

'12 DEC 4 9:16AM
K. D. Long, Asst
ORLEANS TOWN CLERK

Orleans Conservation Commission
Town Hall, Nauset Room
Work Meeting, Tuesday, November 13, 2012

PRESENT: Judith Bruce, Chairwoman; Steve Phillips, Vice-Chairman; Bob Royce; James Trainor; Jamie Balliett; Jim O'Brien; Judy Brainerd; John Jannell, Conservation Administrator

8:30 a.m. Call to Order

Revised Plan

Robert & Sally Roda, 187 Namequoit Road. The proposed installation of scour protection and beach nourishment on a Coastal Bank. Plans have been revised to present a revised grading schematic; the addition of 200 cubic yards of fill to the Coastal Bank; the installation of a Geocell layer on the Coastal Bank; the modification of the planting plan to American Beach Grass; and the removal of the existing groin to be used as toe stones. Work will occur on a Coastal Bank, Coastal Beach, Land Under the Ocean, and within 100' of the Top of a Coastal Bank. Jay Norton of Coastal Engineering Company, Inc., David Lager, President of Netco Construction Project Managers, Inc., and Robert and Sally Roda, applicants, were present. Jay Norton explained during the initiation of the construction phase, several things were changed from the original approved plan, and would go through each. Per a condition on the Order of Conditions which asks that if a new Landscaper takes over the project, he/she must have approval of the Commission before commencing work on this site. Jay Norton explained that Wilkinson Ecological Design, the original land management contractor, had not bid on the job when it went out for bid. Jay Norton presented David Lager, President of Netco Construction Project Managers, Inc., as the new hired manager, and explained that he had a lot of experience with the installation of coir envelopes. Next, after looking at the grading schematic, they re-evaluated the proposed cutting of the slope so that as much upland and as many trees as possible may be saved. This change would result in the preservation of the Top of the Bank, reorganizing the internal components, and bringing in 200 additional yards of fill. The access for the project has been changed from a sand ramp to an access ramp using geocells, an inert product used to stabilize the bank and allow a bobcat to traverse down the bank without causing erosion problems. Judith Bruce asked if this ramp would be temporary or permanent, and Jay Norton said the geocell ramp would be permanent. Jay Norton said this was the least invasive way to maintain access and keep the coir envelopes buried, as there was no other access on this site. Steve Phillips asked for clarification that the road, in reference to have the geocells, was the ramp or the access road on the Coastal Bank, or both. Jay Norton clarified that it would be just the ramp on the Coastal Bank where the geocells would be used. Jay Norton stated the next change would be to the planting plan, which would now be a monoculture of American Beach Grass throughout the bank. Judith Bruce was concerned that without proper sand movement, the beach grass would be dead within three years. Jay Norton passed along pictures of a similar project executed in Truro where only American Beach Grass was planted, noting the root systems provide good bank stabilization. Jay Norton explained the next change would be to use the rocks from the existing groin as toe stones for the coir envelopes. Jay Norton pointed out a discussion in the November 16, 2010, and December 7, 2010 minutes, touching

