

**MEMBERS PRESENT** – Robert Conlon, Chairman (RC), Frank Woodfall (FW), Bert O'Donnell (BO), James Kilcoyne, Chairman (JK), Art Lage (AL), Bill Grafton, Conservation Administrator (BG).

**MEMBERS NOT PRESENT** – Rick Carberry (PC)

**CALL TO ORDER**– RC makes a motion to open the meeting at 7:00 pm. AL second. Approved 5-0-0.

**PUBLIC HEARINGS**

**18-43 DPW, Veterans Memorial Park (Portable Temp. Dam).....NEW (Bert)**

- RC reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Rod Proccacino (RP), Town Engineer, presents for DPW. The project involves the maintenance of the outlet structure at the heart-shaped lagoon at the Veterans Memorial Park. Some dredging of lagoon is in the future, but for the time being they would like to install a sump to the lagoon to improve performance of the fountain that is affected by silt at the bottom. They are looking to repair the lagoon by dewatering using a temporary dam to get access to the guides that hold the sluice boards in the outlet structure. The temporary dam will be in place 2-3 weeks so they can monitor impacts. In the downstream side of the lagoon, there might need to be some repairs or pointing of the stonework that needs to be done. RP distributes a sketch of the proposed repairs to the Commission. He would like to set the sump in a high-density polyethylene tank that will not require heavy equipment with brick ballast, plus screens to prevent debris and fish from getting into the pump.
- BO mentions that he has seen the whole proposal for the dam removal project, and asks if the lagoon is concrete-lined. RP doesn't know if it's lined but he's been told it has a hard bottom.
- BO asks if the silt will go off site; RP mentions they will not be taking any silt away from the site, just displace and push it down. The material is pretty wet, and RP believes that the installation of the pump and screen will minimize the silt in the fountain.
- FW supports the project, but feels it is more of an NOI than an RDA because it is part of the South River and they are installing a cofferdam. He notes that the Commission usually requires NOIs for projects utilizing cofferdams. BO notes that the lagoon is manmade and feels it is not really part of the river.
- RC would like to know when DPW would like to get this project done. RP replies as soon as possible, as the Veterans want to use the fountain next season. The current time of year is a good time due to there being no fish migration and low water flows.
- RP states that the project will also provide information to the design company on how much leakage is coming in or out of the pond. This data will help in the design of the dam removal. When the dam is removed, the water level will be lower, and the designers need to work on how to maintain the water level in the lagoon for when the dam is removed.
- BO ask BG if the Department of Ecological Restoration (DER) has been involved in this project; BG mentions that DER is aware of the work, and there was a meeting including Town Counsel, Town Administrator, Town Engineer, Trustees of Veterans Memorial Park, North and South Rivers Watershed Association (NSRWA) and DER. They were looking for the lowest-impact, shortest-term solution to get the fountain to work short of dredging, which would have triggered a NOI, Chapter 91, and Water Quality Cert. This is a solution to get the fountain running without adverse impacts. BG suggests that the Commission think about giving them time of year constraints so there are no adverse impacts to wildlife.
- BO feels the project is similar to fish ladder repairs, and as the experts are advising this work, BO has no issues. He polls the Commission regarding whether or not to require a NOI. RC is OK with the RDA filing as it's temporary in nature; FW feels the project should be a NOI because they are in the river and displacing some mud, and feels it sets a bad precedent. AL initially states that since this is temporary, the RDA is OK but then

agrees with FW that a NOI should be required. JK feels FW's argument has good logic and favors a NOI. BO is for the RDA, but notes there is a 3-2 majority supporting a NOI.

- BO asks for comments from the public; none.
- RP will reappear with a NOI filing.
- BO makes a motion to close, issue a Positives #1 & #5 Determination, and require an NOI. RC second. Approved 4-1-0, RC having voted no.

**2756 Hammond, 7 Richard Street (Ongoing Maintenance).....NEW (Art)**

- RC reads the legal ad. Hearing Officer AL confirms administrative requirements are complete.
- Rick Servant (RS), Stenbeck & Taylor, presents on behalf of Sterling Hammond. RS states there is an existing revetment that sustained some damage to the wall over the winter, on the portion that is on Richard Street. DPW has done some work to the wall; the main goal of the NOI is to get conditions allowing ongoing maintenance to the wall.
- BG states that the homeowner is a good applicant, had followed through on all his previous filings to completion, and has done a good job vegetating his property. The area is a great example of a hybrid solution involving a vegetated coastal dune and revetment wall. AL has visited the property, and is pleased with the work the applicant has done.
- FW confirms with BG that the ongoing conditions will allow for periodic maintenance of the revetment wall and coastal dune; this will carry over to the COC.
- AL asks for questions from the public; none.
- BG mentions there is a small area in the NHESP, and NHESP didn't receive a filing; he suggests that the Commission query Town Counsel Bob Galvin (TC) as to whether the Commission can approve the NOI without a NHESP letter as part of its discretionary authority. TC, present at the hearing, states the Commission should continue the meeting to wait for the NHESP letter.
- BG reads the proposed special conditions into the record. FW would like to add a condition that the applicant notify the Conservation Administrator before starting periodic maintenance. BG adds this to the conditions.
- AL makes a motion to continue the matter to wait for the NHESP Letter. BO second. Approved 5-0-0.

**2757 Campbell Estate, 44 Bayberry Road (Septic).....NEW (Frank)**

- RC reads the legal ad. Hearing Officer FW confirms administrative requirements are complete.
- Bob Crawford (BC), EET, represents homeowner. The project consists of installing a new Title V septic system to replace the existing failed system. The lot is 20,000 sq ft. The system consists of a 1500 gallon septic tank, 1000 gallon pump chamber with 30 hp pump, and 124 linear feet of plastic leaching chambers, and a 31 x 13 bed formation. There will be a 3 ft mound on top of the tank. There is an area of small cedar and pine trees, plus one large cedar tree that will have to be removed in order to put in the leaching area.
- FW notes there is no other option for the placement of the system. BC states he tried to keep the system as far as possible from the resource area. BO visited the site today and had no issues.
- FW asks for comments from the public; none.
- FW notes there will be erosion control on the back side. BC mentions that there is a shed that will probably be removed from the site, as he doesn't think there's any place to put it outside the 25 ft buffer.
- BG concurs with FW's assessment as to the placement of the system.
- FW makes a motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. JK second. Approved 5-0-0.

