

Middleborough Conservation Commission
February 3, 2022

Unless specified everyone was present in the Board of Selectmen Meeting Room at the Middleborough Town Hall: Diane Stewart, Chair; Nancy Ockers, 1st Co-Vice Chair; Melissa Guimont, 2nd Co-Vice Chair; Peter Gately via Zoom, Adam Guaraldi via Zoom, and Edward Medeiros. Also present was Phyllis Barbato, Senior Clerk via Zoom, Patricia Cassady, Agent, and Catherine Pipher, Minutes Clerk via Zoom.

Excused absence: Jacqueline Jones

Meeting started at 6:50 PM. Diane Stewart chaired.

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and Governor Baker's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Middleborough Conservation Commission was conducted via remote participation to the greatest extent possible.

Senior Clerk

Stewart said there was a letter from the Town manager about getting at home COVID test for Middleborough residents.

Accounting

A motion was made by Edward Medeiros, to pay \$782.13 SRPEDD, for the Open Space & Recreation Plan, 2nd by Nancy Ockers. Roll call vote: Peter Gately Aye, Adam Guaraldi Aye, Melissa Guimont Abstained, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. One abstention, the remainder in favor.

Minutes: 1/6/2022, 1/20/2022

A motion was made by Edward Medeiros, to approve the January 6, 2022, meeting minutes, 2nd by Nancy Ockers. Roll call vote: Peter Gately Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

A motion was made by Edward Medeiros, to approve the January 20, 2022, meeting minutes, 2nd by Melissa Guimont. Roll call vote: Peter Gately Aye, Adam Guaraldi Abstained, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Abstained, and Diane Stewart Aye. Two abstentions, the remainder in favor.

Request for Group Use

Barbato reached out to the Color Run group regarding the coloring they will be using, but has not heard back from anyone.

Office Forms
9 Walnut Street

Cassady said the Commission already voted on this last week, they just need to sign. Cassady said she met with the owner and the consultant and they will be filing a Notice of Intent to resolve the issues.

Conservation Lands:

Pratt Farm-Stony Brook Dam

Cassady said PARE Corp. has submitted the Dam and Seawall Grant application today. She said they received update letters of support from the Board of Selectmen, Fire Chief, and DPW Director. Cassady said this grant will pay for the engineering design.

Ja-Mar

Cassady said they are in the process of making the kiosk panels. Ockers asked if they will be speaking with DPW about mowing the property. Cassady said yes, she will mention it to them.

Melissa Guimont – Annual Update on Bird Box Activity

Guimont said she has 40 boxes in Myles Standish State Forest and 40 boxes in Middleborough/Lakeville. Guimont said she will be putting up more boxes, because Gately has made some new ones for her to use. Guimont said she had a total of 30 Bluebirds, 152 Tree Swallows, 6 Chickadees, 83 House Wrens, and 0 House Sparrows. She believes they have had some Song Sparrows and they have had Red Squirrels. She said there wasn't a huge variant in numbers, they were very close to last year's numbers but the numbers have slightly gone up. Guimont said all of this information is submitted to the Cornell Lab of Ornithology. She said she has 12 volunteers that help her check the boxes and track numbers. Guimont said she is going to Middleborough High School soon to teach them about these birds and how she monitors them. Guimont said she will hold 2 workshops soon.

Request for Determination of Applicability for Clay Street, JR Logan Enterprises (Zenith Consulting Engineers, LLC)

Stewart read the legal ad into the record.

Present was Nyles Zager, Zenith Consulting Engineers. He said the property is east of 44 Clay Street. He said the wetland line was approved in an ORAD by the Commission in 2021. He said there is an existing culvert that runs across Clay Street that connects to a BVW. Zager said they have already done a perc test on the existing home and the applicant would like to perform a perc test on the vacant property that is to the east of the home. Zager said there are only 2 means of accessing the property to do the perc testing. One would be off of Clay Street and crossing over the BVW, or they would come across where they already did perc testing, put down a couple of wooden planks with a mini-excavator. The wooden planks would be removed right after the testing is done, and very little vegetation would be disturbed. There is an intermittent stream on the property. Ockers asked if there will be any tree cutting, and Zager said no, nothing large will be cut. Cassady said she went to the site and the house had not been demolished yet.

