

PROVINCETOWN CONSERVATION COMMISSION

November 16, 2021

6:00 P.M

Members Present: Alfred Famiglietti, Nathaniel Mayo, Brett McNeilly, Loretta Butehorn, and Cody Sullivan.

Members Absent: Oriana Conklin and Joseph Cooper (excused).

Others Present: Tim Famulare (Conservation Agent).

Chair Alfred Famiglietti called the meeting to order at 5:30 P.M.

1) **Executive Session** 5:30 p.m.

Chair Alfred Famiglietti said that the Commission's first order of business was to discuss litigation strategy in the following matters: Conservation Commission v. Stellwagen Bank Fisheries Corp., Barnstable Superior Court, C.A. No. 2015-00387 and a Request for Superseding Determination of Applicability filed with the Massachusetts Dept. of Environmental Protection y. David Kelley regarding commercial fishing operations for surf clams utilizing hydraulic fishing gear off Herring Cove. He declared that the if the Conservation Commission discussed these matters in Open Session it will have a detrimental effect on the Town's litigating position.

Nathaniel Mayo moved to enter into Executive Session pursuant to G.L. c. 30A, §21(a)(3), Oriana Conklin seconded and it was so voted, 5-0 by roll call.

Chair Alfred Famiglietti called the Public Hearing to order at 6:00 P.M.

2) **Public Comments:** on any item not on the agenda below. None.

3) **Public Hearings:** None.

4) **Other Business**

a) **CON-21-69 Cape Cod National Seashore/Provincetown Airport, off Race Point Road**

Update on Immediate Response Action for investigation and remediation of hazardous materials release resulting from aircraft crash at Provincetown Municipal Airport on September 9, 2021, pursuant to an Emergency Certification ratified on September 21, 2021.

Amy Ball and Bryan Massa, of Horsley Witten Group, appeared to discuss the issue. Ms. Ball said that the previous appearance before the Commission was to ratify an Emergency Certification to allow for immediate remediation to occur and had informed the Commission that there was an intention to file a Notice of Intent to continue to remediate the site. However, she said, more time and testing had to be done before a plan was formulated and the NOI was not quite ready to file, but she thought it important to provide an update on the work. She showed photographs of the site after the crash debris had been removed, showing the damage to trees and other vegetation in the vicinity.

Mr. Massa reviewed the work completed to date. He said they had received verbal authorization from the Department of Environmental Protection to conduct an Initial Response Action, which included the removal of 40 cu. yds. of brush and other vegetation that had residual PFAS

contamination. This was due to the presence of fire-fighting foam that was sprayed as a response to the crash. The vegetative material was not re-usable and was containerized and taken off-site for safe disposal. Also excavated was about 105 cu. yds. of contaminated soil, which had both aviation fuel and fire-fighting foam mixed in with it. Because of the shallow groundwater in the area, 12,000 gallons of impacted groundwater was pumped from the excavation site. This water was also containerized and shipped off-site for safe disposal. Many analytical samples were collected for analysis. Soils from outside the excavated area were collected to determine the extent of the contamination. Also collected were post-excavation soil samples to verify that the appropriate amount of contaminated soil had been removed. Four monitoring wells were installed, three within the excavation area and the fourth within the isolated vegetated wetland. These wells were installed with hand tools. He reviewed photographs of the excavated sites. All damaged trees were removed with a chainsaw by hand, containerized and safely disposed of off-site. Mr. Massa reviewed photographs of the site during the excavation process, showing orange barriers delineating the initial Emergency Response Action area and the de-watering area. The excavation area was lined with plastic, as the PFAS samples had not yet been positively analyzed, in order to keep the topsoil that was going on top of the excavation clean. This was done as a way to close the excavation off and to prevent any additional leaching of contaminants while the pending analytical data was being done. He showed photographs of the plastic and a small layer of clean backfill material that was put down to hold the plastic in place. The plastic is temporary and will be removed when the time comes to complete the restoration. He described the lined containers that were used to remove the contaminated material and said that they would be shipped by rail to a PFAS-safe facility in Michigan for safe disposal. He described the constituents of the aviation fuel. He reviewed the location of the soil samples that were collected. He said that in addition to regulated compounds, unregulated PFAS compounds were also found at the site. He said they were in the process of developing their own standards for those unregulated compounds and will bring those to the DEP for its development of the appropriate standards for them. He said they were planning to excavate about 60 cu. yds. of material for petroleum hydrocarbon contamination, an area that contained concentrations ten times that of the surrounding area and five times the DEP standard for such contaminants. All petroleum hydrocarbon contamination has been removed from the surrounding area. Additional monitoring wells will be installed to test groundwater, in addition to those targeting the excavation area, to find out if it has been impacted with petroleum hydrocarbons and PFAS compounds in excess of DEP standards. These will show groundwater flow direction and determine the extent of the contamination. This will also help in determining a final remediation strategy that can get the site to regulatory closure consistent with the Massachusetts Contingency Plan. The Commission questioned Mr. Massa. He said that there were three methods for remediation, including continued excavation in the isolated wetland resource area and beyond, doing considerable de-watering and flushing by installing a series of groundwater extraction trenches, drawing down the water, allowing it to re-charge, and then drawing it down again, and injecting carbon. By injecting micro-carbon into the groundwater, the contaminants will move through it and the PFAS and petroleum hydrocarbons bind to the carbon and will remove them from the groundwater. After a period of time, the carbon is removed. This, he said, is the least disruptive of the three methods to the resources. These methods will be evaluated when all of the data is received and a report will be made to DEP, which will consider the options and discussions between the stakeholders will ensue. The Commission continued to question Mr. Massa. He said that there is no danger to animals or humans, as no one is drinking

