The Falmouth Conservation Commission
MEETING MINUTES - WEDNESDAY, MARCH 15, 2017
Selectmen’s Meeting Room, Falmouth Town Hall, 7:00 p.m.

Present: Russ Robbins, Chair
Mary Schumacher, Vice-Chair
Jamie Mathews
Betsy Gladfelter
Courtney Bird
Maurie Harlow-Hawkes
Kristin Alexander
Mark Gurnee, Alternate
Steve Patton, Alternate
Jennifer McKay, Administrator

Mr. Robbins opened the meeting at 7:02 p.m.

MINUTES

3/8/2017

Mr. Bird: Move to adopt the minutes as corrected.
Ms. Gladfelter: Second.
Mr. Robbins: Unanimous, so moved.

REQUEST FOR A CONTINUANCE UNDER A NOTICE OF INTENT

Beccles Road Nominee Trust (c/o Dana Doe), 19 Beccles Road & Sippewissett Road (Map 36-06-000-000C), Falmouth, MA – For permission to install approximately 100 linear feet of steel sheeting along the base of the existing mortared stone revetment which includes construction access, vegetation restoration and the associated clearing, excavating, grading and landscaping.
Ms. McKay: The applicant has requested a continuance until March 29, 2017.

Ms. Harlow-Hawkes: At the request of the applicant I move to continue the hearing until March 29, 2017.
Ms. Schumacher: Second.
Mr. Bird: How many continuances have they had?
Ms. McKay: It’s at least the 3rd.
Mr. Bird: How many since it was opened?
Ms. McKay: Just this one.
Mr. Robbins: Unanimous, so moved.

Roderic & Marylyn Komar, 164 Acapesket Road, East Falmouth, MA – For permission to construct and maintain a 4-ft x 121-ft pier, 4-ft x 4-ft platform, 4-ft wide access stairs, 6-ft x 15-ft fixed “Tee” section, 6-inch x four (4) 6-inch posts, twenty-four (24) 10-inch vinyl coated pilings, install a stone driveway, replace nine white pine trees with nine red cedar tree and the associated clearing, excavating, grading and landscaping.
Ms. McKay: The applicant has requested a continuance until April 12, 2017.
Ms. Schumacher: At the request of the applicant I move to continue the hearing until April 12, 2017.
Mr. Robbins: Unanimous, so moved.

John Zizza, 82 Waterside Drive, North Falmouth, MA – For permission to relocate six (6) large boulders within an area of stones to open up three channels between 20-ft and 40-ft wide through the boulder field for small craft navigation into Megansett Harbor.
Ms. McKay: The applicant has requested a continuance until March 29, 2017.

Ms. Harlow-Hawkes: At the request of the applicant I move to continue the hearing until March 29, 2017.
Ms. Schumacher: Second.
Mr. Robbins: Unanimous, so moved.

