

# **Conservation Commission Public Meeting – JUNE 22, 2017 Minutes**

**TIME:** 7:30PM

**LOCATION:** Swampscott Town Hall

**Members Present:** T. Ruskin, T. Bandrowicz, M. Laguerquist, J. Simon-Lento, M. Tamborini

**Absent:** R. Salter, A. Andler,

**Others Present:** Peter Kane (Director of Community Development), Nasser Brahim (Kleinfelder), Rich Newburg (Resident), Martha Dansdill (Resident), Peter Ogren (Hayes Engineering), Andrew Levin (Asst. Town Planner)

T. Ruskin opened the meeting at 7:30 PM and welcomed all present and began the meeting by reading a quick statement outlining the mission of the Commission.

## **REVIEW AND APPROVE MINUTES FROM PREVIOUS MEETINGS**

T. Ruskin moved to the first agenda item, voting on the minutes from the previous meeting (5/10/2017), T. Bandrowicz mentioned that she had made some slight grammatical revisions to the minutes, T. Ruskin explained that in the essence of time, the vote and discussion would be held off to the end of the meeting.

## **PRESENTATION – BEACH ACCESS COASTAL RESILIENCE PROJECT**

The Commission then moved to the second item on the agenda. Director of Community Development P. Kane who was present, began by welcoming everyone present and giving a brief synopsis regarding the background of the presentation. P. Kane explained that the Town is working with Kleinfelder, multiple Town committees, the Assistant Town Engineer, and Office of Coastal Zone Management (CZM). P. Kane explained that the funding for the work Kleinfelder is doing was funded by Town Meeting, last Fall. P. Kane explained that this design work comes as a follow up to a previously completed vulnerability study, also done by Kleinfelder. P. Kane explained that the study noted that beach access points in Town were of concern, and recommendations were provided. P. Kane explained that the Town applied to a CZM grant, and that Kleinfelder has come up with designs to mitigate storm surges at beach access points.

Pete turned the presentation over to Nasser Brahim, Senior Planner for Kleinfelder.

Mr. Brahim began by explaining that these proposed designs are improvements to the beach access ways, to help reduce coastal flooding and storm damage. Mr. Brahim continued that the design process includes developing draft permit applications, including a Notice of Intent.

Mr. Brahim explained that the vulnerability study began during fiscal year 2015 and that it identified three specific areas of vulnerability; Palmer Pond, Preston Beach, and Phillips Park. Mr. Brahim explained that the work done this fiscal year (2017), put together 90% complete designs for the Town, working towards resilience in the specific areas. Mr. Brahim mentioned that there are 6 tasks identified, of which, one was the creation of a stakeholders group as well as a presentation at a Board of selectmen meeting. Mr. Brahim continued that the project included planning, feasibility, and draft 90% design plans, which included draft permits. Mr. Brahim explained the stakeholder group was comprised of members of different Town committees and Town employees. Mr. Brahim continued that the project deliverables included; budgetary costs, draft unfiled permits, and 90% complete construction documents. Mr. Brahim, using a projector, moved on to show the proposed design plans.

Mr. Brahim began with Fisherman's Beach, and went through the designs, which include a new patio and planters, the creation of a beach grass dune, and a ADA accessible mat across the dune in appropriate places. Mr. Brahim also explained there will be a net reduction of pervious material.

P. Kane explained that the Town had previously filed an Notice of Intent for beach access designs compiled by NVC, but that the Town will now have to refile, with the new modifications for resiliency added in.

T. Bandrowicz asked if the mats were for use by pedestrians, and the boat launch, Mr. Brahim explained the mats would be five-feet wide, and that large boats would be launched from the boat ramp. T. Bandrowicz asked why pervious pavement was not used, Mr. Brahim explained that this could lead to problems with drains getting clogged and freezing problems in the winter, and potential for the material to become projectiles if they were hit by waves. Mr. Brahim explained that the designs went with pressed concrete, which he believes is the safest and best material.