on the use of the groin as toe stones for this work. Judith Bruce recalled that there was a discussion about the toe stones, but noted that it did not make the Order of Conditions as a special condition. Steve Phillips recalled the discussion, and thought that the Commission was asking about using the groin versus granting permission to remove and reconfigure the groin as toe stones for the coir envelopes. Bob Royce was concerned that the Revised Plan was in fact an entirely different plan than what had previously been approved. Judith Bruce was concerned that this was an entirely different approach than had been debated back in 2010. Judith Bruce was concerned about the implementation of a monoculture of Beach Grass on the Coastal Bank, because without sand movement the beach grass would die. Judith Bruce was concerned that these changes potentially rose to the level of a new Notice of Intent or an Amended Order of Conditions, and stated that she would want Greg Berman, Coastal Processes Specialist for Woods Hole Sea Grant Program and Cape Cod Cooperative Extension to review the changes that are being proposed. Jay Norton was confused as to why Greg Berman needed to be brought in to review the project, as in the opinion of the engineer the proposed changes were minor. Jay Norton explained the change to the access was to comply within the existing work footprint, and that planting American Beach Grass would be an excellent Coastal Bank stabilization method. Jay Norton felt the use of an expert seemed excessive. Judith Bruce appreciated his concern, and said that while she could only voice her own opinion, the Commission had the ability to seek a local 3rd party expert to determine if these changes were a benefit to the resource areas. Robert Roda was concerned that the work needed to be done as soon as possible, as the recent storm events over the past two years had confirmed that something needed to be done. Judith Bruce understood the desire to begin work in a timely fashion, but wanted to be comfortable with these changes before an approval was granted. Robert Roda asked if they had gone ahead with the current plan, would that be acceptable. Judith Bruce explained that if the applicant had stayed within what was approved with the approved contractors that they could proceed accordingly. Jamie Balliett felt a considerable issue was whether or not these changes were appropriate under a Revised Plan or an Amended Order of Conditions was needed. Jamie Balliett was concerned about the survivability of the beach grass, as it relies on sand being blown onto it, and to spend considerable funds only to have the grass die off would be something to consider. Jamie Balliett felt the usage of the rock groin warranted an Amended Order. Jay Norton pointed out that the minutes reflected a discussion about the use of the rock groin, and Jamie Balliett reminded him that the minutes were a reflection of what was discussed, and the Order of Conditions was the legal instrument. Judith Bruce explained that the Commission generally favored the removal of groins to reduce end scour, and felt that Greg Berman would be able to weigh in on whether or not the removal of this coastal structure was a benefit to the scour protection proposed. James Trainor explained he had seen American Beach Grass work and that if it failed, the applicant would be unable to receive a Certificate of Compliance until acceptable bank stabilization was accepted. Judith Bruce asked if James Trainor felt this Revised Plan rose to the level of an Amended Order or for the need for Greg Berman to review the plan. James Trainor said no, and Jim O'Brien felt the proposed changes were minor. Bob Royce was very concerned about the removal of the groin and wanted an opinion of the impact of removing it. Judy Brainerd said that while she was not part of the 2010 approval, she would like to hear about the impacts of the groin removal from an outside expert.