**2758 McLaughlin, 160 Sawyers Lane (Pool & Patio).....NEW (Art)**

- RC reads the legal ad. Hearing Officer AL confirms administrative requirements are complete.
- David Newhall (DN), Merrill Engineers, presenting for applicant. The property consists of a SFH, driveway, shed, and swingset outside of the 25 ft buffer. There is a perennial stream on the property. The project involves the construction of pool with patio, fence, shed, and associated grading, involving 733 sq ft of alteration within the 200 ft setback from the stream. They propose 921 sq ft of mitigation, including the planting of large trees to provide shade and help control some of the invasive species, as well as the installation of four conservation

posts. Silt sock is proposed for erosion control. Any stockpiled materials will be outside the 100 ft buffer to the stream. They also propose a drywell for pool maintenance; all water from the pool will run into the drywell to ensure it does not go into the stream or the nearby wetland.

- FW notes that a large amount of landscaping seems to have been added to the updated site plan. DN states the updates were made to give more detail as to what plantings would be part of the restoration; all native species will be planted. AL asks why the mitigation is proposed; DN notes that restoration was needed because of the work within the 200 ft stream setback.
- AL notes there are trees currently in the mitigation area that will be removed and replanted with new trees. BG mentions there are vines including greenbriar and invasive species in the area; he suggests planting some Eastern Red Cedars and High Bush Blueberry in the area, and then filling in with the plants on the planting plan. Any fencing has to be a minimum of 6 inches off the ground so as to be wildlife-compliant. He feels the wetland line shown on the plan is accurate. AL notes that there is a steep slope in the back of the yard and inquires about the tree cutting on the slope. DN most of the cutting is not along the slope.
- BO questions why everything is in the 25 ft buffer as opposed to 50 foot setback; DN feels that the area is previously disturbed, existing so his interpretation of the Bylaw is that the 25 ft buffer applies, and the 50 ft buffer no disturb and 75 foot to structures applies to new construction. Town Counsel Bob Galvin (TC) who is present notes this site when it was originally built had a 75 foot setback to structure but also 50 foot no disturbance so if there is alteration within that 50 feet then technically not permitted. All structures, including pools, have to be 75 ft from the wetland if the home is a more recent home.
- TC is not familiar with the history of this property. Applicant Erin McLaughlin (EM) states the home was built in 1994; TC notes that this was well after the 75 ft setback/50 ft no-disturb requirements were put in place, and therefore the applicant would have to request a variance and demonstrate by clear and convincing evidence that the natural and consequential impacts would not be offensive to the protected interest so that the project can be permitted. BG clarified that they should request the variance on this new construction as per TC.
- The Commission discusses the applicability of the setback requirements to this project. JK asks when the 25 ft setback would apply; TC indicates this primarily applies to small lots in close proximity to resource areas. In these areas, property owners can maintain existing structures where they are, or improve them as long as they don't get closer to the resource area.
- JK asks about the difference between an existing home and new home under the Bylaw? TC indicates in this case, they are proposing a pool, a new structure that didn't exist there previously. If this was replacement project, it might be viewed differently. If it can be established that the project is in a previously disturbed area that was disturbed lawfully, that may provide some type of equitable consideration for the Commission to consider but he is not sure that he has heard that type of information yet.
- AL asks for comments from the public. Bob Crawford (BC) states that his understanding was that the 75 ft setback only applied to new lots that do not have construction on them and anything that had a structure you could go to the 25 ft setback. TC points out that under that interpretation, owners could build houses 75 ft from a resource area, and then alter the resource area in a secondary project. TC does not see this as logical. AL agrees with this point. RC points out that the home was built inside the 75 ft buffer. TC is not familiar with the history of the site, wetland line determination at the time nor if a variance was granted. TC points out that if applicants were staying 75 feet or further away from the resource area, they could put new structures in beyond the 75 ft. RC inquires if the 75 foot applies or can stay as close as the current structure? TC suggests that new construction could be as close as they are now.
- BO notes that there seems to be ample room to relocate the shed. JK asks applicant to consider shifting the pool to the left of the property. EM states the pool company was concerned with the land slopes and grading in that area starts to infringe. JK asks if this would be possible to get to the 75 foot setback? DN adds that the homeowner was trying to stay away from the 200 ft perennial stream.
- FW notes that the closest corner of the house to the wetland is about 63 ft. RC explains that the pool can be as close as 63 ft to the wetland without a variance. BG seeks guidance from TC. TC states that if they can demonstrate that there is a topographic impact associated with the change then the Commission might want to give some consideration to a variance.

- After further discussion regarding design and dimensions of the shed and possible locations of the shed and pool, the hearing was continued to give applicant the option to submit revised plans or ask for a variance.
- AL makes a motion to continue the hearing. JK second. Approved 5-0-0.

**TBL 18-01 Larkin, Wright's Way, Lot 9 (New SFH).....CONTINUED.....NEW (Art)**  
**2742 St. Ours, 84 Bay Avenue (Raze & Rebuild SFH).....CONTINUED.....cont from 9/11/18 (Art)**  
**2754 Hanlan, 72 Bay Avenue (Raze & Rebuild SFH).....CONTINUED.....cont from 9/11/18 (Bert)**

**2684 Bethanis, 1184 Ferry Street (Found. Rest. Driveway Recons).....cont from 10/03/17(Jim)**

- Continued Hearing. Hearing Officer JK confirms administrative requirements are complete.
- Mike Biviano (MB) and Bob Crawford (BC), EET, presenting for applicant. Also present is Marshfield FEMA coordinator Jack Sullivan (JS). MB states there were two changes that needed to be sent through FEMA. There is no parking on site, so the homeowner would like to elevate the home higher than originally proposed to allow for parking under the home. FEMA also asked applicants to change the pile plan; it took time for FEMA to respond. The current structural plans are approved by FEMA.
- In response to questions from JK, MB indicates that the current home is being elevated. The house will be held up with steel to elevate the home and allow for parking.
- JK asks if an asphalt driveway on the right side of the home would be removed. MB says they are planning on leaving that in place. Some pavement will get disturbed in the lifting process.
- JK notes that on the back of the home, there is a 6 ft concrete slab with some plants growing close by. BG states that these consist of some weeds and some native coastal plants that do well in that environment. He would like to keep as much pervious surface as possible in this area. MB states the area in the back was previously grass and has since grown; they plan to leave the area as is.
- JS states that this project had come through with one set of plans when they applied for the grant, and then the scope of work had been changed, which accounts for the delay. BO notes they had previously discussed the project and were just waiting on the FEMA approval.
- JK has no issues with the project but would like the asphalt apron on the right of the house to be removed. BG would like to preserve some of the native plants in the back area.
- BG reads suggested special conditions into the record, including a condition that the back of the property remains vegetated or pervious surfaces. After some discussion, the Commission agrees to a condition that the back area of the home be vegetated and native coastal plants remain undisturbed within 10 ft up-gradient of the concrete apron.
- JK makes a motion to close the hearing and issue Orders of Conditions with special conditions as drafted by BG and discussed by the Commission. FW second. Approved 5-0-0.