REQUESTS FOR HEARINGS UNDER A NOTICE OF INTENT

Karen & David Howe, beach lot across 55 Vineyard Street, East Falmouth, MA – For permission to perform coastal dune restoration, beach nourishment, invasive plant management, native plant restoration and the associated clearing, excavating, grading and landscaping.
Ms. McKay: No comment at this time.
Joel Kubick (Holmes & McGrath) The vegetation on the coastal dune has lots of invasives. We will remove them, top dress that area and level out the remaining area. The depth of the proposed sand nourishment is about 6” and will be tapered off to the property line. One tree will be planted. There will be the installation of a shell parking area where there is now lawn.
Ms. McKay: How are you removing the invasives?
Maria Hickey (Maria Hickey Landscapes) Because the split rail fence is coming out, we will be able to put an excavator on the road that can pull the root system out from the street.
Ms. McKay: In your plan I would like you to incorporate supplementing the dune with shrubs as well as beach grass. It will give the dune a little more structure. What your plan says now is aesthetically nice but won’t replace the habitat that is now provided by invasives. You should add beach plum and bayberry in the area.
Ms. Hickey: VA rose provides a lot of habitat.
Ms. McKay: Right, but I want the whole area done. Have you contacted the Association about the possibility of using the boardwalk rather going over the dune when removing the invasives?
Mr. Kubick: The spot we have chosen seems like an easy access point.
Ms. McKay: Have you heard from DMF?
Mr. Kubick: No.
Ms. McKay: You could have horseshoe crab time limitations.
Mr. Bird: You say you will use a machine to dig out the invasives. What is your level of confidence that you can get them all? And if you don’t get them all, how will you proceed?
Ms. Hickey: My level of confidence is very high. VA rose spreads laterally and forms a dense mat. It will work.
Mr. Bird: Not using herbicide?
Ms. Hickey: No.
Ms. Alexander: No questions or comments.
Ms. Harlow-Hawkes: Have you notified the Town since you’re planning to put the parking area in the Town layout?
Mr. Kubick: No.
Ms. Harlow-Hawkes: They have to be notified. You can’t propose work on another’s property without their permission. In the area where you will reach over there is bayberry. Will you leave it?
Ms. Hickey: It looks like I’ll start with new because it has been badly cut.
Ms. Harlow-Hawkes: There are many bayberry leaves on the ground. The fence is in the V zone. 
We don’t usually allow fences in a V zone. I would like to see proof that the fence has been there. 
What is the grain size of the sand you’re bringing in? You will need a grain size analysis. When I 
visited the area today it didn’t look like you would need to add any sand there. When you say the 
area will be cleaned and raked regularly – what does regularly mean?
Mr. Kubick: In the summer it will be raked to keep it cleaned up.
Ms. Harlow-Hawkes: I would like to hear from DMF. There were a number of dead horseshoe crabs 
on the sand today. As we all know they are in depletion. What kind of tree are you planting?
Ms. Hickey: Juniper.
Ms. Schumacher: The monthly invasive monitoring – how long and how often?
Ms. Hickey: During the first year - every month. Later - in May, June, July.
Ms. Schumacher: Will you give us photos of the area after monitoring?
Ms. Hickey: Yes.
Ms. Gladfelter: When you pull the invasives, how will you stabilize the dune before you replant.
Ms. Hickey: We will put some loam in before we plant.
Ms. Gladfelter: What about a significant wind storm?
Ms. Hickey: The dune and beach grass provide a buffer.
Ms. Gladfelter: Won’t you be worried about losing the soil that has organic material in it?
Ms. Hickey: I suppose we can put mulch down on top of the soil.
Ms. McKay: No mulch on a dune.
Ms. Harlow-Hawkes: As soon as you rip the invasives out with an excavator, you’re going to have a 
mess. Even bringing in loam – you could get more invasives.
Ms. Hickey: I’ve had good success with the supplier I use. I’ve found very few weeds.
Ms. Harlow-Hawkes: We used to make everyone hand pull them.
Mr. Mathews: What about installing bio-matting?
Ms. Hickey: We could to that.
Mr. Gurnee: I am also worried about losing that dune. There has already been a lot of hacking going 
on in there. When you pull out the invasives you’ll have a vulnerable sand pile. You can’t lose any 
height to the dune. And you are already losing habitat. I’m concerned about the whole concept.
Ms. Hickey: We’re just adding sand to the dune. I will use 3 or 4 inch pots of beach grass. It is 
highly effective for giving protection.
Mr. Gurnee: I would like to see a plant map of this proposal.
Ms. Hickey: It will be a combination of beach grass and native shrubs.
Mr. Kubick presented the planting plan to the Board.
Ms. Hickey: The area along the street will have grass only because it’s a heavy traffic area.
Mr. Patton: Taking all that out will cause a mess. The area has been cut back many times. I suppose 
it is an improvement overall.
Ms. Alexander: Clearing the dune of vegetation will definitely cause an adverse impact to the 
resource and I’m not sure that has been overcome.
Ms. Hickey: From a landscape perspective, the area has vegetation. We will take the invasives out 
and plant native shrubs and beach grass. We are not taking away the dune but are adding to it. As 
well as putting in grass plants etc.
Ms. McKay: You need to get the DMF letter and a list of supplemental plants. You should also see if 
there is another way to achieve what the client is hoping for, while not impacting the dune. Mr. 
Kubick you must contact the Town before you come before us with your plan again.

