

WEST TISBURY CONSERVATION COMMISSION
MINUTES OF MEETING
August 10, 2010

Present: Prudy Burt Chair, Joanie Ames, Hadden Blair, Judy Crawford, Binnie Ravitch, Peter Rodegast, Tara Whiting and Maria McFarland

Also present for all or part of the meeting: Ann Nelson, Selena Roman, Cheryl Lowe, Peggy Stone, Bruce Keep, George Sourati, Kent Healy and Joe Schroeder

Prudy Burt called the meeting to order at 5:00 P.M. [An audiotape of this meeting is available for review.]

The minutes of the July 27, 2010 meeting were approved as revised.

5:10 PM: A public hearing under the requirements of Section VII of the Town of West Tisbury Wetlands Protection Bylaw for a revision to the Coastal Bank Performance Standard at Section IX.C.1 of the Town of West Tisbury Wetlands Protection Bylaw Regulations. There were no members of the public in attendance. The legal ad for this hearing was published in the Martha's Vineyard Gazette on July 16 and August 1st and was posted in Town Hall.

The revisions are shown below:

1. No new bulkheads, coastal revetments, groins, or other coastal engineering structures shall be permitted to protect structures constructed or substantially improved after the effective date of the Bylaw except for public infrastructures. Bulkheads and groins may be rebuilt only if the Commission determines there is no environmentally better way to control an erosion problem including, in appropriate cases, the moving of the threatened building and/or public infrastructure. Other coastal engineering projects may be permitted only upon a clear showing that no alternative exists to protect from imminent danger a structure that had been substantially improved or built prior to the effective date of the Bylaw.

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After discussion, a motion was made and seconded to approve the revisions to Section VII of the Regulations effective today. All in favor.

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Map 25 Lot 4: A public meeting under the requirements of G.L. Ch.131 § 40, as amended and the West Tisbury Wetlands Protection Bylaw and regulations to consider a **Request for Determination of Applicability** filed by Ann K. Nelson, Trustee of Ann K. Nelson Realty Trust, owner of property located at 20 Glory Hill Road. The project consists of the installation of a split rail fence along the property line to a dam and the installation of a galvanized post and cable fence across the dam. Site visit photos were circulated for review.

Kent Healy presented the project for Ann. The fencing across the dam will be galvanized poles drilled into the top of the dam with two strand cable wires. The poles will be painted black. The purpose of the fence is to define the property line for liability reasons.

A letter from Ann Nelson's lawyer, Robert Marshall, was read into the record. The letter addresses questions regarding the property rights of abutters to the pond.

Fencing is exempt under 310 CMR 10.02(2) (b) 1.b provided it will not constitute a barrier to wildlife movement. It is also permissible under the Bylaw as it will not alter a wetland or the buffer zone. Dave Dutton will be doing the work to install the fence.

A motion was made and seconded to issue a Negative Determination. All in favor.

Old Business:

Map 6 Lot 6 /SE79-301/ SB Vineyard LLC (Ziff): After discussion a motion was made and seconded to approve the special conditions as revised. All in favor.

Map 5 Lot 2.1/ SE79-258/Smith: Maria reported on a site visit done today and refreshed the Commissioners on the status this project. Pictures were circulated showing the current condition of the vegetation. Ms. Smith has permission for a path to the house and to maintain a three foot area around the house for maintenance the house. Maria will follow up with Ms. Smith on a Certificate of Compliance.

Map 39 Lots 9 &11/ SE79-296/Edens: Members of the Commission present for today's meeting were served with copies of the complaint. Others will be served by hand at home. Members discussed hiring either Glenn Wood of Rubin and Rudman or Dan Perry of Perry, Hicks, Crotty and Deshaies, LLP.

Ron Rappaport can not represent the Commission so he will make the referral. We have used Dan Perry once before for a legal opinion. The Commission would like to hire Rubin and Rudman as Glenn Wood specializes in this type of work. Maria was instructed to call the lawyers to get their hourly rates for municipal work.

Blackwater Brook testing: Maria reported that Bill Wilcox sent an email to say he was able to take good samples after the heavy rains last week. He will let us know what that lab results show. The samples were very turbid.

Lambert's Cove Beach path: Park and Rec committee members Bruce Keep and Cheryl Lowe, along with Board Administrator, Peggy Stone and Summer Program Director, Joe Schroeder, were present to discuss the dune at the top of the path to Lambert's Cove Beach. The dune was lowered by David Merry using a bobcat sometime on July 10th – 11th. Prudy received a few calls at home. This year the sand was pushed to the back side of the dune on the Peltz side of the path.

A memo from the Commission to Park and Rec dated July 15, 2010 was discussed. The memo detailed the history of approvals and discussions with Park and Rec. The last time Park and Rec. came to the Commission for a Request for Determination of Applicability to do this work was in 1999. The conditions attached to the 1999 Determination which was valid until May 3, 2002, were read for the record.

Bruce Keep questioned whether minutes from 2001 gave Park & Rec ongoing approval. It was explained that under the 1999 Determination, Park & Rec was required to notify the Commission every season that they were doing this work. That is what is reflected in the 2001 minutes.

After a lengthy discussion, it was decided that Park & Rec would call Steve McKenna at Coastal Zone Management for technical assistance on the best management practices with respect to managing the path and the dune. The Commission asked that Park and Rec not have the dune lowered again until a long term solution is determined.

Administrative:

Map 38 Lot 8/ SE79- 280/ Bagehot Backs: Pre construction site visit will be held on August 11th.

Mill Pond dam maintenance: Kent Healy informed the members that he plans to pull the bur-reed on the face of the Mill Pond dam. This is permitted under the Determination of Applicability issued in 2007. Kent will discard the vegetation he pulls from the pond off site. Kent will send a follow up letter for the file.

Brian Kennedy's crew will be cutting the vegetation on the top of the bank in the next week or two. Prudy will flag the vegetation to be cut.

Board Administrators Performance Evaluation: Discussion of 2010-11 projects and professional development goals. The Open Space Plan was discussed. Peter will ask the CPC committee about the possibility of funds for working on the plan. The subcommittee will begin meeting again in September.

Correspondence:

In: Memo dated July 23, 2010 from MVC on the Right to Farm Bylaw.

There being no further business on the agenda, the meeting adjourned at 6:15 PM.

Respectfully submitted,

Maria McFarland
Board Administrator
APPROVED