inches

Ms. Durkee stated that an Order was issued for this project and now the owner wants to extend the addition by 18 inches. Ms. Hughes stated that it is in the buffer zone to the flood zone and a foundation is going in (it is in the campground). A motion was made by Ms. Appenzellar and seconded by Mr. Zentner to approve the extension (without the need for an amendment). All voted in favor.

#### Discuss Dowley request for pruning at Crystal Lake

Ms. Hughes suggested tabling the discussion since the East Chop Association Order expires at the end of the month. Ms. Appenzellar stated that Lal Dowley is 91 years old and suggested a one-time allowance of pruning while the ECA updates their vegetation management plan. Commissioners agreed.

#### Coastal Ecosystems Services Valuation update

Ms. Durkee is providing requested information to ABT.

#### Interstate gas pipelines – MACC Letter to the Governor

Commissioners agreed to add the Commission's signature to a Mass. Association of Conservation Commissions letter in opposition to proposed natural gas pipelines in Massachusetts.

#### Penacook Park – Discussion of CPA application

Ms. Hughes stated that the Parks Commission has applied for \$93,000 in CPA funds to enhance Penacook Park including granite curbs, lawn, loam, hydroseeding, and irrigation. She stated that she has concerns about a lawn, irrigation, and curbing and would like to see native grasses instead of a lawn and native shrubs on the edge instead of curbs. She stated that neighbors consider the park their front lawn. She asked if the Commission should make a stand against any more irrigation on Town property. Ms. Hinkle stated that the Commissioners would be hypocrites if they allowed it. Ms. Klugman mentioned that fertilizer use is impacting Major's Cove. Ms. Hughes asked what a definition of "upgrade" should be for a park. Ms. Durkee asked if this is the first priority in the Park Commission's study of the Town parks. Ms. Hughes stated that \$93,000 is a lot of money for a small park. Ms. Appenzellar suggested some benches and some areas of lawn. This discussion will be continued.

A motion was made and seconded to adjourn. All voted in favor.

Respectfully submitted,

Liz Durkee