Mr. Brahim moved on to the designs for Sandy Beach and Cassidy Park.

Mr. Brahim explained that NVC did not do designs for this site. Mr. Brahim explained that the designs include a gravel entrance plaza, similar space for parking to what is currently there, fenced access to the flag pole, benches, ADA accessible mat, and fenced off dunes.

T. Ruskin asked if the entrance will be comprised of loose gravel, Mr. Brahim stated that he believed so. T. Ruskin asked if there was any information or a study done to see what will happen to neighboring properties, i.e., flooding, due to different trajectories. Mr. Brahim explained the design is not exceeding the existing wall, and it would not force more water than what could currently happen from a large storm. P. Kane clarified the wall would have to become bigger.

Mr. Brahim mentioned that the dune will absorb the waves and slow down the water, to which T. Ruskin mentioned sounded "good". T. Bandrowicz asked what will keep the dunes in place overtime, T. Ruskin asked about the dunes migrating inwards. Mr. Brahim explained that there had not been an analysis done yet, but in general the dune is mimicking the natural feature,

which has resilience of its own. Mr. Brahim explained that the dunes trap sand, and overtime sand that is moved is replaced. T. Ruskin asked about the gravel migrating, Mr. Brahim explained the dune will keep the gravel out, unless there is a major storm. M. Tamborini explained that this access will be more protected than her property area, T. Ruskin and M. Tamborini briefly discussed their properties.

Mr. Brahim moved to the proposed designs for Whale Beach and the Pollisson Park area.

Mr. Brahim started by showing the original design made by NVC, which showed the trashcans being moved to the side, and a granite curb in the front to block vehicles. Mr. Brahim explained that Kleinfelder's design is similar, and that they propose reseeding the park, moving two benches to where there was previously one, keeping the granite curb, adding a beach grass dune, and a ADA accessible beach mat. Mr. Brahim mentioned there will be a net reduction in pervious material at both Cassidy and Whale beach. T. Ruskin mentioned it looked like the neighbors would be better protected, Mr. Brahim agreed.

Mr. Brahim then showed a picture of the existing conditions at Phillips Beach, as well as the designs made by NVC which included the creation of a plaza with a beach shower and a consolidated trash and bike facility, a large consolidated sign and a vinyl mat. Mr. Brahim explained that the Kleinfelder design is similar, with proposal of a similar sign, as well as proposing to replace the vinyl walking mat which Mr. Brahim stated was in bad condition, and replace it with an ADA accessible mat, which would be placed in two locations.

T. Ruskin asked about the trash facilities, Mr. Brahim pointed them out on the image, and explained the facility would be embedded. T. Ruskin asked if there was a "port-a-potty", Patrick Jones, a member of the Board of Selectmen, mentioned that there is one tucked in the trees. Mr. Jones mentioned that he had talked with Town Administrator Sean Fitzgerald, and the Director of DPW/Assistant Town Administrator Gino Cresta, about a possibly having a more portable facility, that would be the size of a box truck, and are clean and easy to wash. Mr. Jones stated that this proposed facility would be similar to what was used when the circus was in Town previously, and seen on other beaches in the area. M. Tamborini asked if the facility would stay through the winter, Mr. Jones explained that it is temporary, and then reiterated a request for pick-up of trash at the site.

An audience member asked if the design addressed the outfall. Mr. Brahim explained that the pipe is buried under the sand, and that the design does not address the backflow drain. T. Ruskin asked if the drain is visible, P. Kane explained that it is, and an audience member stated that the concrete that once encased the drain is gone. T. Ruskin mentioned that this should be dealt with, and did not want it affected in a negative way. An audience member asked where notices will be put, Mr. Brahim showed where the information board would be on the map. Mr. Brahim mentioned that there was another design for the access point, but that the public liked the idea that is being presented.