**2755 Digan Family Trust, 1327 Union St. (Vegetative Management).....NEW (Jim)**

- RC reads the legal ad. Hearing Officer JK confirms administrative requirements are complete.
- Brad Holmes (BH), ECR, presents on behalf of the Digan Family. This filing is a two-part application to respond to the cutting done within the buffer zone on the property and propose a vegetative management plan for hazard and dead trees in the buffer zone located between the 25 and 100 foot buffers; no activity will be performed within the wetland or 0 to 25 ft no-disturb zone. The site plan includes the "Town of Marshfield" delineation, which pushes the 100 ft buffer zone landward. They would like to remove some dead and dying trees as well as hazard trees between the 25 and 100 ft buffers of the sort that would normally be permitted by the Commission on a pre-existing lot.
- JK comments to the Commission that there is an Enforcement Order; he would like to know how the Commission would like to handle it in relation with the new NOI. JK feels it gets complicated to handle both simultaneously and would prefer to resolve the EO first.
- BG states that the applicant was required to file a restoration plan to remedy the EO, but BH filed the restoration plan as part of the NOI with the vegetative management plan. BG talked to Town Counsel, Bob Galvin (TC) who is present about the NOI filing that included the enforcement order. TC advised that the fees submitted were for the NOI but includes the after-the-fact activities so this triggered the need for an after-the-

fact NOI. BG stated he suggests that the restoration plan and the proposed activities should be separate. As they were submitted together, this is why the NOI is before the Commission as after-the-fact.

- BH states that the EO is for the trees in the buffer zone that were removed due to storm damage. He was not part of that work and didn't get to see the vegetation, but he was told that the trees had fallen as a result of storm damage. The contractor at the time should have filed for an emergency certificate but did not, and the Commission issued an EO requiring the restoration plan; this has been included in the NOI. It is his understanding that the Commission would support a NOI in order to get a permit for this kind of work, so they submitted the restoration plan specifically to address the unauthorized cutting. BH states the trees that were already cut are marked in the survey. There are two additional trees located in the "Town of Marshfield" 25 ft buffer, but states their removal is an allowable activity under the Bylaw.
- BH adds the restoration plan includes the reintroduction of new vegetation plus the removal of dead and dying trees, vista pruning activities, and other exempt minor activities. He states that a clear-cut is permissible within the 25 to 100 ft buffer, but instead they are leaving the forest stand and improving it. He feels that the two additional trees they propose to remove can be permitted without the Commission requiring replacement, and feels the filing adequately responds to the EO and betters the site with the vegetation management plan.
- JK has read this application multiple times but feel this is a confusing situation, and reiterates that the EO should be treated separately.
- BH asks what the Commission would like to see to remedy the two trees removed within the 0 to 25 buffer. JK replies he has heard repeatedly that the trees were blown down and heavily diseased, but this doesn't match with his observations on the site. He firmly believes the trees that were removed were not blown down but cut. BH acknowledges that the trees were removed from the site, but doesn't think it matters at this point if they were taken down or blown down, as they are now proposing restoration for their removal. He feels the restoration work they are proposing is above and beyond the requirement of the EO, and feels the plan is similar to one that was permitted for 1028 Ocean Street.
- FW notes that the North River Commission (NRC) has regulations regarding tree cutting, so the clear-cutting BH is referencing cannot happen; NRC needs to be on board if any cutting is to be done in this area. BG concurs and states they need a special permit from NRC, which the Commission will also require for its file, so the Commission needs their permitting status with NRC.
- BH notes he is not here for the NRC permitting, but states the homeowner has a COC from the NRC for the house, and have filed an RDA with NRC for the removal of the two trees. It is his understanding that they have to coordinate with NRC if future trees are to be removed, which he states they will do. JK replies that the Commission's OOC will require that applicant receive all applicable permits, in this case the NRC, prior to the start of work.
- BG states that at this stage, they need to file with NRC for a permit for the subsequent work and obtain the permit before the actual start of work. BH states that he is not prepared for a NRC hearing tonight, but rather is prepared to address local and state regulations.
- BO states he attended the NRC meeting and can attest that NRC issued the OOC on this work because it was emphasized that these were storm-damaged trees, but they also said applicants needed to be in contact with NRC for and any ongoing or further work.
- BH discusses the different aspects of the vegetation management plan, including the placement of conservation markers at the 25 ft buffer zone. A certified arborist will review the area to identify hazard trees (i.e., leaning, have cavities, at risk to be blown down), and a tally will be produced and provided to the Commission. The trees would be removed by a professional company, and a pre-work meeting would be held on-site with the conservation agent. Also proposed are vista pruning in accordance with state regulations and native plantings, including 2-2.5 inch caliber trees, to be planted within the buffer zone. There will be no clear-cutting on site. BH states he can come back with another restoration plan as another agenda item, but thinks it is in the Commission's interest to approve the restoration plan as part of this NOI.
- The Commission discusses the applicability of the setback requirements to this project with TC. JK asks TC since we just reviewed another property that had an existing lot and the 75 foot no structure including pools and decking holds. Landscaping can occur up to 50 feet. JK asks TC what setbacks apply. TC states it depends on whether the area they are proposing work has been disturbed or not. BH states that if the Commission wants

to move the vegetation management plan to the 50 ft buffer, they could agree to that, but his understanding of the regulations was different. BH notes that the house on the lot was redeveloped recently but has been on the lot for a long time. JK feels that the house is a new house, as it is more than 50% bigger. BH feels that the Town should clarify this in the Bylaw, so that he and other consultants can properly go through the steps, and reiterates they are fine with going to a 50 ft no-disturb zone.

