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IC Davis, Asst.
ORLEANS TOWN CLERK

Orleans Conservation Commission
Town Hall, Nauset Room
Work Meeting, Tuesday, January 10, 2012

PRESENT:: Judith Bruce, Vice-Chairman; Bob Royce; Adrienne Pfluger; Steve Phillips; James Trainor; Jamie Balliett; John Jannell, Conservation Administrator.

ABSENT: Arnold Henson, Chairman; Jim O'Brien (Associate Member).

8:30 a.m. Call to Order

Continuation

Last Heard 12/20/11 (AH1)

Stephen Brodeur, 25 Weeset Proprietors Way. by Coastal Engineering Company, Inc. Assessor's Map 6, Parcel 4. The proposed reconstruction of a stone revetment, installation of stone retaining walls, removal of existing patio areas, and mitigation plantings. Work will occur on the Top of a Coastal Bank, within Land Subject to Coastal Storm Flowage, and within 100' of the Top of a Coastal Bank, Edge of Salt Marsh, Coastal Beach, Land Subject to Coastal Storm Flowage, and the Nauset Estuary. John Jannell reported a request to continue the hearing to January 24, 2012, had been received from Coastal Engineering Company, Inc.

MOTION: A motion to continue the hearing to January 24, 2012, was made by Adrienne Pfluger and seconded by James Trainor

VOTE: Unanimous

Last Heard 1/3/12 (SP1, JB1)

Kenneth M Johnson, 19 Gosnold Road. by Ryder & Wilcox, Inc, Assessors Map 45 Parcel 12. The proposed stabilization of a Coastal Bank. Work will be within the Pleasant Bay ACEC, and on a Coastal Bank. *(Prior to the commencement of the hearing, Steve Phillips and Jamie Balliett signed an affidavit citing they had reviewed previous testimony and read the approved minutes from the previous hearing, thus allowing them to be a voting member for this hearing.)* David Lyttle of Ryder & Wilcox, Inc. confirmed with the Commission that the members had received his revised plan, dated January 5, 2012, which outlined 50 plants would be planted, and the species would include bayberry, viburnum, and Virginia rose. Steve Phillips asked for clarification of the area to be planted, and David Lyttle explained that the entire width of the pool along the limit of work would be planted. Steve Phillips inquired about the height of the retaining wall, and whether or not water collection would be a concern. David Lyttle said a portion of the wall would be 3' above grade, with the remainder phasing out to grade. John Jannell reported to the Commission that since the previous hearing on January 3, 2012, a letter had been received from Ryder & Wilcox stating that they had been retained by the owners of 21 Gosnold Road to file a Notice of Intent for the illegal cuttings on 19 Gosnold and to establish a permitted view corridor.

MOTION: A motion to approve the plan dated January 5, 2012, with the planting note requiring a specific number of plantings, was made by Steve Phillips and seconded by James Trainor.

VOTE: Unanimous

Last Heard 1/3/12 (SP1, JB1, & JO1)

William H. and Kim C. VonThaden, 7,13 &19 Vernon Road. by Ryder & Wilcox, Inc, Assessors Map 12 Parcel 98,99&100. The proposed construction of a tree house. Work will occur within 100 feet to an Isolated Wetland. *(Prior to the commencement of the hearing, Steve Phillips and Jamie Balliett signed an affidavit citing they had reviewed previous testimony and read the approved minutes from the previous hearing, thus allowing them to be a voting member for this hearing.)* David Lyttle explained that the hearing was continued until a DEP number was received. Steve Phillips asked about a cherry tree to be removed, and David Lyttle said that the removal of the cherry tree was part of the land management plan which the Commission had approved under a previous Notice of Intent filing. Judith Bruce suggested the Commission could condition the Order to state that there was to be no removal of trees under this Order of Conditions.

MOTION: A motion to approve this site plan dated December 15, 2011, with the condition that no trees be removed, was made by Steve Phillips and seconded by Adrienne Pfluger.

VOTE: Unanimous

Certificate of Compliance

Last Heard 1/3/12 (SP1, JB1, & JO1)

Charles Carlson (2010), 23 Doane Road. The request for a Certificate of Compliance for an Order of Conditions for the construction of an addition to a single family dwelling. *(Prior to the commencement of the hearing, Steve Phillips signed an affidavit citing he had reviewed previous testimony and read the approved minutes from the previous hearing, thus allowing him to be a voting member for this hearing.)* Christina Smith of Safe Harbor Environmental, explained that after the previous hearing, all of the proposed plantings were flagged, and additional mature plantings were put in place, to make a total of 62 lowbush blueberry plantings. John Jannell stated that he met with Gordon Peabody of Safe Harbor Environmental, and witnessed the additional plantings as a strategy to ensure survivability. Steve Phillips asked if in the Certificate of Compliance could include an ongoing condition to provide maintenance for the plantings since there was not a survivability clause in place in the Order of Conditions. John Jannell said yes this condition could be added as a maintenance item.