Ms. Gladfelter: At the request of the applicant’s representative I move to continue the hearing 
until March 29, 2017.
Mr. Mathews: Second.
Kenneth Downey (next door neighbor) The homes were built in the late 1920’s. The dune runs for approximately 400-ft in front of the homes and is constantly changing. No vista pruning was ever done until 2014. Last summer my wife stopped a teenager from taking down a tree in the area. The applicant took down all the rosa ragosa for a view. The invasive species have been overrun. The predominant species is rosa ragosa and the cutting of it has been weakening and destabilizing the dune. We have had 8 hurricanes since 1930 and have never had water damage, because the dune holds. The applicant is taking away a natural dune with strong vegetation to improve his view and that’s threatening to us. As for the nourishment of the beach - this beach changes and it’s rich with sand sometimes and sometimes it’s not. If you allow the beach nourishment you should have them go through the natural break down at the Akapesket Association. This beach is naturally formed. The only one who vista prunes is the applicant.

Ms. McKay (to Mr. Kubick) It would really help your project if you looked at FWR 10.8. Ms. McKay read the regulation. You need to address how you’re not doing what the regulation states.

Mary Downey (owner) I have been there since 1962. Mr. Kubick said that they would top dress the dune and level the dune. What does that mean? The applicant also took down two other trees on the property. There is massive poison ivy running through the dunes. The dune gets stronger every year. The walkway is too big for that spot and parking is not allowed on the street.

Mr. Kubick: I was talking about the depression in the dune. They are not going to level it.

Ms. Hickey: I want to make it clear that we are not taking any sand away. We are adding 6” of sand.

Mr. Downey: Are you removing the rosa ragosa?

Ms. Hickey: It’s not a native plant.

Mr. Downey: I realize that but it grows all over the cape and has for years.

Ms. Hickey: We will replace it with a native rose.

Mr. Downey: Because this dune is important for storm and flood control, for this to be allowed you will need a letter of determination to say that the project won’t damage the dune.

Mr. Robbins called for the vote.

Mr. Robbins: **Unanimous, so moved.**

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**U.S. Coast Guard (c/o Patrick Dugan), 30 Little Harbor Road, Woods Hole, MA** – For permission to demolish two buildings, adjacent asphalt and concrete driveway/parking areas and to construct a new Aids to Navigation Team building, a new Station Building, new asphalt and concrete pavements, install utilities and the associated clearing, excavating, grading and landscaping.

Ms. McKay: No comment at this time.

Lou Vinciguerra (representing the Coast Guard) We will be demolishing two buildings and replacing them with two new building in approximately the same footprint. The entire site is now paved and will remain an impervious surface. There are gutters and downspouts for storm water drainage now and there will be new ones.

Ms. McKay: It is what it is. The area is almost entirely impervious. The Engineering Department did review the design and I received the results today. Some of their suggestions aren’t applicable. A concern of the Town is the existing downspouts – will the new ones be in the same place?

Mr. Vinciguerra: I believe so.

Ms. McKay: The Engineering firm for the Coast Guard is in Jacksonville, FL and the permitting department is in Norfolk, VA. I will send any questions to them. If you have any additional questions we can consider them now.

Ms. Gladfelter: No questions or comments.

Mr. Mathews: No questions or comments.

Mr. Gurnee: No questions or comments.

Mr. Patton: No questions or comments.

Ms. Schumacher: No questions or comments.

Ms. Harlow-Hawkes: No questions or comments.
Ms. Alexander: It doesn’t worsen it.
Mr. Bird: No questions or comments.
Ms. McKay: I will send some of the questions down to Florida and incorporate the answers in the OOC. I can handle this. If you want to continue it for a week so I can get the answers that is fine.
Mr. Bird: If we close the hearing tonight can we get the answers by next week?
Ms. McKay: If I email the questions to Jacksonville and they respond to them right away.
Mr. Vinciguerra: They are planning to do this in the May time frame, so I think they will respond right away.
Mr. Robbins: We can continue the hearing until next week and see how we make out. You think we’ll have the answers by next Wednesday?
Mr. Vinciguerra: Yes.
Ms. McKay: I can cc you on the correspondence.
Ms. Alexander: Do you think there is a better way to provide for stormwater runoff?
Mr. Vinciguerra: Not that is feasible for this location.
Ms. McKay: I’ll ask that question to the Engineers.
Mr. Vinciguerra: They are not going to open up the whole area.
Ms. Gladfelter: At least it’s not making it any worse.

Ms. Gladfelter: At the request of the applicant I move to continue the hearing until March 22, 2017.
Mr. Robbins: Unanimous, so moved.