Mr. Brahim mentioned that the only potential impact on the wetland area is on the edge where the "port-a-potty" and bikes are on the plaza. T. Ruskin mentioned that they could cut the vegetation, Mr. Brahim mentioned some other minor things that could be done as well. Mr. Jones mentioned that in front of the beach area, there could be some benches and mentioned they would be a good idea, P. Kane mentioned that this was brought up at the public meeting as well. Mr. Brahim asked which way the benches should point, M. Tamborini mentioned not by the

trash, and Mr. Jones clarified that they could go near the entrance. Mr. Brahim mentioned some possible other ideas as well.

T. Ruskin asked if this new design will cause flooding on the tennis courts, P. Kane responded that the tennis courts are elevated. M. Tamborini and an audience member said the design looks much better.

Mr. Brahim then moved on to the designs for Preston Beach.

Mr. Brahim explained there will be a little elevation improvement, and that a wave model was done and showed there is lots of wave action at this beach, but that there is nothing to do besides building up the edge and closing the beach to stop water from crossing to the wetlands. Mr. Brahim mentioned that the proposal is to improve the plaza, add a stone marker, add vegetation, and a curb in the front to signify pedestrian use only. P. Kane mentioned that the rocky area would not be filled with sand because it would not last, and mentioned that the rock layers go down deep. Mr. Brahim mentioned that there is a strong case for resiliency, but that no drawing was done. T. Ruskin asked if this is just a clean-up being proposed, P. Kane mentioned the plaza, curb, and stone marker are being added, but that due to the natural existing conditions, it's hard to improve the resiliency. Mr. Brahim mentioned that the design will help improve the aesthetics. T. Ruskin mentioned that to improve the resilience of the access point, then the access would have to be walled in, and the public would lose access.

Mr. Brahim then went through the benefits of the project, which included; improved environmental quality of the Town's natural resources, reduction in roadway maintenance (i.e., sand removal), and reduction in nuisance flooding. Mr. Brahim mentioned that the sea wall heights seen along many of the beaches were not high enough for heavy storms. M. Tamborini asked what the needed height is, Mr. Brahim explained, and T. Ruskin mentioned a past sea wall that was built in places of vulnerability. Mr. Brahim stated that the creation of around 20,000 sf of new dune is being proposed with the plans.

M. Tamborini asked what the ADA accessible mats would be made out of, Mr. Brahim mentioned that it is a sort of vinyl material, T. Ruskin asked if the mats would be year-round, Mr. Brahim mentioned they would be for of only during the summer, T. Ruskin asked if the Town would take care of them, P. Kane stated they would. T. Ruskin mentioned that the Town does not take care of Phillips Beach, P. Kane explained Phillips Beach is taken care of by an association.

M. Tamborini asked what would happen if the mat was dragged out to sea, and would it cause any problems, Mr. Brahim mentioned that the mat is tightly meshed, M. Tamborini asked the material, Mr. Brahim mentioned he was unsure, but it is used at many beaches. T. Ruskin mentioned that it probably would get drawn towards the street, P. Kane agreed and mentioned that it would take a large storm to bring it towards the ocean.

Mr. Brahim then went through the next steps for the project, which included funding for permits, permit submission, and construction.

P. Kane clarified that this study and the resiliency designs were funded through CZM grant, and that the Town would be replying to a second part of the grant to receive funding to complete the designs. Mr. Brahim mentioned that CZM likes the ideas, and P. Kane mentioned CZM wants to use this as a model. M. Tamborini asked about a timeline, Mr. Brahim mentioned possibly May,

M. Tamborini asked when the Notice of Intent would be filed, P. Kane mentioned a possible time. T. Ruskin asked for clarification on when the Notice of Intent will be filed, P. Kane stated possibly in the Fall. P. Kane explained that the Board of Selectmen and the Town Administrator want to focus on Fisherman's Beach and to get that done, that the idea is to move forward on construction in the Fall.

M. Tamborini and an audience member both said that the designs look great, T. Ruskin agreed. The Commission thanked Mr. Brahim for the presentation.