MOTION: A motion to approve this Certificate of Compliance with an ongoing condition for maintenance was made by Steve Phillips and seconded by James Trainor.

VOTE: 5-0-1; Jamie Balliett abstained.

Jonathan Stark (2008), 110 Monument Road. The request for a Certificate of Compliance for an Order of Conditions for the plant management and landscaping for an existing dwelling. John Jannell reported that while the hardscape had been completed on site, the plantings had only been in the ground for a year. The Order of Conditions had a condition which stated "the plants installed will be maintained and replaced until they have survived 3 years after planting." John Jannell reported that the work is substantially complete but has yet to satisfy the plant establishment condition and he recommended that the Commission respectfully deny the Certificate of Compliance.

MOTION: A motion to issue the Certificate of Compliance was made by Jamie Balliett and seconded by James Trainor.

VOTE: 0-6-0; Motion denied.

Administrative Reviews

Richard Manginelli, 93 Tar Kiln Road. The proposed removal of 4 trees threatening house and the removal of 3 trees which had fallen onto the house during recent storm events. Work will occur within 100' of the Top of a Coastal Bank and the Pleasant Bay A.C.E.C. Work to be done by Lindsay Strode of Cape Organics. John Jannell reported that he met with Lindsay Strode of Cape Organics on site, and saw the 3 trees which had been removed from the house while the DEP emergency provisions were in place. Adrienne Pfluger asked if replacement plantings were being offered for the additional 4 trees to be removed. John Jannell reported that the applicant is proposing to plant the area with eastern white pines and shrubs from our recommended plant list. John Jannell also reported that there are other standing dead trees on site to provide wildlife habitat.

MOTION: A motion to approve this Administrative Review was made by Bob Royce and seconded by Adrienne Pfluger.

VOTE: Unanimous

Town of Orleans/Parks Department, Rock Harbor Road. The proposed regrading and expansion of bike path parking area. Work will occur within 100' of the Edge of a Salt Marsh. Work to be done by Orleans Parks Department. John Jannell explained that this was the proposed expansion of the parking area for the bike path. The Parks and Beaches Superintendent would like to widen the area towards the bike path and away from the resource area. Some small diameter trees will be removed and the gravel parking area will be expanded. Jamie Balliett asked if this work resulted in moving closer or farther from the salt marsh. John Jannell reported that this expansion would be going away from the salt marsh.

MOTION: A motion to approve this work was made by Adrienne Pfluger and seconded by Bob Royce.

VOTE: Unanimous

Chairman's Business

Approval of the Minutes from the Meeting on January 3, 2012

MOTION: A motion to approve the minutes was made by Adrienne Pfluger and seconded by Bob Royce.

VOTE: 4-0-2; Jamie Balliett and Steve Phillips abstained

Other Member's Business

The approval of the Sea Call Farm: Annual Agreement.

James Trainor asked for clarification that no additional changes had been made to the annual agreement. John Jannell confirmed that neither the responsibilities of the town nor the Supporters had changed.

MOTION: A motion to approve the annual agreement was made by James Trainor and seconded by Adrienne Pfluger.

VOTE: Unanimous

Administrator's Business***Gavigan Access Stair:***

John Jannell reported that Paul Fulcher of the Orleans Parks & Beaches Department received an estimate for the proposed removable stairway at the Gavigan property. John Jannell stated that while the estimate itself was costly, the property was a municipal property and therefore work could not be paid for by the Orleans Conservation Commission/Conservation Fund. Judith Bruce asked if the accessway was costly because it was removable, and Steve Phillips asked if sonotubes had been explored as opposed to driving piles into the dune. John Jannell said that only one estimate had been sought for discussion. Steve Phillips asked if the Conservation Commission could somehow transfer funds to the Parks and Beaches Department for the installation of a removable stairway. John Jannell stated this could not occur without support of the Town Administrator and Town Meeting. Steve Phillips asked if there were any additional methods of thwarting the erosion on this site. The Commission asked John Jannell to follow up with the finance department to determine if it would be possible for the Conservation Commission to help pay for the staircase by providing the funds to the Parks and Beaches Department.

Putnam Farm:

John Jannell reported that the cleanup efforts at Putnam Farm were progressing with the aid of AmeriCorps volunteers. Steve Phillips asked if anyone had approached the town regarding using the area as a community garden. John Jannell stated that at this time, cleaning up the property and invasive plant removal are the main priorities.