Robert Roda suggested he could circulate the minutes of discussion on the groin, and Steve Phillips reiterated that the removal of the groin was not a final portion of the recorded Order of Conditions. John Jannell pointed out that during a recent on-site conducted with the applicant, engineer, and design team, there was no mention of the use of the groin for toe stones. The removal of the groin would constitute work in Land Under the Ocean and Land Containing Shellfish, two resource areas not addressed within the original Notice of Intent and Public Hearing and they were outside of the approved Limit of Work. John Jannell noted that DEP had originally commented on the Notice of Intent and their opinion that no new rock was to be brought on site, and whether or not the relocation and reconfiguration of the groin would constitute as new rock. John Jannell also pointed out that the original approved planting plan was a mixture of species more typically suited to the Coastal Bank as opposed to the newly proposed monoculture of Beach Grass. John Jannell recommended the proposed revisions may be best addressed in an Amended Order of Conditions based on the level of this discussion. Jay Norton pointed out that the DEP letter stated that no extra rock would be permitted. Jay Norton spoke with his clients, and suggested that the removal and reconfiguration of the rock groin could be removed from the proposed revised plan. Judith Bruce asked how much longer the process would be if an Amended Order of Conditions was recommended for the applicant to proceed. John Jannell explained the process included but was not limited to a legal ad, abutter notification, and the applicant could be subject to additional special conditions at the Commissions discretion. Judith Bruce asked if the Revised Plan could be accepted if notes were written on the plan. John Jannell felt this would not provide the most accurate record of the work proposed, and felt the work involving the groin should only be allowed as part of a new Notice of Intent. Jay Norton reiterated that the work with the groin could be completely eliminated. John Jannell said the contractor change could be dealt with under a Revised Plan, but the change to topography including the use of the geocell was something which the Commission did not have any experience. Jay Norton said the geocell was a benign product. Judith Bruce said that she had seen geocells used on driveways, and was concerned that it would be adding plastic to the beach. Jay Norton said that the geocell's were designed to be more in the bank, landward of the coir envelopes. Judith Bruce was concerned that the toe was being extended. Jay Norton said that the toe would remain the same but that the top of the bank would be moving. Judith Bruce asked how the slope would remain the same with this adjustment. Jay Norton explained that the slope would be re-organized and more fill would be used. Jay Norton said there would be a more direct 1.5 to 1 slope, which would allow making up for some of the land on the top. James Trainor asked about the neighboring property which had an existing groin, and whether or not their salt marsh was impacted by the recent storm event. Robert Roda said during the last two storm events the fiber rolls were impacted and a hollow had been created on their side of the stairway. James Trainor explained that he was wondering if it was an advantage or a disadvantage to have the groin on site, and Robert Roda said he was not sure. Jay Norton reiterated that the sand ramp was tightened up versus the originally proposed flatter wider surface. Steve Phillips asked how much erosion had occurred on the bank over the past couple of years, and if this was the motivation on how to stabilize the fiber rolls kicking loose. Jay Norton said Coastal Engineering Company, Inc. utilized the existing data and determined that additional material would have to be brought in to make up the grade. Robert Roda said the desire to move forward sooner than later stemmed from

the recent increased damage to the fiber rolls. Judith Bruce asked if anyone in the audience wished to comment on the proposed Revised Plan. Judith Bruce said that she was leaning towards an Amended Order of Conditions for all of the proposed changes versus a Revised Plan approval, but felt that the abutters were well aware of the work proposed. John Jannell agreed that at this point the abutters were well aware that work was proposed, and Robert Roda said that he had spoken with John and Allison Ferring of 189 Namequoit Road. Judith Bruce appreciated that the applicants also wanted to move forward quickly with a repair to this Coastal Bank, and asked the Commission for their thoughts. Judy Brainerd felt that by the applicant removing the proposed groin, the applicant did not have to go through an Amended Order of Conditions filing. John Jannell suggested the change in contractor could be done during a regular Conservation Commission meeting, but noted that conditions could not be added to the Order of Conditions under a Revised Plan such as the usage of geocells within the resource area and the survivability of the proposed American Beach Grass monoculture. John Jannell recommended that the Commission not accept the changes to the planting plan, as moving sand was needed in order for the American Beach Grass to survive. The originally approved planting plan was based on CZM guidelines and better serves the interests of the Commission. Jay Norton said under the Order of Conditions the applicant was required to bring in a re-vegetation plan, and that this project would encompass a significant monitoring program. Jay Norton explained that the applicant wanted to start with the American Beach Grass monoculture given its presence on Cape Cod, and Judith Bruce pointed out that it typically thrived on migrating dunes and beaches. Steve Phillips asked if the plan indicated a migration seaward, and Jay Norton said that there would be sacrificial sand installed. Steve Phillips asked if the rocks were below the contour lines, and Judith Bruce asked if the fiber rolls were being removed. Jay Norton explained the fiber rolls would be removed, the existing rocks re-stacked, and the removal of the groin would be eliminated from the proposal. Judith Bruce asked if the changes to the plan were now limited to the use of geocells and the changing of the planting plan, and Jay Norton said yes. Steve Phillips asked if the area had been staked, and Jay Norton said it would be staked prior to the beginning of the work. Steve Phillips wanted to take a second look on-site of the project, since it had been two years since the project initially came in front of the Conservation Commission and there was the possibility that the bank looked different from the last time the Commission conducted an on-site. Robert Roda said the commissioner was welcome on site; the changes to the Coastal Bank that were there was less of a bank present than two years ago, and the proposed slope remained the same. Judith Bruce asked if there was less of a hump proposed, and Jay Norton said there would still be a small hump. John Jannell explained that the proposed Revised Plan included the use of 200 cubic yards of additional fill, something which had not been included in the original Order of Conditions and was not something that could be conditioned for the type and size used. The current plan, based on the discussion today and the change to the plan to remove the use of the groin as part of the scour protection, was not acceptable for approval today. John Jannell asked the Conservation Commission to provide guidance on how the applicant should proceed. Robert Roda pointed out that in the original approved plan fill was proposed, and Jamie Balliett noted that this Revised Plan showed 200 additional yards of fill. Steve Phillips asked if an Amended Order had to be filed for in order for the Commission to conduct a site visit. John Jannell felt a site visit would be something which could be set up. Judith Bruce stated that while she was torn between