- JK notes that applicant is proposing a 1 for 1 replacement to remedy the EO, but comments this would be replacing trees that were 75 to 100 years old with 2.5 inch saplings, which doesn't seem like mitigation. The reason for the planting of the saplings is stated as not wanting to disturb the area with equipment, but he notes that in the NOI, tree companies would be coming in with equipment to do pruning and removal. BH clarifies that trees will be cut flush with the ground and stump grinding will be avoided, or be prohibited if the Commission prefers. They are willing to prohibit any vehicle access into the buffer zone. BH adds that 2.5-inch caliber trees are large trees that will be difficult to plant in an already wooded area. JK asks how the proposed tree removal will be done. BH states they will be cut and removed by hand if the Commission requires.
- BH notes there are seven trees within the 50 to 75 ft Buffer Zone, and they are proposing a 1 to 1 but will be happy to do a 2 to 1 mitigation. JK replies he is looking for consistency in terms of use of equipment on site. If equipment can be used to remove the trees, it can also be used to plant larger trees. BH replies that the nurseries tend not to sell larger diameter trees, and it would be difficult to plant large trees. He suggests the Commission consider requiring larger trees at a smaller ratio or smaller trees at a bigger ratio.
- BG notes that applicants are already proposing vista pruning and suggests that they simply cut branches on the two trees proposed to be removed. Keeping these trees, with their significant root systems, would stabilize the hill and help prevent erosion. BH states they can cut branches subject to a pre-start of work meeting on site.
- JK would like to see a plan from an arborist showing the location of the dead/dying and hazard trees, and would also like a 3 to 1 mitigation ratio. Since TC is present and has provided guidance, he is suggesting a 50 foot no disturb.
- The Commission discusses separating the EO matter from the NOI with TC. BG requests TC guidance. TC suggests deciding them consecutively. BH notes that he was advised to file an after-the-fact NOI form, per the Bylaw, and paid an additional fee, and that the restoration plan was submitted within the required timeframe. RC would like to close the EO and continue the NOI matter so applicants can come back with a more detailed restoration plan as to quantity and size of trees on plan.
- BH requests guidance from the Commission as to the restoration ratio and size of the trees. JK polls the Commission on the desired ratio: JK 3 to 1, BO 3 to 1, FW 3 to 1, AL 3 to 1, RC 3 to 1 ratio with 2.5 inch caliper. BH verifies 3 to 1 ration for 7 cut trees for 21 trees total, in the same location as the cut trees. The 50 ft no-disturb zone will apply.
- BH indicates that he will request a continuation on the NOI for the restoration plan and asks if the Commission is willing to close the NOI on the vegetation management plan. FW states he would like the plan updated to reflect just the 50 to 100 ft buffer as the management area. He adds that NRC limits vista pruning to a 15 ft vista, and it sounds like a 300 ft vista. He would like the plan updated accordingly.
- RC would like to know how to condition the vista pruning. FW suggests that the pruning be modified in accordance with NRC limits. JK would also like a site plan from an arborist with trees marked to be removed.
- BG feels that the site plan is inadequate as submitted, and the Commission agrees. BH comments that marking the trees to be pruned and removed is a lot of work for activities that would be allowable if they had clear-cut the area. FW feels a written description of what is going to be in the area would be sufficient, but JK feels applicant has been misleading on multiple occasions. BG adds that he did not see many signs of storm damage on his site visits, and agrees that applicant has given the Commission different stories at different times. BH asks the Commission not to be punitive for work that will be an improvement to the area. He is willing to provide more details but not to survey every tree on the site plan. BG responds that applicant has to give clear and convincing proof that they are not creating an adverse impact on this environment, and feels there is nothing punitive about the conditions.
- After further discussion as to the additional details required on the site plan, JK suggests conditions that the plan include language regarding the proposed work, the trees be marked prior to their removal, and that BG

must agree to the trees being removed. BG suggests that they also request a planting plan table and installation of conservation markers at the 50 ft buffer, every 50 ft.

- JK makes motion to continue the NOI for resubmittal of the site plan with details and conditions as noted. FW second. Approved 5-0-0.
- JK makes motion to continue the EO for resubmittal of the site plan with details and conditions as noted. AL second. Approved 5-0-0.

**2772 Snyderman, 26 Littles Lane (Pier & Dock).....CONTINUED.....NEW (Jim)**  
**2727 Digan Jr., 1327 Union Street (Pier & Dock).....CONTINUED.....cont from 6/5/18(Jim)**

#### **REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS**

##### **0947, Martin (Chateauvert), 10 Brighton St. (COC)**

- Awaiting response to BG request for additional information.

##### **1193, Joyce, 833 Ocean St. (COC)**

- BG requests that the Commission issue a COC for the referenced filing, but that it not be released until an updated as-built plan is received in the Conservation Office.
- RC makes a motion to issue a COC with condition as noted. FW second. Approved 5-0-0.

##### **2367, Cote, 26 Foster Ave. (COC)**

- Awaiting response to BG request for additional information.

##### **2443, Moylan, 38 Constitution Rd. (COC)**

- BG recommends that the Commission issue a COC for the referenced filing.
- RC makes a motion to issue a COC. FW second. Approved 5-0-0.

##### **2656, Philpott, 131 Beach St. (COC)**

- BG recommends that the Commission issue a COC for the referenced filing.
- RC makes a motion to issue a COC. FW second. Approved 5-0-0.

##### **2217, John Sherman Estates, Main St. (EXT)**

- RC makes a motion to issue a two-year extension to the COC. AL second. Approved 5-0-0.

#### **ENFORCEMENT ORDERS**

Smith, 38 Liberty Street **(08/09/18 KS & BG Sept site visit)**  
Mahaney, 46 Preston Terrace **(08/15/18 TC & BG to meet)**  
Drosopoulos, 7 Lady Slipper Lane **(08/15/18 TC Final Notice)**  
Jogi's Liquor Store, 951 Ocean Street **(09/25/18 BG gave pre-citation ltr)**  
White, 180 Atwell Circle (Escalation letter in Process)  
Digan, 1327 Union Street **(07/30/18 BG submitted EO)**  
Levangie, 3 Cove Creek (Communication in Progress)  
Tamara Macuch, 237 Webster Avenue  
Stifter, 102 Bartlett's Island (unpermitted revetment wall)  
New Owner, Winslow Avenue Ext.