Judith Bruce announced that there would be an Ethics Training course in the Town of Eastham on Tuesday, January 10, 2012, from 2 to 4pm, should any of the Conservation Commission members wish to attend.

The Commission discussed the site visits.

The meeting was adjourned at 9:02am

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department.

Joint Meeting
Joint meeting with the Water Quality Task Force, Pleasant Bay Resource
Management
Town Hall, Nauset Room
Tuesday, January 10, 2012

PRESENT (Conservation Commission):; Judith Bruce, Vice-Chairman; Bob Royce; Adrienne Pfluger; Steve Phillips; James Trainor; Jamie Balliett; John Jannell, Conservation Administrator.

ABSENT: Arnold Henson, Chairman; Jim O'Brien (Associate Member).

PRESENT (Water Quality Task Force): Bob Royce; Carolyn Kennedy

9:08 a.m. Call to Order

Carole Ridley, Coordinator for the Pleasant Bay Alliance, presented her document entitled *Assessment of Need, Impacts and Regulatory Feasibility Associated with Limited Improvement Dredging in the ACEC*. Carole Ridley discussed the present limited dredging within the Pleasant Bay ACEC, and went over the prohibition which went into place in 1987 regarding potential future dredging.

9:15: Sims McGrath, Liaison for the Conservation Commission, arrived.

Steve Phillips asked about the map which Carole Ridley presented to the Joint Committee demonstrating the area for potential dredging, and why a portion of it included an area not within the ACEC. Carole Ridley explained that this circle depicted the navigation channels anticipated to be dredged in the future should navigation continue to be thwarted due to changes in sediment settling. The potential dredging would be limited to historically navigated waterways, and would not seek to create new navigational channels. James Trainor asked if the dredging would result in an increase of water flow in and out of Pleasant Bay. Carole Ridley did not think that an increase of water flow would occur, but it would be something which would have to be carefully assessed before any dredging would occur. Steve Phillips asked about the potential to dredge the Western side and its impact and increase of water flow to the Eastern side which was Chatham. Carole Ridley said dredging would occur only where the natural channel existed, with historical depths being maintained. The models presented to the Commission were projected, and without a definitive footprint, the overall impact to the Eastern side could not be accurately illustrated. Steve Phillips asked if Chatham wanted to channel the Eastern side, could they in fact do that. Carole Ridley explained that Chatham would need to demonstrate the need for the East side to be channeled, and both the state and the Pleasant Bay Alliance would bring their concerns should an Eastern dredge be proposed. Carole Ridley stressed that the overall purpose of the presentation was to allow for the 1987 moratorium on dredging within the ACEC be lifted to allow for the possibility for historical navigational dredging, and was not a current proposal to allow for dredging within the ACEC at this time. More studies including extensive permitting for the four towns would have to be brought forth in order to allow for any work to occur. Carole Ridley was asking for the Conservation Commission to endorse the idea to change the 1987 moratorium in conjunction with the other three towns within the Pleasant Bay alliance. Steve Phillips asked if the National Seashore had also been consulted and asked to look over this change to the 1987 moratorium. Carole Ridley pointed out that the Cape Cod National Seashore's district

was not within Pleasant Bay. Steve Phillips was concerned that there would be a residual impact to the Cape Cod National Seashore, and asked that the Pleasant Bay Alliance ask the National Seashore to provide an opinion regarding this proposed change. Jamie Balliett asked if a more recent survey than the 2008 depth analysis had been conducted to determine the accuracy of the current channel depths. Carole Ridley explained that due to the expense and a lack of a current proposal to dredge within the ACEC, a more recent survey had not been conducted. Bob Royce felt that the area would continue to change, but that the prohibition should be removed should the need to dredge arise. Judith Bruce expressed her concern that the dredging would result in larger boats and increased boat traffic, but felt that this proposal was for the potential dredging to allow for channels to be maintained at their historical depths only. Carole Ridley also stated that any work within this area upon the alleviating of the moratorium would not eliminate the authority the Conservation Commission would have over review of this project. Steve Phillips asked, based on the circular area, if Chatham would be the only town which would have to file for a Chapter 91 license for the proposed dredging, and Carole Ridley said yes. Jamie Balliett asked about the possibility of the channel shifting northward, and Carole Ridley felt that based on the projected models, the channel would not shift northward. Jamie Balliett asked when this would go in front of the Orleans Selectmen, and Sims McGrath stated that he would be in support of this presentation when it comes in front of the Board of Selectmen.

MOTION: A motion to provide support to the Pleasant Bay Alliance for the lifting of the 1987 prohibition of dredging within the ACEC was made by Steve Phillips and seconded by James Trainor.

VOTE: Unanimous

The WQTF did not have a quorum present during the joint meeting, but Carolyn Kennedy and Bob Royce voiced their support of the proposal.