recommending an Amended Order of Conditions versus a Revised Plan, if moving the toe stones were a better option, it would be best to find out through an independent review by Greg Berman. Jay Norton asked who would pay for the consultant, and Judith Bruce said it was free service provided through the Cape Cod Cooperative Extension and Woods Hole Sea Grant. Jim O'Brien asked how long it would take for Greg Berman to look over the plan, and whether this could be continued for a week. John Jannell said this was not a public hearing to be continued, and would solicit Greg Berman's opinion. John Jannell suggested polling the Commission to provide guidance to the applicant. Jamie Balliett said he would like to hear from Greg Berman, and if the groin was in fact off of the table, a Revised Plan may be appropriate. Jim O'Brien agreed, but Jamie Balliett noted that the monoculture planting plan was a risk. Judy Brainerd agreed, stating that she had seen Beach Grass plantings fail. Judy Brainerd said she would like to have Greg Berman review the plan, as it would be beneficial to see this project move forward. Bob Royce said he was concerned with the fill and the planting plans, along with the impact on either side of the property from this proposed Revised Plan's execution. Bob Royce wanted to hear the opinion of Greg Berman. Steve Phillips said he was unsure of which filing to suggest, and it did not see an advantage by deciding yes or no on the Revised Plan at today's meeting. Bob Royce wanted to see the difference between the approved and Revised Plans. James Trainor felt the beach needed to be nourished, and that by changing the cut of the bank trees would be saved. James Trainor felt the planting plan was suitable, and Jim O'Brien noted that the applicant would have to replace the entire planting area if it was to fail per the planting condition within the Order of Conditions. Judith Bruce said that if the Commission accepted a Revised Plan which only required the planting of American Beach Grass, the applicant would only have to plant American Beach Grass. Judith Bruce was concerned that the applicants have the best solution for the bank, and said that the majority of the Commission wanted to hear from Greg Berman. Jay Norton was confused as to why Greg Berman needed to be consulted if the groin removal was removed from the Revised Plan. Judith Bruce wanted to hear if would be recommended to take the groin out, and see what Greg Berman thought about the change to the planting plan and the usage of geocells. Judith Bruce wanted to make sure the applicant did not have to spend additional money on a new filing if it was not something that was recommended, and that it was addressed in a timely fashion. John Jannell said that Greg Berman's review would be requested for the change in slope and the use of geocells and the cut and fill, and would get a request out to him as soon as possible. John Jannell stated that he could not recommend the Commission approve the planting of a monoculture as the original planting plan was done for a reason, which was at the recommendations of the CZM guidelines and to promote diversity, strong coastal ecology and bank stability. Jay Norton asked if construction could begin on the bank while Greg Berman was looking over the proposed changes. Judith Bruce wanted to wait until Greg Berman looked over the proposed changes before work was to commence. Bob Royce asked if the profile shown in AA was the same as the original approved profile, and if the proposed slope was the same as in the previously approved plan. Jay Norton said slope was different as the flat spot shown on the plan was now tighter, and John Jannell pointed out that the sand ramp was removed from the plan and fill was added. Jamie Balliett asked if the additional fill was brought in because of recent storm events, and Jay Norton said yes. Jamie Balliett felt that getting out on site may help, as a decision today with the change in grades was something which Greg