Stewart asked if anyone from the public would like to be heard, hearing none.

A motion was made by Edward Medeiros, to issue a Negative #2 Determination for Clay Street, 2nd by Nancy Ockers. Roll call vote: Peter Gately Aye, Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Abbreviated Notice of Resource Area Delineation for 691 Wareham Street, Sachem Construction, (Zenith Consulting Engineers, LLC) DEP#SE220-1526

Stewart read the legal ad into the record.

Present was Nyles Zager, Zenith Consulting Engineers. Zager said this property received an ORAD back in the mid-2000's and has since expired. They are looking to renew the line. He said there are 3 different resource areas. There is a BVW, ILSF, and perennial stream. Zager said they were hoping that since this is a small line and has been approved before, they were hoping Cassidy could go out and verify the line. Stewart said it is 1,000-1,600 linear feet. Stewart said she prefers a peer review. Stewart asked if there were any significant changes, and Zager said there were a few minor changes.

Stewart asked if anyone from the public would like to be heard, hearing none.

Cassady said there has been some history with this site. There was a gentleman that previously wanted to purchase this property, but the only dry access was through the Town's property. Cassady said this gentleman went in through Conservation land, and started earth removal, piling up rocks, tree cutting, etc. Cassady said there was an Enforcement Order issued and a gate was put up to keep the land separated. Cassady said they can set up a site visit to get a better idea of what is going on. Cassady said on the other side of the property is Mr. Andrew's property that they have already had issues with as well. Medeiros said he does not think they need to do anything about the Enforcement Order because it is so old.

A motion was made by Edward Medeiros, to get peer review quotes for 691 Wareham Street, 2nd by Peter Gately. Roll call vote: Peter Gately Aye, Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

A motion was made by Edward Medeiros, to continue the hearing to February 17, 2022, 2nd by Melissa Guimont. Roll call vote: Peter Gately Aye, Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Continuation of Notice of Intent for Everett Street, Peter Varrasso, Jr. (Center Mount Land Development, LLC) DEP#220-1525

There were 2 quotes received for the peer review.

1. Lucas Environmental - \$1,550.00
2. Environmental Consulting & Restoration - \$125.00 per hour and not to exceed \$2,000.00

Present was Shane Oates via Zoom. Oates said he is ok with either peer reviewer and does not have a preference.

A motion was made by Edward Medeiros, to use Lucas Environmental, in the amount of \$1,550.00, 2nd by Peter Gately. Roll call vote: Peter Gately Aye, Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

A motion was made by Edward Medeiros, to continue the hearing to March 3, 2022, 2nd by Nancy Ockers. Roll call vote: Peter Gately Aye, Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Continuation of Abbreviated Notice of Resource Area Delineation for 177 East Grove Street & 187 East Grove Street, HIP VI Enterprises, LLC (Goddard Consulting) DEP#220-1518

Stewart said they received an e-mail requesting for the hearing to be continued. Cassady said the peer reviewer has already done 13 hours of work and they will need to do at least 13 more hours of work. Cassady said they had some problems getting their auger in the ground as well.

A motion was made by Edward Medeiros, to continue the hearing to February 17, 2022, 2nd by Nancy Ockers. Roll call vote: Peter Gately Aye, Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Agent: FY2023 Budget

Cassady said she did draft a letter to send to the Town Manager in support of Pipher receiving more hours. She said she did receive confirmation of the 19 hours he approved. Cassady said in the beginning of the letter, it should say state that she really needs 40 hours. She said the letter is stating how big the town is and how the office needs a lot more help. Ockers asked if they had received more money to take care of Conservation Lands, and Cassady said the Town Manager gave them the \$2,500.00 that the Commission had asked for. Stewart suggested mentioning the Permit Eyes in the letter to the Town Manager. February 28, 2022, is when the meeting is going to be to present to the Town Manager.

