

**Orleans Conservation Commission**  
**Town Hall, Nauset Room**  
**Work Meeting, Tuesday, June 11, 2013**

K. Dery, Assoc.  
13 SEP 17 12:09PM  
ORLEANS TOWN CLERK

**PRESENT:** Judith Bruce, Chairwoman; Bob Royce; James Trainor; Jamie Balliett; Jim O'Brien; Judy Brainerd; Philips Marshall, Associate; John Jannell, Conservation Administrator.

**ABSENT:** Steve Phillips, Vice-Chairman; Nancy O'Mara, Associate.

8:30 a.m. Call to Order

**Continuations**

Last Heard 6/4/13 (JO1, PM1)

**Timothy & Andrea Howell, 25 Cheney Road.** by Ryder & Wilcox, Inc. Assessor's Map 42, Parcel 1. The proposed removal of an existing single-family dwelling; the construction of a new single-family dwelling; the replacement of an existing timber stairway; invasive plant management; & native plant restoration. Work will occur in the buffer zone to the Top of a Coastal Bank, on a Coastal Bank, on a Coastal Beach, on Land Subject to Coastal Storm Flowage, & in the Pleasant Bay A.C.E.C. Andy Grover of Ryder & Wilcox was present for David Lyttle who was unable to attend the hearing. Andy Grover summarized the progression of this filing, noting that at the last meeting the Conservation Commission was waiting for a letter from NHESP and whether or not additional conditions would be required. Andy Grover reported that NHESP determined that there would not be a take, and did not include any additional conditions in its letter. Judith Bruce recalled that there were not any additional questions or concerns which the Commission carried over from the previous meeting. Judith Bruce asked if the audience had any additional questions, and no one was present for or against in the audience.

**MOTION:** A motion to close the hearing was made by Jamie Balliett and seconded by Bob Royce.

**VOTE:** Unanimous.

**MOTION:** A motion to issue this Order of Conditions with the Standard Conditions to be included was made by Bob Royce and seconded by James Trainor.

**VOTE:** Unanimous.

John Jannell noted that David Lyttle would come to the Orleans Conservation Department to sign the approved stamped plans once he returned from his obligation.

**Certificate of Compliance**

**Stephen Vorel (2013), 5 Little Marsh Lane.** The request for a Certificate of Compliance for an Order of Conditions for the proposed installation of a Title 5 septic system to replace an existing failed system and the pumping and filling of the existing leaching pit. John Jannell explained this was a septic upgrade as the result of a property transfer, it was in compliance, and the Commission could issue the Certificate.

**MOTION:** A motion to issue the Certificate of Compliance was made by Jamie Balliett and seconded by Judy Brainerd.

**VOTE:** Unanimous

**Harwich Ecumenical Council for Housing (2009), 257 Route 6A.** The request for a Certificate of Compliance for an Order of Conditions for the construction of 4 dwellings with associated landscaping and utilities. Peter Freeman, legal representation for the Harwich Ecumenical Council for Housing (HECH), and John McShane of McShane Construction were present. Peter Freeman explained that 4 of the housing units on site were affordable housing, and the mortgage rates which the applicants had received were about to expire. The applicants wanted to either be issued a full Certificate of Compliance if it was ready, or a partial Certificate of Compliance to allow for the landscaping to become established. Judith Bruce said while she was unsure if a partial Certificate of Compliance was possible, she understood the need to get the applicants into their units. John Jannell explained that there were special conditions set forth within the Order of Conditions for the loaming and seeding of the area, as well as mitigation plantings along the driveway. Upon the inspection on Monday, June 10, the work was incomplete. Glenn DuMont, the project manager for the property, had hoped the work would be done sooner. John Jannell explained that he wanted to see this Order through to completion, and did not want to have the siltfence removed until the grasses were established and the plants installed. John Jannell clarified that a partial Certificate of Compliance would not be appropriate for this Order. John Jannell suggested that the Conservation Commission could hold a surety such as a passbook savings account, or Bond, which would be released at the completion of the work. Peter Freeman said he felt confident that HECH had the funds available to provide this surety. Judith Bruce explained that the funds were not released until the work had been completed. John Jannell said he was not sure about the cost of the shrubs, and Jim O'Brien suggested that the passbook savings be in the amount of \$2500.00. Peter Freeman felt this was reasonable, and Judith Bruce asked if this should be for the plants to survive through the summer or for 3 years. John Jannell explained that they typically required 3 growing seasons, and Peter Freeman asked if a typical escrow agreement was something which the Conservation Department prepared. John Jannell explained that this would be prepared for the applicant, but that they needed to establish the passbook saving account on their own. Judith Bruce suggested the Commission could vote to approve the Certificate of Compliance pending receipt of the escrow agreement, and Peter Freeman confirmed that the agreement would be subject upon completion of the plantings. John Jannell specified that this was for the plantings along the driveway, loam, and seed.