## **PHILLIPS BEACH – NOTICE OF INTENT – MASS DEP #71-308**

T. Ruskin opened up the hearing for the Notice of Intent (NOI) filed by the Town's Board of Selectmen, requesting the approval of cooking fires on Phillips Beach. This NOI was previously continued from the Commission's May meeting. Selectmen Patrick Jones was present.

Mr. Jones began by thanking the Commission for the granting of the continuation back in May. Mr. Jones mentioned that the last meeting had ended with many comments and concerns regarding the timeframe and regulations relating to the proposed allowance of beach fires. Mr. Jones stated that he had gone back before the Board of Selectmen, Kevin Breen (Swampscott Fire Chief), Ronald Madigan (Swampscott Police Chief), Director of Public Works/ Asst. Town Administrator Gino Cresta, and Town Administrator Sean Fitzgerald.

Mr. Jones explained that he had updated and revised the regulations and times allowed for the cooking fires, and that there would be a few changes from the other NOI filed for Fisherman's Beach (which allowed cooking fires at that beach). Mr. Jones explained that the cooking fires at Phillips Beach would only be allowed Thursday through Sunday, 6 PM to 10 PM. Mr. Jones also explained that the proposed distance that fires must be from the vegetation line has moved, from 50-feet away to 100-feet away. Mr. Jones explained to the Commission that the current regulation for fires near structures is 75-feet, and that 100-feet is a more responsible distance.

Mr. Jones continued that the application process will remain the same, and stated that there will still only be 4 fires per night, in the designated areas. T. Bandrowicz mentioned that the regulations said there would be four areas, but did not say limited to four fires. Mr. Jones stated that there will only be four fire permits for the beach, one for each designated area.

Mr. Jones continued to explain the application process, he explained that applicants would need to call the Fire Department three hours prior to lighting a fire. Mr. Jones explained that this is to make sure the weather will be calm enough that evening to allow for fires. Mr. Jones explained that there would have to be a water bucket present at all times, which could also be used to help clean up fire areas, and that permit holders could put trash and leftover wood or burnt wood in the buckets to take away.

Mr. Jones explained that the idea of giving residents a "kit" when getting their permit had been discussed. Mr. Jones stated that the kit would potentially include a 5-gallon bucket, 100 feet of twine and tent stakes, which would be used to show the fire is the appropriate distance from the vegetation. Mr. Jones continued that the bucket would be used to keep the stuff in, and help prevent trash and materials from being left. T. Bandrowicz asked if the "kit" would be part of the permit, Mr. Jones stated that it would, and mentioned it could be written into the regulations.

Mr. Jones stated, that in terms of enforcement, at the moment the police and fire check certain areas at certain times of the day. Mr. Jones explained that he had spoken with both the Fire and Police Department about enforcement. Mr. Jones mentioned that the Police do random park and checks, which start at dusk and go throughout the night. Mr. Jones stated that the Fire Department conducts a check at dusk, and then one more again, at a random time in the night.

Mr. Jones stated that he had looked at the National Oceanic and Atmospheric Administration (NOAA) website, and researched the times of sunsets, from Memorial Day to Labor Day. Mr. Jones explained that the sun sets in the beginning of the season around 9 pm at night, and by the end around 8pm.

Mr. Jones then went on to explain that he had been speaking with Department heads throughout the Town regarding this NOI. Mr. Jones stated that currently kids playing and using the back areas at the beach have been observed, but with the permitting system, if rules are broken, people will report it.

Mr. Jones stated that he has been working with the Fire and Police Department to coordinate walks and checks. Mr. Jones explained that the Fire Department will be the regulatory body for the application process, and that they will respond to any calls, regarding questions or complaints. Mr. Jones stated that at 10pm the Fire Department would do a walk, and that the Police Department would also do a walk, and that this would not leave much time for an illegal fire. Mr. Jones explained that the process will help spread the word that only permitted fires are allowed on the beach, and that if neighbors smell smoke after 10pm then they would know that an illegal fire is happening.