#### **BUSINESS**

**Conservation: Lands under Coordinated Oversight/Selective Archery Hunting (2<sup>nd</sup> discussion) – David Stainbrook & Jim Kilcoyne**

- David Stainbrook (DS), Mass. Wildlife, gives a presentation to the Commission regarding measures to control the deer population as part of a continued discussion of a proposed amendment to the regulations governing conservation land that would allow archery deer hunting on certain portions of conservation land.
- JK advises that the proposed activity would be by special permit only. The Commission would monitor the hunting plan, and only archery for deer would be allowed. The hunters must carry their permits on their person, and the permits can be revoked.
- DS advises that he is responsible for the management of Massachusetts white-tailed deer and moose populations. He notes that deer management is one of his biggest challenges. The deer population is managed using licensed hunters who have gone through hunter education as a condition of their license. Each licensed hunter gets two tags for an antlered deer, and can get additional antlerless deer permits.
- Marshfield is in Zone 11, which is a zone in which multiple permits are given out; hunters can have upwards of three antlerless deer permits for Zone 11.
- In Marshfield, hunting by archery is permitted from 10/1 through 12/31. Every hunter who takes a deer must report it; the statewide harvest was 13,000 deer in 2017. The deer population west of I-495 has remained stable, but eastward there has been a recent explosion in the population.
- The goal of the management is to keep the population below a point where they cause adverse impacts to the habitat and other species. If there are too many deer, they eat oak and sugar maple, and then, once the population gets higher, they eat beech and other species of trees. There is also a public safety risk from increased deer-vehicle collisions.
- DS notes that humans have removed natural predators such as mountain lions and wolves; in eastern MA, there are coyotes, but they do not take enough deer to keep the population down, and this is why hunting is needed.
- Deer issues in the suburbs are a result of access to good food for the deer and limited hunting access. State law prohibits hunting within 500 ft of an occupied dwelling without the owner's permission. Towns can further put restrictions on hunting in their Bylaws.
- In Marshfield, 65-75% of the forest area is in discharge setback areas, and essentially closed to hunting; DS would like to see the remaining forest area opened to hunting as much as possible in order to manage the deer population.
- Towns can help manage deer numbers by maximizing the amount of forest open to hunting before populations get out of control. Roadblocks are individual land owners and their concerns about liability. DS advises that there is a strong landowner liability law in Massachusetts that prevents a landowner from being sued if someone is injured on their property while hunting or performing a recreational activity.
- DS shows a map of land managed by the town and the Commission. He feels that 1200 acres in town could be open to hunting. He would like the Commission to evaluate which of its properties might be suitable to open for hunting.
- JK feels they have demonstrated there is a deer population problem in town, and there is enough open land for the Commission to take action.
- RC would like to know how many deer per sq mile; DS didn't have the information, but noted the number was high even with the relatively high take rate in town. BG cites presentation on April 17, 2018 that a population of 18 deer per square mile starts to cause adverse impacts; the region including Marshfield has on the order of 20-30 deer per square mile. DS feels the number in Marshfield is closer to the lower end of the range.
- JK notes that he brought this matter up for discussion because the deer are causing impacts to Commission wetlands and forests.

#### **Approved Memorandum of Understanding/20 Wilson – Matt Watsky, Bob Galvin & Bill Grafton**

- Attorney Matt Watsky, representing property owner Vacirca, and Town Counsel Bob Galvin present.
- BG distributes a draft memorandum of understanding to the Commission and advises the Memorandum of Understanding (MOU) was the product of several site visits and consultations with Town Counsel Bob Galvin (TC), Attorney Matt Watsky (MW), Tom Vacirca, and Conservation Administrator Bill Grafton.



- Attorney Galvin notes the matter concerns an outstanding situation regarding wetland impacts at the site, some of which may be attributable to Vacirca, some possibly involving unknown parties, and some involving abutting land, owned by Girard Lane. Determinations made by the Commission were appealed to the state level, at which Tom Vacirca prevailed. Other appeals made under the Bylaw are still outstanding. The draft MOU may resolve all issues if the Commission approves it.
- TC adds there is presently an outstanding Order of Conditions, including conditions not complied with, chiefly relating to a driveway and reed marsh area. The record indicates that the Commission found that an area subject to regulation had been paved, vegetation in the area had been altered, the resource area was filled with grass clippings on his property as well as an abutting property owned by a third party. After extensive discussions, all parties came to agreement (MOU) that provides a roadmap for Vacirca to get a Certificate of Compliance (COC) and keep the driveway provided he takes certain actions. The proposed agreement will allow Vacirca to keep the paved driveway in exchange for setting the wetlands line at the western edge of the driveway; TC notes that the location of this line had been in dispute. East of the driveway, a 10-12 ft strip will be replanted with a double row of high bush blueberries, and four conservation markers will be installed along the easterly edge of the driveway. Vacirca will not be allowed to do further mowing in the strip but will be allowed to hand-prune around the blueberries to ensure their survival. Vacirca will be obligated to maintain the plants, and replace any plants that die within two growing seasons.
- TC advises the materials in the dumping area seem to be organic material, and the area has since revegetated naturally. He feels trying to remove this material would cause more damage than would be beneficial.
- Additional terms of the MOU are that (1) Vacirca will agree to pay the bill for the peer review by Steve Ivas that is the basis of the MOU and (2) Vacirca will submit an as-built plan prepared by a registered land surveyor, depicting all improvements and resource areas, to the Conservation Office. If Vacirca complies with all conditions set forth in the memo, he will then be granted a COC after a period of time.
- TC recommends that the Commission vote to accept the MOU.
- MW briefs the Commission regarding their position, stating that Vacirca has not violated any decisions that have been issued, and that no work has been done since the OOC was issued. There is a Superseding Order of Conditions (SOC) that went to a final decision after hearing, with a ruling by DEP that the vegetated area is non-jurisdictional under the Wetlands Protection Act (WPA). Vacirca has appealed the OOC issued under the Bylaw to Superior Court, but adoption of this MOU will resolve this litigation. Under the MOU, Vacirca will plant the blueberry bushes and will use hand tools to manage the phragmites adjacent to his property line. MW characterized the MOU as a solution that will work for all parties, and is in keeping with what Steve Ivas recommended in his report to the Commission.
- MW states that, although Vacirca maintains he did not put material into the phragmites area adjacent to Wilson Road, he has agreed to remove this material from two locations at his own expense as additional mitigation. JK asks if this is the organic material that Attorney Galvin referenced. MW indicates that there are multiple areas. TC clarifies that he referenced organic material located along the property line with Vacirca's property but there are several additional locations that MW referenced on the adjacent property owned by Girard Lane. MW indicated that there is a neighbor who has been observed dumping but Vacirca will remove it at his expense. He will also add conservation posts to the area to prevent future dumping. Mr. Lane has given Vacirca permission to remove this material.
- RC asks for clarification of the property line on the sketch plan. Commissioners review the sketch plan with TC and MW. RC states the Commission would like to resolve the issue, but not if it involves planting on someone else's property. AL asks whether the COC would be issued after two growing seasons; TC indicates yes. MW adds that Vacirca has already planted the blueberry bushes, BG has already inspected them and an As-Built will be prepared and submitted. MW would like documentation that Vacirca has done everything he has agreed to.
- After further discussion, TC and MW feel that the commission can issue a partial COC, and then a full COC upon the completion of two successful growing seasons. MW indicates that a condition requiring replacement of any dead plant within two growing seasons is acceptable.
- JK ask what MW requests of the Commission. MW asks that the Commission votes to approve the MOU.