**MOTION:** A motion to issue the Certificate of Compliance pending the receipt and execution of the Passbook savings Account was made by Jamie Balliett and seconded by Judy Brainerd.

**VOTE:** Unanimous.

### **Other Business**

Sea Call Farm: meet with Sea Call Supporters

- Review of Draft Caretaker Agreement
- Review of Sea Call Supporters Annual Agreement
- Review of Rise Engineering proposed upgrades to Sea Call Farm building

Jim Snow and Hank Schumacher of the Sea Call Supporters were present. John Jannell explained that the Commission had met with the supporters to talk about creating a caretaker position for a year-round tenant at Sea Call Farm, and today presented the Commission with a draft form of a caretaker agreement which included two sets of duties. The first would be required tasks of the caretaker, and the second would be additional duties which were longer term goals of the property and could further offset the monthly rent. James Snow explained that this was being proposed to a town employee with an environmental background, and that perhaps it could be offered to all town employees if Town Counsel thought this would be an option. John Jannell explained that the Commission would have the right to terminate the contract, and Judith Bruce asked if the caretaker position had to be specifically offered to a town employee. John Jannell explained that from the purchase of the property it was stipulated that it would only be offered to a town employee related to Conservation, and historically Parks & Beaches employees including lifeguards were offered this housing. James Trainor asked why this could not be offered to any capable individual who wanted to be a caretaker, and John Jannell explained the property was purchased as a Conservation property and the Occupant shall have some Conservation ties. Jim O'Brien wanted to offer first consideration to Conservation related employees but hold an option for all town employees, and Jamie Balliett inquired how many people could live in the house at once. Jim Snow said he wanted to make sure that an occupant could not sub-let the house, and that it had four bedrooms and one and ½ baths. John Jannell noted that a total number of occupants had not been mentioned in the draft agreement, and Philips Marshall inquired if anyone had expressed interest in taking on the caretaker position. Hank Schumacher said yes, and Judy Brainerd asked if this could be open to any town employee with consideration to those who work for the Parks and Beaches Department. Jim Snow explained that the way that the town purchased the property and deeded it required that a town employee be the resident, stating that it went back to when Cheryl of the Parks and Beaches Department was the first caretaker. Jim Snow explained that there would be no security deposit because it was a town employee, and John Jannell explained that there were legal reasons behind why a security deposit could not be taken and reminded the Commission that this is not a lease agreement. Judith Bruce asked if there was a specific reason a limit on the number of occupants had not been specified, and John Jannell said that there were currently two families living on site: lifeguards for the summer. Joyce Jablon, Sea Call Supporters Secretary, inquired what kind of financial security would be in place to protect the property from damage, particularly if they had pets. John Jannell said the town would still have insurance on the property, and that once this agreement was finalized, things like insurance would have to be discussed. John Jannell was not sure if damage had occurred over the years due to other residents staying at Sea Call Farm, and noted that wear and tear was currently not covered. Bruce Taylor, member of the Sea Call Supporters, agreed that there were unanswered questions for both groups but that the best thing would be to move forward with a caretaker position. Jamie Balliett asked about the two families currently living there and what they paid and John Jannell said it was \$100/week. Jamie Balliett inquired if anyone had lived there during the winter, and John Jannell said not since 2003, when rent was \$300/month for the caretaker. Judith Bruce thought it would be better if the house were to be occupied year