T. Bandrowicz asked for more clarification on the number of patrols done, Mr. Jones responded that the Fire Department and Police Department would both conduct two patrols each. Mr. Jones stated that Police Chief Madigan explained there is a Police officer on that side of Town who checks at dusk and dawn. Mr. Jones explained that if an unpermitted fire is seen, then the officer calls the Fire Department, and they come and extinguish the fire. Mr. Jones stated that there are some unpredicted calls, and that the officer would have to be called away. Mr. Jones explained that at both dusk and dark there is a patrol by both Fire and Police, and Mr. Jones briefly clarified when the checks are conducted. T. Bandrowicz asked for more clarification from T. Ruskin and Mr. Jones. Mr. Jones explained that from dusk and then after the last light, there is a police patrol, and then around dark, the Fire Department has a check. Mr. Jones explained that both the Fire and Police Department have said these are responsible responses, Mr. Jones continued to explain that he has spoken with residents who have said that they would be on the look-out for illegal fires. M. Tamborini mentioned that it would be like a "citizen check", to which Mr. Jones agreed and explained what he had seen happen in the past.

T. Bandrowicz asked if there would be a sign at the beach outlining the regulations. Mr. Jones explained that every permittee will receive a copy of the regulations, and that the regulations could be on a sign at the beach access. Mr. Jones explained that he had been looking at the current fines of \$500, and even if this Notice of Intent (NOI) is not passed, Mr. Jones stated that he wished to make the fines more well known to the public. Mr. Jones stated that he believes this will decrease the rubbish and illegal fires. T. Bandrowicz mentioned that the Town does not really collect on fines, and that this will be critical to enforcing the rules and regulations. T. Bandrowicz mentioned that the allowance of beach cooking fires could be on a trial basis. Mr. Jones explained that if the NOI was approved then it could start this July 4<sup>TH</sup>

weekend or shortly thereafter, and then each year come back before the Commission for a reexamination and yearly approval of the permit. M. Tamborini asked who would examine the permit, T. Ruskin and Mr. Jones stated that the Commission would.

T. Bandrowicz mentioned some potential special conditions that would be added, including; the allowance would be on a trial basis, informational signs with the regulations on them, and reports on how many permitted and unpermitted fires and issues. Mr. Jones stated that he would have to work with the Fire and Police Department to gather information on the unpermitted fires. Mr. Jones continued that there would be a fee, and that if there is an issue, it would be easy to follow up because the Fire Department will know who did not get their fee back.

M. Tamborini asked for clarification, Mr. Jones explained that if the applicant is to leave the site messy then they would not receive their \$50 deposit back. T. Bandrowicz asked about the 100-feet from vegetation, and asked if this distance puts the area for allowed fires too close to the mean high-tide. Mr. Jones explained that the beach roughly forms a “V”, and that when pacing from the vegetation to the waterline, there was still plenty of beach. Mr. Jones continued to explain that when there are instances of a very high hightide, then the Fire Department would have to watch, and a system would have to be created so that the Fire Department is informed on the tides.

T. Ruskin mentioned that a concern previously heard was that applicants would pay for their permit and then get to the beach and find out due to the tide they cannot get 100-feet from the vegetation, and make a fire anyway. T. Bandrowicz asked where the four areas are, Mr. Jones said that there are no markers yet, and mentioned that he did not know the exact location at the moment, but that the beach forms the four areas naturally. T. Ruskin commented that this would not be an exact science, and did not think that things would always be perfect. T. Ruskin mentioned that he does not think the four areas could not be delineated without markers, and believes they are needed for Police and Fire to see. Mr. Jones mentioned they would have to be placed in places where the Town owns, and mentioned that the majority of the sandy area is Town owned.

J. Simon-Lento mentioned that the map only indicates a general area, T. Ruskin explained a hypothetical situation that could arise, and stated that the map cannot be precise. Mr. Jones explained that Fisherman’s beach has zones, T. Bandrowicz asked how the fires worked at Fisherman’s Beach, Mr. Jones replied that it goes well. M. Tamborini mentioned that she had asked the Police and Fire departments representatives at the last meeting how the fires had been going on Fisherman’s Beach and both had said they were going well.