- RC asks who will draft the partial COC? BG will draft the partial COC and send it out for MW and TC to review; final COC after the two successive growing seasons are complete.
- Joe Pecevich (JP), Wilson Road, states he lives across the street from the subject property. He feels the discussion on the MOU is a circumvention of a public hearing. He states there is still an outstanding OOC, and feels there should be a public hearing to discuss the OOC. RC points out that the OOC was voted on and issued at a public meeting, and the vote tonight is on whether or not Vacirca is in compliance. RC comments that the two attorneys present indicate that he is compliance with the OOC.
- JP would like the memo to be brought up and voted on at a public hearing. BG states that the public hearing happened years ago, and the Commission at that time voted for an OOC to be issued. At that time, the public hearing was closed, so it is no longer open. The only way to reopen the hearing would be to amend the OOC, and the Commission did not do so. Since this discussion concerns the MOU drafted by TC and MW, the discussion was posted on the public agenda under the Business section. JP states this is a legal issue and he will pursue it.
- JP further states that many specifics in the MOU are inaccurate, including the flood zone, description of the wetlands line, and location of the driveway relative to the property line. JP claims that all the work shown on the plan is occurring on Mr. Glrard Lane's property, and therefore Vacirca could skirt compliance with the conditions on the MOU.
- JP asks BG whether he has received all applicable documentation as an abutter, and wants to know if westerly edge of the pink delineated area on one of the plans is a resource area, and how that was agreed upon. BG states that, under the Bylaw, this area is potentially an isolated vegetated wetland (IVW) under the Town Bylaw, but the state didn't find it to meet their criteria for an IVW. The area in pink is designed to identify the areas inside the phragmites, and on Lane's property, where waste needs to be removed. The line set forth by flags CP1-4 comes from the Steve Ivas report, which states the wetland line should move slightly to the west of the driveway. The proposed conservation markers will identify the line. The blueberries will also occupy this space and help improve it, as the area is currently overgrown with phragmites. All locations will be clarified in the forthcoming as-built plans.
- JP asks for clarification as to whether the pink enclosed area designates an isolated wetland. BG indicates it does not, and states the document he is holding is a sketch plan to show the Commission what the applicant has done to comply with the conditions in the OOC. JP states he lives near the property, and claims Vacirca hasn't done anything and continues to mow this resource area. BG states he knows for a fact that the 12 high brush blueberries have been put in place for planting and took pictures for the file.
- JP states he has lived in the area since childhood, claims the area was filled by Messrs. Lane and Vacirca over many years, and states the Commission should issue an enforcement order to have the area restored. Lane has given neighbors letters asking them to let him build a house on the lot next to Vacirca's land. JP states he knows this is the plan at least in their minds not restore it. JP states again that he feels the MOU is an attempt to bypass an open public hearing on this issue, and feels he has been treated poorly by the Commission, and asks the Commissioners to help him protect the area. JK states that he hears JP and is sympathetic to his feelings.
- TC states to JP that this is a public discussion about whether or not to sign the MOU, and it is entirely up to the Commission whether to sign it or not. He thinks JP makes a good point about Mr. Lane, and feels that Lane should endorse the MOU, indicating his consent to any work done on his property. TC adds that Lane was at the site visit he attended, and clearly indicated that he approved any work that had to be done on his property, but agrees that having Lane's endorsement would be advisable.
- TC adds he feels that the rest of the MOU is closely aligned with Steve Ivas' recommendations, and he reiterates his recommendation that the Commissioners sign the agreement.
- RC states that maintenance and development of the area seem to be JP's main concerns. TC reiterates that he walked the site with Mr. Lane, and feels it highly doubtful that Lane's property could be developed and it looks like a wetland to him. BG agrees it would be a difficult lot to develop, and adds that Lane had requested no-disturb signs to post on the property. Attorney Galvin states that Lane clearly understood that some of the work that needs to take place would occur on his property.

- AL asks whether the Lane property was filled prior to the Wetland Protection Act. JP states the act was in place then, and that the State ordered him to restore it. BO indicates that this is beyond the scope of this. BG agrees with JP that the Commission wants to stop the dumping of green and construction waste in the resource area.
- JP reiterates that the MOU should be discussed at a public hearing. BG states that if the MOU had been part of the original hearing, then it would have to be part of a public hearing, but it wasn't, and the public meeting was closed when the OOC was issued.
- MW speaks to some of the issues JP raised. He feels the way they are resolving these issues is appropriate, procedurally, and no public hearing is needed. He feels that JP misunderstood what the enclosed area in pink on the sketch plan was. MW further states that Vacirca has been managing the area the way he's always done, and the point of this agreement was to codify how the area would be managed in the future (i.e., planting of high bush blueberries and hand-trimming maintenance).
- Regarding the provision stating that Vacirca is not responsible for actions of others beyond the property lines, MW states that Vacirca is agreeing to manage the area between the driveway and edge of the phragmites, and will have written permission from Mr. Lane to do so, and is additionally agreeing to refrain from disposal of any yard waste or materials within the reed marsh, and remove the two piles from that area. However, Vacirca is not responsible for the actions of other people who may dump material on Lane's property. MW thinks the MOU is a perfectly reasonable resolution to all ongoing issues, and indicates that his client would like to execute the agreement and move on.
- JK states he feels comfortable once Mr. Lane endorses the MOU and the as-built plans are received. MW recommends that the Commissioners vote to authorize BG to sign the agreement conditioned on the receipt of written authorization from Lane for Vacirca to perform the necessary work on Lane's property. Discussion held by all parties as to whether Lane should endorse the MOU or provide a separate written authorization for Vacirca to perform the work. TC indicates that Lane should either endorse the MOU or provide irrevocable permission to Vacirca to perform the work.
- BG requests the as-built once the work has been completed. RC states that the Commission requests the as-built before issuance of the partial COC.
- RC makes a motion to authorize BG to sign the memorandum of understanding and issue a partial COC upon the receipt of (1) written permission from Mr. Lane for Mr. Vacirca to perform the work set forth in the MOU on his property and (2) as-built plans in the Conservation Office. JK second. Approved 5-0-0.
- JP comments that the MOU doesn't specify what the unresolved issues between the Commission and Vacirca are, and feels the Memo should have more information regarding the Court Cases and the Orders of Conditions as attachments.

