

**Pembroke Conservation Commission
Minutes of the Meeting of
March 21, 2016**



*Disclosure: These minutes are not verbatim – they are the administrative agent's interpretation of what took place at the meeting.
All materials presented during this meeting are available in the Conservation Office.*

Open Meeting Law, G.L. c. 30A § 22.

Agenda – May include topics not reasonably anticipated by the Chair at time of posting of the meeting.

Open Meeting Law, G.L. c. 30A § 20.

Attending: Art Egerton, acting chairperson; Richard B. Madden; Bob Clarke; Sharon Tuells; Andrew Stevenson; and Scott Glauben
Absent: Patti DeVore
Staff: Bob Clarke, agent; and Mary Guiney, administrative agent
Location: Town Hall, Veteran's Hall
Opened: 7:30 p.m.

Chairperson Art Egerton makes a statement to the effect that the meeting is being recorded for future broadcast to the public through a video and audio recording. Comments made in open session will be recorded.

Appointment: Edwin Thorne, Town Administrator and Willard Boulter, Selectboard Member re: Herring Run Park and Water Wheel

Present: Edwin Thorne, Town Administrator
Willard Boulter, Selectboard Member
Michelle Burt, Selectboard Member

Town Administrator wants a brief presentation of Herring Run Park. He has submitted a request to the conservation commission to extend the Order of Conditions (OOC) for the Water Wheel (DEP file number SE56-928). Mr. Thorne would like the water wheel in place for this year's Grand Ol' Fish Fry and thinks that the Division of Marine Fisheries (DMF) and the conservation commission can work together without harming the herring.

Selectboard member Bill Boulter provides a handout to members with a photograph of the original water wheel. He is looking to renew and amend the OOC for the placement of the water wheel at the temporary location previously approved by the conservation commission. He states that with current information that the town now possesses, he is certain that the DMF and the Pembroke Herring Fisheries Commission (HFC) has jurisdiction over the waterway that goes through the Herring Run Park. He will provide copies upon request. He would like the conservation commission to lift the restrictions and place any and all restrictions under the authority of the DMF and the HFC. He has worked with the DMF to develop a maintenance plan for cleaning, repairing and replacing items for the safe passage of the fish while they migrate upstream in the spring and downstream in the fall. The maintenance plan is nearly complete for present and future use.

Chairperson Art Egerton asks whether the water wheel will have any effect on the fish. Mr. Boulter states that the fish like the noise and are attracted to the noise. The Town of Pembroke had a new fish counter installed on March 18th and at that time he had a very long conversation with a very smart DMF biologist. He has a lot of confidence in them. At that time, Mr. Boulter and the DMF representative inspected the location of the historic water wheel where there had been problems with fish kills in the past. Rocks within the stream bed were moved to divert the stream and allow a safer fish passage.

Mr. Boulter also reminds the commission of the efforts he made on behalf of the 300th committee as chairperson. At that time, there were three public hearings and everyone was on-board with the project. In addition, he had a structural engineer from FST Engineering design the wheel and placement structure for installation in the Herring Run Park. Since that time, FST Engineering has been phased out and he now working with a new engineering company. He has had conversations with a Mr. Clemence of Hanson who has offered to volunteer his time for the Town of Pembroke.

Chairperson Art Egerton offers his support and questions how the conservation commission can get the process started. He would like the commission to vote to approve the amendment and extension this evening.

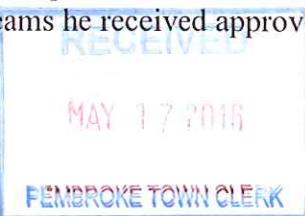
Agent Bob Clarke reminds Mr. Egerton that since Mr. Boulter challenged the OOC issued by the commission to MassDEP, the commission cannot act in this regard. Selectboard member Michelle Burt states that MassDEP wants the conservation commission to work it out. Mr. Boulter states that he spoke with a Chris Defano at MassDEP who does not want to make any decision on this project. He claims that Mr. Thorne spoke with Mr. Defano and that it needs to be worked out by the town. Mr. Boulter wants to amend the OOC to make it more viable so that the town can move on. Mr. Boulter further states that he just wants to put the wheel in the water. There is monies remaining from the 300th committee fund and he does not think is should be spent on legal fees, etc.

Agent Bob Clarke does not want to add any gasoline to the fire, but reminds Mr. Boulter that he had a permit to put the wheel in the water several years ago and it was by his actions that the wheel is not there today. Any decision by the conservation commission needs to be according to the rules – and not just ‘Town of Pembroke Rules’ – the commission needs to follow the legal process. The paperwork that was submitted was not proper the first time and the situation just kept getting worse.