CONTINUED REQUESTS FOR A HEARING UNDER A NOTICE OF INTENT

Beccles Road Nominee Trust (c/o Dana Doe), 19 Beccles Road & Sippewissett Road (Map 36-06-000-000C), Falmouth, MA – For permission to install approximately 100 linear feet of steel sheeting along the base of the existing mortared stone revetment which includes construction access, vegetation restoration and the associated clearing, excavating, grading and landscaping.
The hearing is continued until March 29, 2017.

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The hearing is continued until April 12, 2017.

John Zizza, 82 Waterside Drive, North Falmouth, MA – For permission to relocate six (6) large boulders within an area of stones to open up three channels between 20-ft and 40-ft wide through the boulder field for small craft navigation into Megansett Harbor.
The hearing is continued until March 29, 2017.

Town of Falmouth - Falmouth Housing Corporation (c/o Linda Clark, Director), Spring Bars Road (Map 39-15-047-001), Falmouth, MA – For permission to construct and maintain a 40-unit 40B housing project including the construction, installation and maintenance of all buildings, municipal sewer connection, roadways, driveways, drainage, utilities and the associated clearing, excavating, grading and landscaping.
Quorum: Jamie, Betsy, Russ, Mary, Courtney
Ms. McKay: A number of problems that were concerns at the previous hearing have been resolved.
Under a 40B project such as this one the Board will be issuing two orders: one from a regulatory
standpoint and another from an advisory standpoint with an OOC to the Board of Selectmen to confirm compliance with the contractual agreement.

Michael McGrath (Holmes & McGrath) presented a revised plan to Board. This is a portion of the site that will be developed for affordable housing. Much of the area has been mined out for the sand and gravel company that was previously located on the property. Because the area was mined out there is an existing ridge. There is a vernal pool that lies in the middle of the property. The ridge separates the sand pit and the vernal pool. There is a natural coastal bank that lines the vernal pool and is untouched. There are other coastal banks in the remnants of the sand pit. The sand pit drops down to elevation 10. There are man-made coastal banks and scattered land forms. We will be filling in the land and it has to be done under the building code. The buildings finished floor is at elevation 14. There will be rain gardens and a drainage basin. All of the runoff will reach into the drainage basin. To insure no runoff to the parcels on Worcester Ct. we will put in a swale. We have provided calculations about what happens in the worst possible storm event. The driveways are always above the flood zone so there won’t be a problem for vehicle access. The ridge is continuous. We calculated the volume that exists by measuring the lowest elevation along the property lines on Worcester Ct. We showed what happens in a 100 year storm. Mr. McGrath presented copies of the final report to the Board.

Ms. McKay: What was the last date of the plan that wasn’t sent to CEI?

Mr. McGrath: February 26th.

Ms. Gladfelter: The revised plan is dated February 22nd.

Mr. McGrath: I’m sorry, it is February 22nd. The plans do show the side slopes of the 4 bays. They have the appropriate depth of organic matter. The modification of the weir is done. The elevations are consistent. An erosion and sedimentation plan is included. I believe we have a project that can be readily approved. We paid attention to the resource area buffer and moved the work limit to protect the vernal pool. There is no way that any runoff can get to the vernal pool.

Ms. McKay: On page 5 of the CEI report re the O&M plan. Do you have any issues with that?

Mr. McGrath: CEI did the O&M plan and it conforms to the State Act. The bottom line is that the 4-ft deep idea needs to be modified.

Ms. Gladfelter: We know that. Any concerns with the conditions re the State Act?

Ms. McKay: Thank you for pulling the limit of work back from the vernal pool. I appreciate that. The report from CEI is fairly comprehensive. There was a concern about drainage making it into the vernal pool. Thank you for clarifying that. There can be findings re the coastal bank. Some of the coastal banks are significant and some are not. We will have to identify those.

Laura Monynihan (Attorney representing the applicant) I am here to answer any advisory questions and/or technicalities. Town Meeting voted to acquire the parcel of land to provide low income housing. This is important for the Town and the community. The units will provide 1, 2 and 3 bedrooms. Advisory opinion: There was an RFP for the Town to come forward with proposals. Local and State regulations should be met. As part of the private contract, the Selectmen are asking for your opinion under the local bylaws, even though the legal restriction is under the State. The project has received a permit from the ZBA. Which local regulations could the project not meet – depth of drainage bay (4-ft). This is a significant issue with the project. What is the adverse impact on the costal banks? The Selectmen want your opinion on these items. It’s not a formal legal waiver or variance – only an opinion. We tried to meet all the local regulations even though we were not required to. Project cannot be developed without disturbing some 4 to 1 slopes. Those areas were not significant.