T. Ruskin asked the audience if there were any questions.

Rich Newburg, Palmer Road, explained that he is a conservationist, and former Conservation Commission member, and mentioned that he is on the beach 5 days a week around sunrise, and that he has seen what happens from the fires. Mr. Newburg stated that he has photos that showed fires in the marsh, where he explained there are phragmites. Mr. Newburg showed photos from April 13<sup>th</sup>, 2010 which showed a fire in the marsh. Mr. Newburg explained the Fire Department had to use shovels and brooms to put it out, because there was no access for their equipment.

T. Bandrowicz mentioned that fires in the marsh are still illegal, even if the NOI passes. Mr. Newburg stated to the Commission that this permit will allow fires to be lit near the dunes, T. Bandrowicz stated that they would need to be 100-feet from the dune. Mr. Newburg asked what would happen during high tide, another audience member added that the fire might not be adequately placed, Mr. Newburg continued that the Southeast winds could blow the ashes over the pond. Mr. Newburg explained that the phragmites are dense in the pond area, and showed pictures of a fire from Michigan, where phragmites were burning. Mr. Newburg stated that allowing fires would be putting the marsh at risk.

T. Bandrowicz clarified that large bonfires would be illegal, and then asked what is considered a "cooking fire", Mr. Jones responded with what the cooking fire would not look like, to which M. Tamborini agreed.

Mr. Newburg mentioned that on June 14<sup>th</sup>, of 2017 there was a fire on the beach, and showed the Commission photos of the debris, and mentioned that the Northeast winds and seas moved the charcoal and wood into the vegetation. T. Bandrowicz stated that this fire was illegal, and mentioned that the Town is now presenting a way to avoid people leaving trash and other debris behind after fires. Mr. Jones agreed with T. Bandrowicz then mentioned that he had spoken with the Director of Recreation, Danielle Strauss, and DPW Director/Assistant Town Administrator Gino Cresta, and that workers could make a round in the morning to help clean up the beach. Mr. Jones added that the Town has beach rakes. Mr. Jones continued that the Board of Selectmen had heard the complaints about trash, and that the Selectmen were looking into a better system of getting rid of the weekend trash. Mr. Jones explained that the Town will know when permitted fires are happening, and can conduct a round the morning after to make sure the site is clean. Mr. Jones explained that with the permitting process, the Town will know who did, and did not clean up. Mr. Jones mentioned that they will ask applicants to take photos of their site when leaving to clear up concerns over if they cleaned or not.

Mr. Newburg mentioned that the Commissions chief concern is preserving ponds and wetlands, and that Palmer Pond is unique and is protected by a barrier beach and small dunes. Mr. Newburg explained that there are 35 birds nesting in there, and that there are blue-spotted salamanders, which are a protected species. T. Ruskin responded that the Commission understands the "jewel" that is Palmer Pond.

M. Lagerquist asked how the Town will prevent fires that happen during the week. T. Ruskin explained that enforcement, is the major issue. T. Ruskin explained that before, when neighbors smelled smoke, the Fire or Police Department had to go, because the fires were illegal. T. Ruskin explained that fires happening mid-week and are called in, would have to be put out. T. Ruskin mentioned that if an illegal fire happened during the proposed Thursday to Sunday time, then this would be an issue of how to enforce permitted and unpermitted. T. Ruskin reiterated a comment made at the last meeting, that a monitor at the beach during the allowed cooking fire times would help curb many issues, and ensure the only fires taking place were permitted. T. Ruskin explained the monitor would be authorized to call in illegal fires and that this could solve the neighbors concern. T. Ruskin mentioned the Commission is not "crazy over" having fires, but that this monitor could help curb the major issue of illegal / non-permitted fires. T. Ruskin stated that this will not solve the neighbor's problem with smoke, but this will help cut down on illegal fires.