the water on the site. He said that there were still contaminants to be removed and reviewed where those are located. All the contaminants are underneath the plastic covering. All the soil that is left is below the DEP standard for these contaminants and are of no significant risk to dermal contact. He added that it is the groundwater that is the issue.

Mr. Famulare said that the Emergency Certification is ready to expire so he recommended that the Commission issue another Emergency Certification for 60 days for the continued excavation, dewatering, and installation of monitoring wells, until an NOI is issued. Ms. Ball and Mr. Massa agreed with the recommendation. Ms. Ball said that after the plans are formulated, the implementation of the plan will involve the restoration of the resource areas affected.

Nathaniel Mayo moved to approve an Emergency Certification for continued preliminary site remediation and monitoring work for a period of 60 days from the expiration of the first Emergency Certification, Cody Sullivan seconded and it was so voted, 5-0.

b) CON-21-43 75 Province Lands Road

Review and approval of planting plan and revised limit-of-work pursuant to Order of Conditions (DEP File No. SE 058-0651) issued to Hatches Harbor Condominium Association to extend existing deck system by three feet. Ms. Butehorn recused herself because of a conflict of interest. Gordon Peabody, representing the Hatches Harbor Condominium Trust, appeared to discuss the request. Mr. Famulare reviewed the recent project for which the Commission had issued an Order of Conditions. He noted the limit of work and said that one of the conditions was that the applicant return to the Commission for its approval of a revised site plan that would reduce the limit of work and a plan for transplanting as much mature vegetation as possible within the buffer zone on the property, as it was concerned about the amount of mature vegetation that would be disrupted. If mature vegetation cannot be transplanted, the applicant would have to propose replacing it with native plantings at a one-to-one ratio. Mr. Peabody reviewed the revised site plan, which proposes to replace the native vegetation by 150%. He described the proposed process of removing the existing vegetation and replanting or replacing it. He said that some of the existing vegetation should not be growing where it is and was not doing well because of its proximity to salt air. He said that it was important to work with the contractor in these situations. There are bare areas on the site that will be planted with vegetation. He noted that a dry well will be installed per a condition of the Commission and he will contact Mr. Famulare when a location was chosen. Mr. Famulare requested, on behalf of the abutting property, that Mr. Peabody also prune or re-locate bushes along a walkway that block the sightlines for its parking area. Mr. Peabody said that the proposed plantings would be relatively young so that they will have an opportunity to adapt to this high stress site.

Nathaniel Mayo moved to approve the planting plan as proposed, Bret McNeilly seconded and it was so voted, 4-0.

5) Approval of Minutes:

November 2, 2021: Nathaniel Mayo moved to approve the minutes of November 2, 2021 as written, Loretta Butehorn seconded, and it was so voted, 4-0-1 (Alfred Famiglietti abstaining).

6) **Conservation Agent Update:**

a) **B Street Garden:** removal of invasive Mimosa tree and approval of expenses. Mr. Famulare said that the garden is wrapping up for the season and it was the most successful so far. He asked that an expenditure of \$456.00 for wood chips for the walkway be approved. He would also like approval to remove an invasive Mimosa tree on the property that shades some of the garden plots. The Open Space Committee has approved a land management plan for the whole conservation area, which was previously an abandoned dumping site, and there are a lot of invasives present in the area. He said he has gotten a quote of \$450 to take down the Mimosa tree and chip it for reuse on the site. The Mimosa tree is on the property line.

Nathaniel Mayo moved to approve the expenses recommended by staff and to approve the pursuit of the removal of the invasive Mimosa tree on the B Street Garden site as presented by staff, Loretta Butehorn seconded and it was so voted, 5-0.

7) **Any Other Business that shall properly come before the Commission:** Mr. Famulare said that he had a site visit at 481 Commercial Street, the Chandler House., where a new bulkhead was in the process of being installed, including driving in vinyl sheeting soon.

Mr. Famiglietti said that he had an issue regarding a deck that had been constructed at Angel Foods. Mr. Famulare said that the illegal deck was being taken down. He said that a new planting plan had to be submitted by the property owner to the Commission for the property.

Mr. Famiglietti said that it is very important that he and Mr. Famulare know if a quorum will be available before a meeting. Three consecutive unexcused absences would result in removal from the Commission.

Mr. Famulare reminded Ms. Butehorn and Mr. McNeilly to get their applications in for renewal of their Commission memberships.

Nathaniel Mayo moved to adjourn the Public Hearing at 7:05 P.M., Cody Sullivan seconded, and it was so voted unanimously.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2021

Alfred Famiglietti, Chair