round, and Jim O'Brien suggested that a fee for pets above \$25 be considered. James Trainor asked that the agreement be tightened up to provide a maximum number of people, and was concerned about making it an easier process, and Judith Bruce thought it would be the Commission who would decide about the potential candidate. John Jannell explained that the monthly payment for rent would go directly into the 53 ½ account which was available for maintenance and upkeep of the building, and caps out at \$10,000.00. John Jannell explained that smaller bills for the property were paid for out of this account through the Conservation Department with his approval, and that the Sea Call Supporters signed an annual agreement with the Conservation Commission for the care of the building. Jamie Balliett agreed that the proposed caretaker agreement needed to be tightened up, and John Jannell asked for examples of what needed to be changed. Jim O'Brien felt the maximum number of pets needed to be specified, and Jamie Balliett asked that no subletting language be included. John Jannell said that a typo needed to be fixed stating that the owners would not do any painting, and James Trainor suggested that if an employee was not found that the position be opened up to Town of Orleans residents. John Jannell explained that this would have to be discussed with the Town Administrator, and Judith Bruce asked if the Sea Call Supporters had any modifications they would like to have on the agreement. Hank Schumacher asked who would be supervising the work performed by the caretaker, and if orchards were developed if the Sea Call Supporters or Conservation Commission would have a role. John Jannell suggested that either both groups could meet jointly or information could be provided in writing, and Jim O'Brien suggested a periodic review. John Jannell wanted to maintain the right of entry to 48 hours' notice, and Jamie Balliett felt this was sufficient. Judith Bruce suggested an annual inspection, and Jim O'Brien did not want it to be limited to once a year. Jim Snow said that part of the agreement also involved the use of the basement, which had a separate entrance and the Sea Call Supporters needed to be able to access it. Jim Snow did not feel that this access needed 48 hours' notice to the tenant, and Judith Bruce felt that if there was storage provided to the tenant in the basement that some type of agreement needed to be reached between the Sea Call Supporters and the tenant. Judith Bruce noted that coming and going of the Supporters could be disruptive to the tenant, and noted that this could be discussed when a Caretaker was found and this went into effect. Judith Bruce stated that the license agreement was in effect with the Sea Call Supporters until November, and John Jannell said that he would make revisions to the agreement and bring it back the following meeting. John Jannell explained that the Commission received a copy of the annual agreement signed by the Commission which was last signed on November 27, 2012, and that this needed to be changed to better define the Sea Call Supporters role with the property once a Caretaker was brought into the picture. John Jannell explained that there would be two new caretakers, and Jim Snow said that there was going to be a shift in what the Supporters were doing, such as if the Caretaker was on vacation or sick and such duties as mowing needed to be completed. Jim Snow explained that the Supporters wanted to rebuild the orchard, get additional plantings, and fix up the building. Hank Schumacher asked who would sign a contract for the front porch to be rebuilt or for additional major work to be completed. Hank Schumacher was concerned about renovating the building for renters, and wanted to make sure that the public would be able to continue to use the property for educational

purposes. Judith Bruce thought that most of this work was done by consulting the Sea Call Supporters and John Jannell, and thought that the caretaker should report to John Jannell, and then this information could be circulated to the Commission. Hank Schumacher asked that "D" be taken out of the agreement, and that the majority of the repair funds come out of the 53 ½ account with the rent replenishing this account. James Trainor felt that page 3 of the agreement clearly outlined that the Supporters were not in charge, and asked whether or not the Supporters had the insurance certificate. Jim Snow said that it was renewed last month and would provide it to the Commission, and John Jannell went over the proposed changes to the annual agreement between the Supporters and the Conservation Commission. Hank Schumacher brought up that the greenhouse was not for the caretaker, and that section "F" should be removed. John Jannell noted that the meadow work was complete and looked good, and Joyce Jablon asked how the work by the caretaker would be monitored and how the Sea Call Supporters would be made aware of any problems. John Jannell said that there were options left available, such as a log book, and asked if there was a preferred method. Jim O'Brien asked if the Caretaker should report to the Sea Call Supporters, and Jim Snow asked if things should go through the Supporters or go through the Conservation Administrator. Judith Bruce felt that going through John Jannell would be best that way the caretaker was not reporting to multiple boards. Jim O'Brien felt that it was important to have good communication, and John Jannell stated that the reporting needed to be to the Conservation Commission as the property was under their control. John Jannell hoped that the reporting would be administrative, and envisioned a report which could be easily shared via e-mail so that information was able to flow freely. James Trainor inquired if the Facilities Administrator, Ron Collins, for the town had been consulted, and John Jannell explained that he had been involved with the building audit. James Trainor felt it would be best to have him handle the building portions of the work on site, and John Jannell said he would speak with him. John Jannell explained that there were two items presented today for spending on the building, the first being a detailed contract from Rise Engineering and the second being from Snow's Fuel Oil & Gas. John Jannell explained that Ron Collins went through the building with Cape Light Compact to determine what needed to be done, most of which was insulation for the building and basement. John Jannell said that the customer cost for the Town of Orleans would be \$1,100.84, and felt that this was a good investment which the 53 ½ funds could be used. Jim Snow agreed, and James Trainor inquired about the price difference between the foam insulation in two different locations. Jamie Balliett suggested the price difference was due to the work's location, and Jim Snow explained that this was for sealing up the casement which needed to be more fire retardant. James Trainor asked if bringing in a gas boiler would be less expensive than replacing the oil tank and Jim Snow said that the expense to bring gas in from the street was significantly more than replacing the oil tank before they saw a return. Hank Schumacher asked if that figure was available, and suggested that if the entire system was looking to be replaced that they determine the exact cost. Jim Snow did not have the figure available, and Judith Bruce inquired if gas could be brought on the Community Garden side from Tonset Road. James Snow asked if this could be looked into, and John Jannell noted that the fireplace either needed to be sealed or its use prohibited. John Jannell noted that he would speak with Ron Collins about putting