Mr. Jones added that the people who are using the system appropriately would help report the illegal fires. T. Ruskin responded that he did not “buy that”, and did not think that people would call in people having illegal fires. T. Ruskin added that he probably would only call in a fire if it was something really dangerous. T. Ruskin mentioned that he did not think people would call in and report their neighbors, and mentioned that people illegally walk their dogs on the beach, and people don’t call. T. Ruskin reiterated that there needs to be someone on the beach to monitor. T. Ruskin stated that the monitor could be a high school aged person or a town employee. T. Bandrowicz mentioned that the neighbors will always notice the fires, an audience member added that they do. T. Ruskin mentioned that they can’t control the crime, but that the Commission can control the permitted fires. T. Ruskin explained that if the neighbors now see or smell smoke, they can call the Police or Fire Department with confidence and get the fires put out, because they are illegal. T. Ruskin then reiterated that the Commission cannot control illegal fires that happen during times when fires are not allowed.

Mr. Newburg asked how he would know if he sees a glow that it is a beach fire or the Phragmites burning, Mr. Newburg continued to state that, currently, when there is a fire he calls the Police. Mr. Newburg asked that if the Commission allows permitted beach fires during the nighttime, how will he know if the Phragmites are burning or not, T. Ruskin responded that the proposed monitor would be there. Mr. Newburg questioned if a teenager would suffice as the monitor, T. Ruskin responded that the monitor would be someone who the Police know.

Mr. Newburg asked what the monitor would do if the Phragmites burn. T. Ruskin replied that if the permitted fires are truly 100-ft away from the vegetation, that the weather is not very windy, the Fire Department allowed fires that evening, and the tide is “OK”, (T. Ruskin reiterated that the proposed monitor would be present to make sure fires are 100-ft from the vegetation), T. Ruskin continued that the Commission feels 100-ft is enough to protect the vegetation on a trial basis. Mr. Newburg responded that this was a lot of “ifs”. T. Ruskin explained the “ifs” would be approved by the proposed monitor, Thursday through Sunday.

An audience member asked if the wildlife is affected by smoke, Mr. Newburg responded that he did not know, and T. Ruskin responded that he was unsure. T. Ruskin continued to explain that this was not the Commission’s top concern, and that the Commission is concerned with kids being rowdy and trash. T. Ruskin continued that the concern of the Commission is protecting the “jewel” (Palmer Pond), the vegetation, and the protected species. T. Ruskin mentioned that he believes 100-ft is “good”, and T. Bandrowicz added that the requirement was originally for 75-ft, but was bumped to 100-ft, and mentioned that a resident with a permit for a beach fire would have to call the Fire Department before lighting, and it was reiterated that the call would have to be 3-hours beforehand to make sure it is allowable to have a fire that evening. T. Ruskin mentioned that it would have to be “pretty windy” for the fire to travel 100-feet to the vegetation. Mr. Newburg responded that if someone throws a log into a fire it shoots sparks up they could travel, and then mentioned that the 100-foot buffer would put the fires in the water.

T. Ruskin stated that the fires would have to be 100-ft from the vegetation, and if for some reason (tides) the permittee could not be 100-ft, then they wouldn’t be able to have a fire, and they could get their money back. Mr. Jones stated that the tides could be added in to the regulations, and mentioned that the tide dates could be monitored to regulate the fires appropriately.

T. Bandrowicz asked when Thursday was added in to the allowable days, Mr. Jones responded that originally it was to be the whole week. T. Ruskin mentioned that at the previous meeting, the days of allowable use were recommended to be limited. T. Ruskin continued to state that he is more concerned with having a monitor present, and added that just "some" monitoring is not enough.

Another audience member who was present asked what happens if the Police are busy and cannot make it to the beach to check, and then reiterated T. Ruskin's point from earlier that neighbors will not call on neighbors. The audience member also added that the monitor would need to be trustworthy and able to assert authority. Mr. Jones stated that he would want the monitor to call the Fire Department, T. Ruskin added that the Police, if called would get to the beach quickly and take the calls seriously. T. Ruskin added that the monitor would not enforce, but call the Police and that they (the Police) would enforce the rules.