Edward Medeiros recused himself.

Adam Guaraldi needed to leave the meeting.

Ch.61A Thompson & Precinct Street

Cassady said she called Attorney Mather today and he represents Bruce Gates, owner of the property. Mather said that Gates would like this all done by the 120-day time limit. The date on the Ch.61A is December 20, 2022. Cassady said the Nature Conservancy said they can provide up to 50% of the \$750,000.00, for the purchase of the property. Cassady said she also spoke to the Department of Fish and Game and they said they would only be interested in the property if

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the Sousa land was part of the deal. Mather said that Cassady would have to reach out to Wendy Gates on her own, and she said she has not done that yet. Cassady said that Fish and Game will take a long time to assist in the purchase of the property and they are on a tight time limit. She said their Lands Committee only meets twice a year. Cassady said that the money from Nature Conservancy and the Dept. of Fish and Game cannot be combined. Ockers asked if the Mass Audubon could help, and Cassady said not at this time.

Edward Medeiros, spoke as a citizen, said he went to the Board of Selectmen's meeting. Medeiros said at the meeting they did not want to vote and go against the Commission, but they also didn't want to hang up Gates selling his property for another 60-90 days. Stewart suggested asking the Grant Writer if there were any grants that could be applied for. Cassady said it would be nice to have an active Open Space Committee to help with all of these Ch.61A's that come in. Guimont asked if there has been any interest from Trustees of the Reservation, and Cassady said she reached out to them and they were only focused on the properties that they already own. Stewart said it may be too late to purchase this property but some of the Commissioners will attend the Board of Selectmen's meeting to discuss this further. Medeiros suggested writing a letter stating that the Commission can come up with half of the money and give it to the Selectmen.

A motion was made by Nancy Ockers, to have Cassady send a quick letter to the Board of Selectmen to clarify that the Commission is interested in the Gates property and that half of the funding has been secured, 2nd by Peter Gately. Unanimously voted.

Picone Farm

Cassady said last week she applied for the Taunton River Stewardship Council money for the environmental site assessment, which was \$1,700.00 and a portion of the appraisal that was quoted at \$2,600.00. She said she will only be asking for \$1,600.00 for the appraisal. Their meeting is on February 10th, via Zoom. Cassady said the Municipal Vulnerability Preparedness (MVP) Grant, has a pre-application, and that was submitted. She said she went back and forth with Ashley Davies, Dept. of Agriculture, and Scott MacFaden, Wildlands Trust, to make sure everything was covered. Cassady said she will now speak with Courtney Rocha, Regional Coordinator of the MVP Grant, to discuss how to move forward with the application and how to be more competitive in order to get the grant. Cassady said they are going to have to submit a warrant article for the April town meeting in order to apply for this grant.

A motion was made by Edward Medeiros, to submit the warrant article for the MVP Grant, 2nd by Melissa Guimont. Unanimously voted.

Medeiros said that they should ask Dan Murray if the title is good. Cassady said she will speak with him.

FY22 Strategic Plan 2nd Quarter

Edward Medeiros, returned to the meeting.

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Cassady said in the strategic plan, there were things that the Commission did not vote on, but it was things like the Riverwalk. Cassady said some things have been completed and some things are still in the process of being completed.

Oak Point

Cassady said she wanted to discuss the water quality monitoring. Cassady said they looked at 4 different well sites on the property. There were a few contaminants found but they are still below EPA standards and will continue to be monitored. There have been many of Orders of Conditions issued to this site and they have stated that salt cannot be used on the property.

Cassady received an e-mail regarding a hydraulic/oil spill from a plow truck. Cassady said she received pictures from January 2nd.