The commission discusses the date of expiration of the OOC (April 22, 2016); a commission vote this evening on the issue; and amendments to the OOC (Mr. Boulter wants to eliminate any time of year (TOY) restrictions as he feels it is not a conservation issue). Member Scott Glauben requests that the proposed changes be submitted in writing for review as well as a letters from DMF and MassDEP allowing the commission to act in this capacity. Mr. Thorne offers to contact Greg DeCesare at MassDEP in the morning. Commission members request a copy of the original OOC for their review.

Other issues: Mr. Boulter states that there is \$100,000.00 available for engineering to place the wheel in the permanent location. The bridge at the historical location does not provide stability for the wheel. Mr. Boulter wants to make the bridge handicap accessible; install guardrails; provide passage to the cooking area; and perhaps install temporary mats on top of the ground. He would like the commission’s input on the walkway locations.

Mr. Boulter reiterates that he would like to amend the OOC as soon as possible for the 40th anniversary of the Grand Ol’ Fish Fry scheduled for May 1, 2016. Other repairs need to be completed at the Herring Run in order to comply with the DMF for their “Duck Races”. Special Screens have to be made because others used in the past cannot be found. In addition, because of the working relationship and cleaning of the streams he received approval from DMF to harvest a number of herring for the Fish Fry this year.



Mr. Boulter is also looking for the keys to the Superintendent's shack at Herring Run Park for the head of the Herring Run Fisheries. Chairperson Art Egerton wants the locks changed. He claims that prior correspondence to the commission received no response. He wants everyone working together.

Continued NOI – Copperwood Estates – Kelley (DEP file number: SE56-961)

Hearing opened at 8:05 p.m.

Attending: Eoghan Kelley, applicant
Thomas Pozerski, Merrill Associates, representing applicant
Brad Holmes, Environmental Consulting and Restoration, representing applicant
Paul Brogna, Seacoast Engineering, peer review engineer

Mr. Pozerski submits revised plans and a draft Order of Conditions. Items discussed: updated planting plan (see sheet 11 of 20). Member Rick Madden had suggested grouping plants. The new planting plan shows a wetland pallet (see sheet 12 of 20); deer repellants such as invisible wire and safety concerns for human inhabitants and MassDEP policy on animal migration; and erosion controls.

Peer review engineer Paul Brogna has not completed his review; however he states that the project meets the MassDEP stormwater standards 1-10 and that Merrill has done a great job to meet the intent of the regulations. He will have comments ready within the next few days. Mr Brogna also provides an overview of the purpose of the stormwater standards; best management practices (BMPs); and the mechanisms used to remove impurities from the water stream.

Mr. Pozerski inquires about a review of the OOC. The commission does not feel it is ready for discussion and Mr. Brogna would like the opportunity to add to the document. A continuance is requested.

Motion to continue to April 4, 2016 at 7:50 p.m.: Rick Madden

Second: Andy Stevenson

All in favor

Discussion: request to use Herring Run Park for Boy Scout Troop 105 on Saturday, June 11, 2016 from noon to 4:00 p.m. for Court of Honor ceremony with use of fire pit

The commission reviews the request and notes that the fire pit will need approval from the Fire Chief.

Motion to allow the request with the standard conditions: Andy Stevenson

Second: Scott Glauben

All in favor

Discussion: Mattakeesett Ball Fields

Assistant DPW Director and member Scott Glauben informs the commission that the signs have not been put up yet and that there is one more gate to be installed. The commission discusses keys, locks, etc.

Discussion: 234 and 242 Valley Street (DEP file nos.: SE56-948 and SE56-949)

The commission has received notice of a Freedom of Information request from town counsel.



Discussion: Wild Parsnip

Assistant DPW Director and member Scott Glauben states that the DPW removed the Wild Parsnip located in the Route 14 right of way from the site and had it burned at the DPW lot off of Monroe Street. Member Rick Madden notes that there are two Wild Olive trees left along side Bog 12 which should be removed.

Discussion: miscellaneous items

Agent Bob Clarke advises commission members to review the original OOC for the water wheel for compliance with regulations. He feels strongly that the Town of Pembroke should lead by example and not circumvent the law.

Acting chairperson Art Egerton states that the former conservation commission members were responsible for moving rocks in the Herring Run at Herring Run Park. Several commission members disagreed with these statements.

Assistant DPW Director and member Scott Glauben states that he will not be participating in any discussion regarding the water wheel due to his employment status with the Town of Pembroke.

Member Rick Madden informs the commission that he is negotiating with the applicants from Copperwood Estates to donate a greenhouse for the Lage property. Acting chairperson Art Egerton questions the status of the purchase of this property.

Documents Signed:

- Mileage Reimbursement Voucher for A.Egerton
- Mileage Reimbursement Form (A.Egerton only)
- Order of Conditions for 42 Rebecca Road (DEP file no: SE56-962)

Adjournment

A motion was made by Andy Stevenson to adjourn the meeting at 9:00 p.m. Second by Scott Glauben. All in favor.

