

## **Herring River Restoration Committee**

**October 28, 2009**

### **Meeting Minutes**

**Members Present:** Charleen Greenhalgh, Truro, Steve Spear, NRCS, Tim Smith, CCNS, Steve Block, NOAA, Eric Derleth, USFWS, Hunt Durey, MADER

**Others Present:** Margo Fenn, APCC (Consultant), Mark Adams, NPS, John Portnoy, Don Palladino and John Reihl, Friends of Herring River, and Jack Whalen, CYCC. Representatives from Louis Berger Group arrived at 2:00: Steve Parker, Nancy Van Dyke and Craig Wood.

The meeting was called to order at 12:15 pm. Tim Smith handed out CD of latest hydrodynamic modeling. He indicated that the CD contained all of the modeling information except most recent report on High Toss Road.

**Friends of Herring River Update:** Don Palladino handed out the agenda for the upcoming State of Wellfleet Harbor Conference to be held on Saturday, November 14, 2009. There will be a walk led by John Portnoy on Sunday, November 15, 2009. Tim Smith and John Portnoy will make presentations at the Saturday conference. Don Palladino reported that the Friends are working on signage for the Herring River Estuary. He handed out a map of nine proposed locations and a design for the signs, showing the Friends logo and the website address. The sign size still needs to be determined. All road crossings within the estuary are proposed to have signage. Jack Whalen suggested putting signage within the CYCC golf course.

Don Palladino noted that there would be a Friends booth at the Harbor Conference. The Friends had a booth at the Oyster Festival, and approximately 30 people signed up to be members there. He also noted that the Friends website has been updated.

**Letter from Wellfleet Town Counsel regarding abandoning a Town Road.** John Reihl reported that Rex Peterson had asked for guidance from town counsel about the process for abandoning a town road.

Margo Fenn briefly summarized the written response, which was emailed to HRRC members. There are two options: 1) abandon maintenance of a road; or, 2) discontinuance of the road. Selectmen could vote to do first option and Town Meeting approval would be required for second option. John Reihl suggested that when the Project Alternatives are completed, HRRC meet with public safety and DPW officials of both towns to discuss public safety and access issues at High Toss Road. Mark Adams suggested that we specify the area of High Toss that might be abandoned, i.e. the area west of Snake Creek Road. Eric Derleth commented that there are other roads that need to be addressed, not just High Toss. Mark Adams responded that we should address High Toss now since how it is treated will directly affect tidal restoration. Eric Derleth agreed but stressed that the issue of low-lying roads needs to be studied more

comprehensively as the draft EIS/EIR/DRI is developed.

**APCC Proposed 2nd Contract for Project Coordination:** Margo Fenn briefly outlined the latest proposal from APCC, which includes a status report on the current APCC contract and a proposed new contract. The new contract proposes a continuation of existing services. It would run from Nov 2009 to July 2010 using the remainder of funds provided by NRCS for this purpose. Hunt Durey asked to see a breakout of overhead charges and more information on the roles of the other APCC staff involved. Margo Fenn spoke with Maggie Geist about these; all the general administration and overhead costs are included in the hourly fee for the regular APCC employees. Margo Fenn is a contractor, therefore there is no overhead for her work. Hunt Durey would like to see the percentage of overhead costs broken out from hourly rates. Margo Fenn noted that the other APCC staff would be involved if specific expertise is needed (e.g. grant writing, contract management, etc.) Under the Scope of Work, Item #5, Hunt Durey asked about Margo Fenn playing a more direct role with Technical Working Group (TWG). Margo Fenn anticipates calling the meetings, doing minutes, acting as the facilitator. She explained that the number of hours worked per month to date has varied based on workload. The Committee sees her role as someone who will keep track of everything that HRRC is working on, keeping the group on task, documenting activities of various groups and subgroups. Margo Fenn noted that if there are a number of spin-off groups of the TWG, then the workload might go beyond the hours that APCC has estimated. Tim Smith commented that Item 3 of the Scope of Work should be changed to clarify that the Project Coordinator will consult with NPS, rather than directly with EQD. He offered to edit the draft contract to reflect the Committee's discussion. Hunt Durey made a motion to approve APCC contract through June 30, 2010 with discussed amendments, Steve Block seconded, the Committee voted unanimously to approve. Hunt Durey praised APCC and Margo Fenn for the work that they have done thus far. The Committee concurred.

**Meeting Minutes – 9/24/09:** The September 2009 meeting minutes were not yet ready for review.

**Schedule Next Meeting:** The next regular meeting of the HRRC will be November 18, 2009. On November 19 there will be a canoe trip for TWG members, weather permitting. Three members from HRRC will try to attend the canoe trip. Tim Smith agreed to send an invitation to all TWG members. Eric Derleth mentioned that folks from the Louis Berger Group (LBG) had expressed interest in canoeing the river. It was agreed that the consultants will be invited to participate, but this will be on their own time. The next scheduled HRRC meeting after that will be December 16, 2009.