Present was Gerard Boissoneault. Boissoneault said he and his fiancée were leaving Oak Point and stopped at the recycling dumpster. He said he could smell oil and when he looked down, he could see a heavy sheen of oil coming down the berm on the side of the parking lot. He said it was running into the storm drain. He took pictures and sent them to Cassady. He said at 3:30PM he called the answering service for Oak Point. Oak Point said they were going to call the on-call person. Boissoneault said he was going to wait for that person. Eric Hurt, Property Manager and Jeff Nelson came to the site. Nelson had told Boissoneault that one of his guys told him that on that Friday one of the guys had spilt hydraulic fluid. They then started to try and build dykes to stop the fluid from going to the drain. He said he left the site and came back later that night and nothing had been touched and everyone had left. He said the next day they tried to clean it up but you could still see scum from the drain. He said he met with Fire Captain Reed and they walked the site. He said he was unhappy with how the clean-up was handled and felt he needed to say something to the Commission. Cassady said unfortunately this should have been an immediate action situation, but DEP and the Fire Dept. would need to be contacted immediately. Cassady said it has been about a month since the accident happened. Cassady said she can find out where the drains lead to, because there are plans in the office. Stewart said she would like to have Oak Point come in to discuss this further, and that they should have a procedure in place.

Paula Fay-83-- Oak Point Drive, said they have covered it and put mulch on the area that the spill was. She asked if someone could remove the mulch to see what damage there is. The Commission said they were not sure, but once they write the letter and have a discussion with them, they might have more information.

A motion was made by Edward Medeiros, to write Oak Point a letter stating that if they are going to be parking maintenance vehicles at the parking lot, that they make some provisions, whether they put up a building in the winter or put a oil and gas separator in, and to ask them to come in to the February 17th meeting, 2nd by Nancy Ockers. Unanimously voted.

Guimont asked if conservation signs and no dumping signs ever get refreshed. Cassady said senior helpers with DPW used to help with that, but she will ask about the signs.

Herring Run Festival

Cassady said they are going to try to have the festival this year. Cassady will fill out the form so the Commission can have a table at the festival. Ockers said it would be nice to have brochures of the Conservation Lands. The Commissioners said they would volunteer to stand at the table.

Edward Medeiros recused himself.

0 & 535 Wareham Street

Cassady said she met with DEP again at 0 & 535 Wareham Street. Julie Goodwin, Prime Engineering, and Mark Jackson, owner, were also there. Cassady said they looked at the revised wetland flags and the revised plans, that were asked for by DEP through the appeal process. DEP told Cassady that they will not be issuing a Superseding Order, but they could issue an Enforcement Order with a \$10,000.00 fine. DEP asked if it would be ok if the applicant would come back to Conservation, so they could issue a new Enforcement Order, and they would submit a restoration plan. If they were willing to start the restoration in the spring, they could withdraw the 2 Notices of Intent that they filed with DEP. Cassady said DEP would rather have them spend the money on the restoration instead of the fines.

A motion was made by Nancy Ockers, to send a new Enforcement Order to 0 & 535 Wareham Street, 2nd by Melissa Guimont. Unanimously voted.

Conservation Commissioner Reports

CPC- Ockers said they will be voting on what to spend money on within the next couple of weeks.

Open Space- Stewart asked if it could be discussed at the work meeting. Barbato said the work meeting will also have the Stewards there. Barbato said they can put a discussion regarding Open Space on the agenda for the work meeting.

Mail/Correspondence

Letter from Town Council, about a tax adjustment and a check for Thrush Hollow.

There were South Coast Rail Updates.

There was an e-mail from an abutter regarding Great Cedar Village.

Cassady e-mailed Chris Peck, about where the snow removal goes.

E-mail regarding Soule Homestead. Cassady said she received something from the Environmental Police about this property again.

Ch.61A 290 Miller Street, for a house lot.

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Cassady sent the E.O. to Rockland Industries, and they acknowledged that they received it.

There was a letter regarding a proposed 40B, Mass Housing.

520 Plymouth Street complaint.

A motion was made by Edward Medeiros, to adjourn at 9:28PM, 2nd by Nancy Ockers.
Unanimously voted.

Respectfully Submitted By:

Catherine Pipher
Minutes Clerk

DATE APPROVED: February 17, 2022