together an estimate for gas conversion. Jim Snow pointed out that the fireplace did not have a damper but rather used a piece of plywood to prevent enough heat from escaping from the house so that the pipes would freeze. John Jannell said that in terms of a vote from the Commission, he recommended that they authorize the expenditure of the \$1,102.84 for the insulation by Rise Engineering only if a successful Caretaker was found. Jim Snow noted that nothing could be done while the lifeguards resided at the house, and John Jannell pointed out that Rise Engineering ran a backlog.

**MOTION:** A motion to approve the expenditure of \$1,102.84 was made by James Trainor and seconded by Judy Brainerd.

**VOTE:** Unanimous.

John Jannell said that since they were unsure of the age and date of the boiler, oil tank, and liner that the Commission vote to authorize the expenditure of these funds. Judith Bruce asked that they first look into installing gas, and Bob Royce said that the size of the tank had not been provided. James Trainor suggested that they would approve it if necessary, and John Jannell suggested that he could bring it back in front of the Commission. Jamie Balliett asked that propane be looked at as well, and Jamie Balliett inquired about the age of the current heating system. Jim Snow said it was roughly from 1988-1989, and during the summer provided hot water for the tenants. The Commission was concerned about the age of the system and the minimal use, and John Jannell asked if when the previous caretaker was present if the entire house was heated. Jim Snow said that it all went upstairs, and was not sure how well it had worked. The Commission thanked the Sea Call Supporters for their time.

Appoint Conservation Commission Member to Community Preservation Committee. Judith Bruce noted that she held this appointment for the past 6 months, and that Judy Brainerd had mentioned she would consider this appointment.

**MOTION:** A motion to appoint Judy Brainerd to the Community Preservation Committee was made by Jamie Balliett and seconded by Bob Royce.

**VOTE:** Unanimous.

### **Administrative Reviews**

**David Ohnemus, 19 Ruggles Road.** The proposed relocation of a portion of a driveway. John Jannell explained that this was a driveway which had been issued an Order of Conditions, and recently received a Certificate of Compliance. Upon further review of the location of the driveway, it was determined that a portion of it wandered onto the neighboring property. The work proposed to be completed by the applicant would be with a shovel and wheelbarrow, just at the cobble edge of the shell driveway.

**MOTION:** A motion to approve this Administrative Review was made by Bob Royce and seconded by Jim O'Brien.

**VOTE:** Unanimous.

**Geoffrey Kanter, 120 Freeman Lane.** The proposed removal of a storm damaged cedar and replanting with native species. John Jannell explained that this was an application held to determine if replacement would be offered. John Jannell reported that the Commission had a landscape plan accompanying the application which



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including the replacement of the cedar tree and the installation of 6 inkberry along the fence. Additionally, the applicant wanted to plant 4 American Holly for screening from the neighbor.

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

**VOTE**: Unanimous.

### **Chairman's Business**

Richard Houghton, long term member of Conservation Commission, passed away on May 28, 2013. The Commission wished to extend their condolences.

Approval of the Minutes from the Meeting on May 28, 2013 to be postponed a week for additional edits.

The meeting was adjourned at 9:40am

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department