**Louis Berger Group Work Plan:** The Committee discussed the October 5, 2009 work plan submitted by LBG. This document proposes a staffing plan to deliver the products that HRRC expects. HRRC members discussed how this proposed approach might affect any future work that LBG may do on the project, especially regarding costs. Will the proposed staffing plan drive

up the estimated cost of preparing the EIS/EIR? Tim Smith noted that the first LBG contract with HRRC had many assurances on quality control; subsequent contracts did not contain that specific language. Steve Spear voiced a concern that we may not actually see a change in their performance and quality of work. Hunt Durey stressed the HRRC needs a consultant that understands the NEPA/MEPA process and can lead the group through the necessary steps. Margo Fenn noted that LBG is trying to do two things in the short-run: 1) Establish a team that HRRC is comfortable with, and, 2) Provide meaningful feedback on the work that HRRC has done since the Alternatives Workshop. Tim Smith expressed concern about a recent email that he received from Craig Wood regarding Data Source Review. A discussion ensued on the role of LBG regarding the Meta-Data and the Data Sources Review. Tim Smith also noted that LBG went directly to NHESP to ask for a release of information on endangered species, rather than going through the NPS. The group agreed to ask LBG for clarification about why specifically they need the data that they are requesting. There will be a meeting on October 29, 2009 where these various items/questions will be discussed with the LBG team.

**Hydrodynamic Model Results:** Tim Smith updated the Committee on the hydrodynamic modeling work completed by the Woods Hole Group (WHG). He ran through the CD that he distributed at the beginning of the meeting. The group discussed possible next steps. We currently have two draft written reports (last June and this addendum). Tim Smith thinks there are still some more basics to look at, for example: Mill Creek, Pole Dike Creek hydrology. Steve Spear commented that it is hard to understand where some of the numbers used in the modeling came from – 40 foot opening at Chequessett Neck Road, for example. Tim Smith and Eric Derleth will be speaking with WHG on Tuesday, November 3, 2009. Steve Spear agreed to participate in that conference call. Hunt Durey questioned whether the modeling should focus on end conditions (e.g. with vegetation removal) or interim conditions. Tim Smith noted that the final report should present information in a more consistent fashion so that we can compare the results of different model runs. John Riehl asked if there was a spreadsheet of all the modeling runs and their assumptions. This will be asked of WHG as part of the final report. Eric Derleth agreed to summarize the conference call discussion in writing and email the summary to the rest of the HRRC. He noted that we would need a new scope of work for any future work with WHG.

Louis Berger Group representatives arrived and introductions were made. Craig Wood is the ongoing Project Manager. Nancy Van Dyke is a Senior Consultant (environmental). She has worked with the Park Service on projects for 15 years. Her role is to oversee and advise on the NEPA process. She has work on numerous NEPA projects throughout the country. Steve Parker is a botanist with ACOE background. His role is project management, quality control review. Dana Otto will be attending the Oct. 29 meeting. She is the client contact with the National Park Service Environmental Quality Division (NPS/EQD). Steve Spear asked the new members of the LBG team what their initial impressions of the project were. Steve Parker listened in on the TWG meeting the previous week. He noted that this is a complex project, and that one of the main challenges is figuring out how to handle the myriad permits required. Nancy Van Dyke

concurring, commenting that it will be difficult to integrate all the different agency concerns. She also noted that addressing potential private property impacts is key.

Eric Derleth commented that we need to propose a permitting process to state and federal agencies that allows for adaptive management. He asked if officials from NPS/EQD should be directly participating in the development of the EIS/EIR for the project. Craig Wood said that Dana Otto would be able to address that question at the meeting on Oct. 29. Eric Derleth also commented that the hydrodynamic modeling that has been done by WHG should be integrated into the EIS/EIR process.

The Committee reviewed the purpose of the Oct. 29 meeting with the LBG team. The agenda for that meeting includes: 1) Review of the Alternatives, Impact Topics and Chapter 1 (work done by HRRC since the Alternatives Workshop); 2) Review and discussion of next steps in the Alternatives process; 3) Discussion of logistics/ relationships to make sure that LBG and HRRC are working effectively together; 4) A discussion of costs going forward; and 5) Completion of the Data Sources Review document.

**Report on Technical Working Group (TWG) Meeting:** Margo Fenn put together a set of draft meeting notes from the TWG meeting. Attached to that were the various documents that were discussed at the TWG meeting. Margo Fenn reviewed the next steps:

1) She prepared meeting notes and circulated them to HRRC members. She requested comments/edits on the notes by November 6, 2009. She will then circulate them next to the TWG members.