Berman should look at before the Commission made a decision on the revised plan. James Trainor felt the approval in 2010 was to return the Coastal Bank to what was originally there, and Steve Phillips concurred. Judith Bruce felt that since the applicant wanted to change contractors as well as make additional changes to the planting and site plans that additional expertise would be best. Jamie Balliett agreed, and thought the additional sand was being sought due to recent storm events. James Trainor asked if there was a change to the Top of the Coastal Bank from the approved 2010 plan. Jay Norton said the additional sand was needed, and there was no change to the top of the bank. Judith Bruce asked if there was a change to the Bottom of the Coastal Bank, and John Jannell noted that there was a change to the staircase side. Judith Bruce was concerned the applicant was asking the Commission to make a decision before they had all the information they needed. Steve Phillips was not comfortable with what was out there versus what was shown, and asked whether or not this Revised Plan was the best solution for the site. Judith Bruce explained that she did not want to put Greg Berman in a difficult spot, but rather wanted to know whether or not the Commission could accept these changes under a Revised Plan or it was best addressed under an Amended Order of Conditions. John Jannell explained that in November of 2010 Greg Berman presented the Commission with a report, and if he did recommend a number of new possible conditions that his recommendation would be to request an Amended Order of Conditions. Jay Norton felt this plan did not warrant an Amended Order, and would send along copies of the plans to Greg Berman post haste. The Commission did not make a motion as this was not a hearing, and the applicant would return once Greg Berman presented his findings to the Commission and the applicant.

Administrative Reviews

Nancy Burkert, 7 Harbor View Lane. The proposed pruning of a willow tree, removal of a honeysuckle, and the removal of grapevines. Work will occur within 100' of the Edge of Wetland and Edge of Critchett's Pond. Work to be done by applicant. John Jannell said he recommended approval of this work. Judith Bruce commended the applicant on being a good steward of the area and to the pond.

MOTION: A motion to approve this work was made by Jamie Balliett and seconded by Jim O'Brien.

VOTE: Unanimous.

Cathy Bevans, 51 Gosnold Road. The proposed trimming and mowing of a path. Work will occur within 100' of the Top of a Coastal Bank, Land Subject to Coastal Storm Flowage, and the Pleasant Bay A.C.E.C. John Jannell explained this was a vacant lot and the homeowners wanted to be able to walk through the property. No trees would be removed; it would be the trimming of branches and removal of one Honeysuckle. Steve Phillips asked that the path not be greater than 4' wide, and John Jannell said this was indicated on the plan.

MOTION: A motion to approve this Administrative Review was made by Steve Phillips and seconded by Judy Brainerd.

VOTE: Unanimous.

William Edwards, 64 Captain Linnell Road. The proposed removal of one oak tree. Work will occur within 100' of the Edge of Salt Marsh and Land Subject to Coastal

Storm Flowage. John Jannell reported this was a single standing dead oak which had been killed by the gall wasp.

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

VOTE: Unanimous.

Ray & Joanne Dobson, 49 South Orleans Road. The proposed removal of a dying pine tree. Work will occur within 100' of the Top of a Coastal Bank and Land Subject to Coastal Storm Flowage. John Jannell reported this was a storm damaged Eastern Red Cedar. The applicants had an open Order of Conditions for an addition next to the tree, and could recommend replanting should it be a concern.

MOTION: A motion to approve this application was made by Bob Royce and seconded by Steve Phillips.

VOTE: Unanimous.