Mr. McGrath: The coastal banks shown on the plan are existing and man-made. CEI wondered if the old pile of sand that is there is a coastal bank.

Ms. McKay: That’s a significant coastal bank (near the vernal pool). You’ve provided evidence where you have overcome the presumption and the Board can work with that.

Mr. McGrath: There is a 100-ft buffer to the coastal bank.
Ms. McKay: You have the buffer to that.
Ms. Gladfelter: My concern at the time of the last hearing was (1) flooding on site from rainstorms and what it would do to the resource areas. I appreciate the work that was done on that. (2) Impact of flooding on the site itself and you made changes. It’s been a long process but it is a better project. I appreciate the effort that went into it.
Mr. Mathews: I appreciate the work you did also.
Ms. Schumacher: I concur also. But I believe that man-made coastal banks are protective as well as natural ones. I assume there will be an engineer on site at all times or a provision for someone in charge?
Mr. McGrath: While fill is being placed a geo-engineer will have to be there. Because of the size of the project there will be a Clerk of the Works there all the time.
Mr. Bird: There isn’t much to add. You worked very hard to make this work. And that’s the goal – to satisfy as many conditions as possible.

Ms. Gladfelter: Move to close the hearing and take it under advisement.
Ms. Schumacher: Second.
Mr. Robbins: Unanimous, so moved.

OTHER BUSINESS

Vote whether the Town owned cranberry bogs (Assessors Map 28 05 012 000; 28 03 018 000; 28 05 007 000) may be used for agricultural purposes.
Ms. McKay: Town Counsel has recommended that we take this vote that is similar to the vote for Farley Bog. It’s to make clear that these bogs are no longer allowed agricultural status. This bog is associated with Flax Pond. The Board may eventually take a vote on the other bogs in Town. This one is just out of concern for the restoration project.
Mr. Robbins: Kind of a house cleaning?
Ms. McKay: Yes.

Mr. Mathews: Vote that the Town owned cranberry bogs, shown on Assessor’s Map 28 05 012 000, Map 28 03 018 000, Map 28 05 007 000, have not been in agricultural use for 3 of the 5 immediately preceding years, and that pursuant to Falmouth Wetlands Protection Bylaw and local wetland regulations can no longer be used for agricultural purposes.
Ms. Schumacher: Second.
Mr. Robbins: Unanimous, so moved.

VOTE ORDER OF CONDITIONS

83 Walker Street (Mills) 03/15/17
Quorum: Mark, Steve, Jamie, Betsy, Mary, Courtney
Ms. McKay: This is the small little deck, shed, and the addition on the back. There will be a Special Condition that the shrubs are to be freshwater shrubs, i.e. Clethra, etc.

Ms. Gladfelter: Move to adopt the Order of Conditions as discussed.
Mr. Bird: Second.
Ms. Schumacher: Unanimous, so moved.

25 Beccles Road (Remondo) 03/15/17
Quorum: Mark, Steve, Jamie, Betsy, Mary, Courtney
Ms. Gladfelter: We asked for information on the dry wells.
Ms. McKay: That information hasn’t come to me yet. The landscaper talked about a drain along the patio. We will need a revised landscape plan re the trench drain along the edge of the patio. We will make it a condition.
Mr. Bird: And we have to make sure the contractor has the right plan.

Mr. Bird: Move to adopt the Order of Conditions as discussed.
Ms. Gladfelter: Second.
Ms. Schumacher: Unanimous, so moved.

New Silver Beach - Moses Road: Map 04A-41-000—095 through 098 (Town of Falmouth) 03/15/17
Quorum: Mark, Steve, Jamie, Betsy, Mary, Courtney
Ms. McKay: This is the amended order. It is to add 4 properties along Moses Road to the comprehensive dredge permit. We requested written permission from the home owners concerned and those documents were provided to us. There is to be no beach nourishment on the vegetation.
Ms. Gladfelter: We must delineate where the existing vegetation is.

Mr. Bird: Move to adopt the Order of Conditions as discussed.
Ms. Gladfelter: Second.
Ms. Schumacher: Unanimous, so moved.

Mr. Bird: Move to adjourn.
Mr. Mathews: Second.
Ms. Schumacher: Unanimous, so moved.

The meeting adjourned at 8:40 p.m.

Respectively submitted,

Susan Cronin, Recording Secretary