2) She will propose a series of quarterly meeting dates for the TWG. The next scheduled meeting is January 27, 2010.

3) HRRC needs to prepare a draft list of regulatory issues/questions for the TWG to review. Hunt Durey and Tim Smith will work on a first draft of the list and this will be on the next HRRC agenda. The Committee discussed how best to approach the permitting questions. Hunt Durey noted that one key issue is wetlands: How are these going to be delineated, by what method, etc. He suggested that we send letter of thanks to TWG participants, and ask them to look at other large-scale projects that they have participated in to see how those were handled. Steve Spear spoke about a pre-permitting process that was done to re-establish cranberry bogs – this was a “special” process established to assist with “expediting” or “stream-lining” the process. The main question asked of agencies was - Are you going to take jurisdiction and what are you going to be asking for? Steve Block suggested filing an ANRAD for key areas. The Committee agreed to discuss this matter at its November meeting.

4) Margo Fenn will send the draft statement of purpose and need to TWG with the meeting notes.

5) HRRC will sponsor canoe trip on November 19, 2009, weather permitting. Tim Smith agreed to send an email to see who can participate. The LBG was invited to participate; Craig Wood will try to attend. John Portnoy also offered to come along.

Margo Fenn noted that TWG members were asked to coordinate with their agencies to develop methods for streamlined permitting. Tim Smith suggested following up with Tim Timmerman of the Environmental Protection Agency (EPA), noting that perhaps a meeting with the Army Corps of Engineers (ACOE) and EPA separately might be a good idea. Steve Spear noted that the Natural Resources Conservation Service (NRCS) is a cooperating agency. Steve Block suggested that the NPS send a letter to the other federal agencies formally requesting that they become cooperating agencies. This would include ACOE, NOAA and USFWS.

**NRCS Funding:** Tim Smith and Hunt Durey reported that NRCS 2010 funding had been approved by the U.S. House of Representatives. The funding request is now before the Senate. The HRRC has submitted a list of funding priorities to NRCS. Priorities include: Legal research for low-lying properties, feasibility analysis for diking Mill Creek, sediment modeling and on-going project coordination. The Cape Cod Coastal Resources Committee has also compiled a list of priority projects. If the Senate signs off, the money will become available within a few months. Some funding for FY10 for Herring River project is anticipated.

Other funding sources Hunt Durey asked what other funds are currently available for HR work. Tim Smith responded that \$37,200 remains in NRCS funds for Project Coordination (APCC contract). Approximately \$200,000 remains in NPS funds. NPS money could be used towards further modeling or other EIS/EIR/DRI work.

**Low-lying Properties Working Group Update:** The Working Group met this morning. Mark Adams and Karen Lovely presented materials that they have been working on. Using the scope of the work outline earlier, they mapped the 10 foot contour (NAVD 88), and overlaid Towns assessors' information. They identified all parcels (<200) that touch the 10 foot contour. The lots will be classified and ranked based on sub-basin, elevations, primary structure(s), secondary structure(s), improved landscape and other vegetation. This will or can be utilized for future modeling. The Towns were very helpful providing information. Karen Lovely's work has been invaluable.

Eric Derleth asked if this effort would analyze roads, right-of-ways, etc. Mark Adams explained their work now is focused on abutting properties. Information regarding roads is already available, but that analysis will be tackled by a separate group. Tim Smith noted that it is important to be sure that the hydro modeling information is available in a usable form for GIS mapping. He agreed to talk to WHG about this.

The group briefly discussed related issues: How should sea level rise be incorporated into the hydro model? How will FEMA address wetland restoration, with tidal control, on properties? Craig Wood provided information regarding new FEMA regulations and tide control. Such

controls/dikes would have to be constructed to ACOE standards. John Riehl asked if the EIS/EIR needs to investigate the impact of ground water on structures being pushed up by a rise in salt water? This has been looked at preliminarily, but will be looked at on a more in depth parcel-by-parcel basis.

**Golf Course Discussion:** Tim Smith reported that CCNS received two letters from CYCC. The first letter requested that NPS work with Mosquito Control to allow removal of Phragmites within Mill Creek; the second letter regards the potential for expansion of the boundaries of the CCNS. CYCC will be meeting CCNS on Monday, November 2 to discuss these matters.

**NRCS request for Maps:** NRCS, through Steve Spear has requested maps and information for the project. Steve Spear explained what NRCS is requesting. Mark Adams agreed to prepare a generalized orientation map, showing land use, showing USGS contours, conservation land, parcels. Steve Spear explained this is for internal use only. Craig Wood suggested that Figure 3 from the ENF form could provide the needed information. The Committee agreed. Craig offered to email this to Steve Spear.

The meeting was adjourned at 4:25 pm.