#### **CR / Christmas Cove – Matt Watsky & Bob Galvin**

- Attorney Matt Watsky (MW) hands the commission the conservation restriction (CR) and the site plan, and notes they have revised the CR to try to address some of the issues raised at the previous meeting, including modifying the plan to better show the area of the restriction, including the two access points, and not having leaching fields or stormwater fixtures included within the CR. MW indicates that the leaching field and stormwater basin can be excluded from the restriction area. Open Space lot is 10.502 acres and drainage lot is 2.068 acres.
- MW also indicates they have provided a detailed baseline survey prepared by Sitec, as well as their correspondence with Wildlands Trust and New England Forestry Foundation offering them the CR. Regarding concerns the Commission raised about maintenance of the conservation areas, MW states that his understanding was that Fisheries & Wildlife (F&W) would not require annual mowing in the area since it is already overgrown, and includes correspondence from F&W to that effect, that states that mowing is permitted but not required. MW also includes the F&W "no take" letter dated August 29, 2018 that indicates that the project will not result in a take and they are not requiring any active mowing so could let the plants grow.
- JK asks why the Home Owners Association (HOA) wants to put the land in a CR. Attorney Galvin (TC) indicates there is a zoning bylaw that requires the land to be kept as open space. MW states that the

Planning Board's permit will require that there be a permanent conservation restriction on the land. They do not want to simply make it an "open space" condition that could be voted out of existence by later Planning Boards so this Planning Board wants to make it a permanent conservation restriction. JK asks if the Planning Board can take the CR. MW states no, they do not have the statutory authority. BO adds that Natural Heritage and Endangered Species Program (NHESP) also requires a CR. MW replies that NHESP is requiring a permanent conservation restriction as a condition of the "no take" letter. The alternative is to pursue a Conservation Management Plan with NHESP.

- AL asks TC if the Town has a fiduciary obligation. TC states the Town has the right but not the obligation.
- JK asks why 10 fairly wealthy individuals who live in this area that have open space on the land would not want to keep control of their own land and take care of it the way that they want? TC states they have an obligation to do that. JK so why do they want to give away their land? TC & MW state they are not. TC states that they are promising in coventing that they will do those things. JK don't they have to do that anyway? TC they do by the provision of the Planning Board permit but is not a permanent restriction so by recording this type of restriction that we would have to accept it is a permanent obligation of the Grantor, Dr. Oliva and his assigns which are the future owners of the homes in this development. They will be required to adhere to the provisions.
- JK, why does the Homeowner want to give away the land? JK is now hearing that by giving away it is in our benefit to because another board could change something. JK wants to know why they want to give it away? BO states that there is currently only 1 homeowner, there is not an association at this time.
- JK wants to know what is the reason for the Conservation Restriction. RC states that the Open Space is a condition of the Planning Board decision, the only way to protect the open space condition is to give it a conservation restriction because a future Planning Board could change the previous Board's decision. For the planning board decision to be valid they (the owner) has to do something with the land.
- JK, if the Con Com does not give the applicant a CR they cannot develop the land? RC states that they cannot develop it anyhow. TC states that we are not giving them anything. The Commission would be accepting the benefit of a CR by which in perpetuity they tell any future owners that they cannot use the land in certain ways. The Town would be getting access to a previously land locked parcel of land.
- BO states the Commission has the responsibility to monitor the land in perpetuity. TC clarifies that the Town has the Right to monitor not the obligation to monitor. BO states that to do it correctly the Commission would have to monitor the land. Should that be done on the Town's nickel to monitor? JK states why this is the third time this has been before the Commission. RC what would the monitoring entail? BO answers that there would need to be annual inspections and reports. RC why? BO comments to make sure that they are following all of the rule and requirements. RC clarifies the HOA. FW states that people can start extending their yards. BO comments this is encroachment.
- RC points out that on other town owner property does the Con Com monitor all land and look for encroachment? BO comments we do as much as we can. RC is not disagreeing. BO states that where there is land purchased through CPC the Open space committee is requires to have a CR with a third party like Wildland Trust, Audubon or the Trustees. They perform annual inspections and provide a report each year with encroachment issues. They will litigate if there are things like this involved. FW mentions that none of the other agencies want to take on a CR on this land. RC this why we are having this discussion.
- Attorney Galvin states that this particular CR is a different situation from when the Town purchases land and restricts it. We appropriate money, a lot is CPC money. It appears that the money is free but the Community Preservation Act has actually afforded the Town to pay for some stewardship. TC sees benefits of the CR as access to other land. There is no third party review if the Town holds the CR but does not disagree with BO that the Commission does not have the resources to police all the conservation land in Town. What are the other alternatives? BO also wonders where do we go from here? TC states the applicant is managing the CR openly but some people may not perceive this. The applicant could propose to develop this in an unconventional way to attract a third party. After many conversations with the Planner, the Planning Board and the applicant. The Open Space CR is the only decision that made sense to them all. TC states that Attorney Watsky has reached out to all the parties who might logically consider holding the CR. It is a requirement of the Bylaw, and the land is isolated so no third party wants the land.