David Dunford, 11 Portside Lane. The proposed replacement of stair base and replenishment of beach with compatible material due to damage caused by Hurricane Sandy. Work will occur on a Coastal Beach, on Land Subject to Coastal Storm Flowage, and within 100' of the Edge of Salt Marsh and a Coastal Bank. John Jannell said the last two sections of the applicant's dug-in stairs had eroded during recent storm events. Judith Bruce asked if this application was for the replacement of the timbers and the sand. John Jannell stated this was for the replacement of the sand tread within the timber steps frame only. Judith Bruce asked if it would be replenished with compatible sand, and John Jannell said yes.

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

VOTE: Unanimous.

Raymond Nash, 46 Loomis Lane. The proposed removal of a blown down oak as a result of a recent storm event. Work will occur within 100' of the Edge of Salt Marsh, Land Subject to Coastal Storm Flowage, and within the Pleasant Bay A.C.E.C. John Jannell reported this was the result of recent storm events, and recommended to the applicant that the tree be cut up, removed, debris taken out of the marsh, and the root mass to be left in place.

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

VOTE: Unanimous.

Charles Snow, 21 Standish Road. The proposed installation of a Title V septic system to replace an existing cesspool. Work will occur within 50' of the Edge of a Wetland and 100' of the Top of a Coastal Bank. Stephanie Sequin of Ryder & Wilcox, Inc. passed around a revised plan which showed a revised location previous to the one submitted with the Administrative Review. Judith Bruce asked where the new septic tank would be located, and Stephanie Sequin said it would be approximately at the 85' buffer line. After consulting with a plumber, it was determined that the waste pipe could be raised and redirected to come out at the end of the building, making it more of a straight shot and removing the pipe from within the 50' buffer. Stephanie Sequin noted that the work within the 50' buffer would be the removal of the cesspool. Judith Bruce asked if this meant the existing cottage was to remain. Stephanie Sequin said her clients, the

Snows, had to demonstrate that a new septic system would be installed when a buyer comes forward, as the previous applicants, the Grahams, have since withdrawn their application. Judith Bruce asked if this work would in fact be done. Stephanie Sequin said that if a buyer came forward and wanted to make modifications, this application would not go forward. James Trainor recommended the installation of an H-20 tank since it would be more than likely that someone would drive over the tank given its proposed location. Stephanie Sequin agreed that the driveway was not well defined, and James Trainor felt it would be better to be safe. John Jannell said that he would recommend approval of the application as the cesspool would be removed from its location directly next to the wetland. Bob Royce clarified that this application was only to demonstrate the possibility of improvement, and John Jannell said once it was approved it could be built according to the plan provided with this request.

MOTION: A motion to approve this Administrative Review was made by James Trainor and seconded by Steve Phillips.

VOTE: Unanimous.

Sea Call Farm License Agreement

Discussion to amend the Sea Call Farm License agreement between the Sea Call Supporters and the Town of Orleans. John Jannell reported a letter had been received stating the applicants were unable to attend the meeting. Bob Royce asked if the Sea Call Supporters were interested in changing the agreement, and John Jannell said he was not sure but noted they wanted to talk about future issues with the Commission.

Request to Use Conservation Properties

Bakers Pond	Educational Walk	11/15/12
Orleans Conservation Trust	9-10:30am	20-30 People

MOTION: A motion to approve this event was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous.

Chairman's Business

Approval of the Minutes from the Meeting on November 6, 2012

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

VOTE: Unanimous

Other Business

Appoint Conservation Commission representative to the Community Preservation Committee: Term ending 6/30/13. Judith Bruce said that Judy Brainerd may be willing to consider a term next summer, but that until that time Judith Bruce was willing to represent the Orleans Conservation Commission on the Community Preservation Committee.

MOTION: A motion to close nominations and accept Judith Bruce as the Conservation Commission representative for the Community Preservation Committee was made by Jamie Balliett and seconded by James Trainor.

VOTE: Unanimous

The commission discussed the site visits.

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The meeting was adjourned at 10:01am

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department