- Matt Watsky, there is a piece of land immediately abutting this potential CR if you will be doing an inspection on the existing land at least once a year you could look at the same time. The cul-de-sac offers access to the restricted land. The Planning Board has conditions that include boundary markers along the back of the homes along the property line. There will also be a fence installed and a report filed by the HOA with the Planning Board stating that there has not been any encroachment.
- BO mentions that the Planning Board is not finished in their decision. MW states that the Planning Board is hoping to hear from the Conservation Commission that they have accepted the CR. The Commission does not need to sign tonight. The CR is not in final form. It needs to be submitted the Executive Office of Energy and Environmental Affairs (EEA) in an official application. EEA always has comments. They cannot submit a draft of the CR to them without telling them they have a Grantee and who will accept the grant of the CR.
- FW, how much can the Commission put on the homeowners association? How far along is the HOA? The HOA has been drafted and submitted to the Planning Board for its review. MW provided a draft to Commission and it was reviewed by Town Counsel. FW inquires if it addressed anything such as providing a yearly report. MW no that is a condition of the Planning Board permit. TC reiterates that this is a Planning Board condition. FW recalls there was talk if the Commission will maintain or not maintain the property twice a year with mowing. MW confirms that there is no obligation for mowing. JK recalls this was already discussed and resolved. NHESP is not requiring mowing. MW adds NHESP is allowing the field to grow into a successional meadow habitat but could choose to mow it but not obligated. BG mentions that there might be other parties that have an interest in the mowing to maintain an open field. RC, it is a moot point if the Commission does not accept the CR.
- JK, it has to stay open. Isn't that the point of the whole project? MW states it will never get developed for swimming pools or structures. FW, the whole idea was that the area is a meadow and they want to keep it as a meadow. NHESP may have changed their mind but FW is not changing his mind. RC points out that it is a condition of the Planning Board permit. TC states that it is not restricted. BG this is contingent on the non-profit or government entity taking the CR. TC states it is a condition of the OSRD from the Planning Board but it is not technically not a perpetual restriction until this gets resolved. JK feels the Planning Board is doing cluster zoning to protect open space and then 10 years later say we are just going to change all that. JK does not seeing this as practical.
- TC notes if it did not abut other conservation land and if the Commission was not getting access to a land locked land then it might be better as open space. JK feels something is wrong with this. TC stated that BO hit on the topic. Typically, the party holding the restriction gets some benefits. Here they are not offering anything because they feel that there are other benefits. MW says the applicant is offering an access easement to the abutting property.
- RC feels that he has got all his questions answered. There are no liabilities associated with the septic and the drainage. TC reiterates that there are no liabilities with this.
- ALs original comments to RC were that normally AL would really want to do these things, then he has listened to the other arguments and feels there are no other fiduciary liability on the Town and is supportive of the CR. FW is also supportive.
- BO would eventually be supportive but would like to wait until the Planning Board make their final, final decision to know what they are actually voting on. RC asks what is this final, final decision by the Planning Board that BO is talking about? TC clarifies that BO is referencing their final conditions of approval. BO states yes or that they actually do approve it.
- MW states that there will come a time months from now after the Planning Board has issued their final decision, the appeals period has elapsed, the CR has been sent to the EEA and comments have been returned and there will come a time for the Commission to sign and accept the CR. They will keep the Commission updated on the edits and the status of the final form for the Commission to confirm the plan is accurate and vote for acceptance. MW cannot start that process unless the Commission provides its position.
- BO, a couple final specifics, the right of way, last time MW was in front of the board, you said that you determined that belonged was to Mr. Oliva. MW stated at least to the center lane of it. BO heard from Planning that the road might be owned by New England Forestry Foundation (NEEF). MW stated no and presented to the Commission correspondence with NEEF indicating that they held a right-of-way and

produced a deed confirming this. This helped clarify the fact that there is no record in the Assessors' Office regarding the ownership of this parcel. In the original Site Plan, the ownership was not known so the engineers just put no record in the Assessors' Office of ownership. MW states that as part the right-of-way directly abuts the side of Dr. Oliva's property so under operational law, Chapter 283, Section 58, he owns up to the centerline of the right-of-way and has rights to grant the Commission to pass and repass up into the property. BO asks if TC agrees? TC confirms.

- BO final question, regarding the drainage lot and septic portion of the lot, how is that excluded? TC indicates that our Zoning Bylaw allows you to locate these types of things in open space area. BO inquires further about the part of taking that out of the CR. MW replies he had the engineers prepare a plan showing the specific areas of the drainage basin and the leaching system areas in grey so that the grant of CR will reference granting the CR with the exclusion of the areas in gray that will not have a restriction. MW states that there is no liability for these two areas but if this is what is necessary to advance the CR process then they will include it. MW does not see why these areas need to be excluded as there is no liability or requirement to maintain. RC states that this is a common septic and it is usual for the Commission to address so the concern is what happens if the system fails. TC states not being deeded the property. MW states that the Commission is getting the right to enforce the CR. The HOA or individual owners will not be allowed to do work only will be allowed to maintain the leaching area and detention basin which will be a reserved right under the CR. There is no obligation under the CR for the Commission to maintain it.
- MW will tell the Planning Board they have Commission support.
- FW would like to know if the road going back from the cul-de-sac should be one of the greyed out areas so that it is clear that the Commission does not have anything to do with that. FW clarifies from the cul-de-sac to the two areas. MW responds that the gravel access road would double as the Commission access to the restriction area. FW asks who maintains the gravel road? MW the HOA.

#### **Phinney / Ferry Street – Bill Grafton**

- Tabled

#### **Jogi's Liquor Store- 915 Ocean Street / Enforcement Order/Restoration Plan Discussion– Jogi Sajjan**

- Attorney Galvin states that Jogi Sajjan (JS) had to leave early to go back to the store to attend to his daughter; he will come back another day and discuss the matter further. Attorney Galvin talked to JS, and believes he will restore the wetland, but it might take time before that happens; he still may not understand what he did wrong, and thought he was doing the right thing by cleaning out the trash in the area. Thanks to BG's efforts, JS now understands that is a resource area. Attorney Galvin stated that JS indicated he is limited on money to address the restoration but he will arrange for a wetland expert along with a professional engineer to develop a planting plan. Attorney Galvin advised JS to leave tonight and attend to his daughter and believes that JS will comply.
- BG states that JS wasn't responding to his phone calls initially, so he eventually went down with a police officer. He spoke with Attorney Galvin, who told him to write a letter before issuing an enforcement order. He told JS on his last visit that if he didn't appear, then he would issue a citation, and requests Commission authorization to do so.
- AL feels that JS has had plenty of time to take care of the issues, and is playing the Commission; BG agrees with AL, and would like to issue a citation, which JS could then appeal. Attorney Galvin acknowledges that the issue has dragged on, but points out that JS did show up tonight and had to leave. He recommends giving JS two more weeks and then issue a citation if he does not show up. Attorney Galvin will reach JS to remind him to attend the next Conservation Commission meeting to discuss the Enforcement Order. He will state that he will document that JS was relieved tonight by him and he expects him on 10/16/18 to meet with the Commission. Attorney Galvin further requests that JS be placed at the front of the public meeting to eliminate any potential conflicts. BG asks for a paper trail on communications.
- BO asks whether the 2013 plan from Pinebrook would be OK for the wetlands delineation. RC references a 2013 ANRAD associated with the property that BO referenced. BG states that the Commission has to tell him what they want in a restoration plan.

- After further discussion, Commissioners agree to give JS two more weeks and then cite him if he does not appear at the next meeting. Attorney Galvin will write JS, instructing him to appear at the next meeting. At Attorney Galvin's suggestion, the discussion will be the second item on that meeting's agenda.

**ADJOURNMENT** – RC motioned to close hearing at 11:01 pm. FW second. Motion approved 5-0-0.

Respectfully submitted,  
Liz Anoja, Conservation Administrative Clerk  
Marshfield Conservation Commission

Bill Grafton, Conservation Administrator  
Robert Conlon, Chairman  
Frank Woodfall  
Rick Carberry

Bert O'Donnell  
James Kilcoyne  
Art Lage