An audience member stated that in the past there have been large and out of control bonfires, and mentioned that there would have to be an understanding of what a cooking fire is. T. Ruskin responded that there would have to be guidelines, and that the monitor would have to have training from the Fire Department on what to look for and watch out for. T. Ruskin mentioned the monitor would also be responsible for ensuring the fires are 100-ft from the vegetation, and confirming it is not too windy for a fire. T. Ruskin added that the Fire Department could give the monitor a list of things to look for when monitoring.

T. Ruskin explained that the Commission has the problem of figuring out the balance for the allowance of activities on the Towns "jewels", such as the beach. T. Ruskin stated that the Board of Selectmen are saying that residents want to enjoy the beach and enjoy cooking fires on the beach, but that the Commission needs to find a "happy medium". T. Ruskin stated that he personally is not happy with the current, two shifts of checks, but is willing to talk about having a monitor present.

Martha Dansdill, a Swampscott resident and former Board of Health chair, mentioned that she previously explored beach fires and received numerous complaints about the fires. Ms. Dansdill explained the complaints were about respiratory problems caused by fires. Ms. Dansdill explained that she had worked with someone from the Department of Environmental Protection (DEP) regarding open-burning fires. Ms. Dansdill mentioned that she was concerned about the concrete fire "things" previously used, and mentioned that the DEP is trying to move away from open-burning fires, and only allowing fires from January to May. Ms. Dansdill explained that there is a discrepancy that allows cooking fires, and that this is how this Notice of Intent is going through. Ms. Dansdill continued that every community from Sailsbury to Revere, do not allow fires, only Swampscott and Nahant allow fires (Ms. Dansdill added some communities allow hibachis). Ms. Dansdill continued that some communities allow fires occasionally and that certain fires are allowed for special purposes. T. Ruskin responded that smoke inhalation will be for the Board of Selectmen to consider, but that the Commission is concerned with the land.

Ms. Dansdill stated that she loves the vegetation and small dunes, and mentioned that she had sent (former Commission member) Mark Mahoney 12 pictures of the paths from the beach to the pond. Ms. Dansdill mentioned that she had recommended the Commission look into the human activity in the dunes and paths, and look into putting up signs about the dunes, or a drift fence. Ms. Dansdill explained that the beach fires will encourage activity in the dunes, and

mentioned she has seen little children use the dunes as bathrooms and explained some of the other activities she had seen take place.

T. Ruskin responded that when the Commission allowed beach fires at Fisherman's Beach, Swampscott was the only community around to allow fires, T. Ruskin added that the fires were allowed because they did not affect the vegetation, and the concrete fire "things" were not in the sand, and this is why the Commission felt they could allow the fires. T. Ruskin explained that the Commission is still very concerned about allowing fires at Phillips Beach, and mentioned the concern of people trampling the dunes has been around for a very long time.

T. Ruskin mentioned that the pond "for some reason" has been able to survive, and mentioned that the Commission does not want to shut the beach down, so they must put up with a little bit of use, but still concerned by the fires. Ms. Dansdill asked why go against the trend of decreasing open-burning, and not regulate the fires to only hibachis or small grills, Mr. Jones responded that hibachi and grills are harder to regulate in terms of use. Mr. Jones explained that hibachis and grills can be turned on and off at any time, and this would allow for a lot of cooking fires on the beach. T. Ruskin asked if grills and hibachis are currently permitted, Mr. Jones replied they are not, Ms. Dansdill added that some towns allow them. T. Ruskin stated that if the hibachis and grills were allowed, the neighbors would never know where the smoke is coming from, an audience member mentioned that there would be a different smell, Mr. Jones replied that his family has a hibachi that burns wood chips.

Mr. Jones stated that he understands the concern and what is at stake, and then reiterated that he believes that the people with permits would be trustworthy and watchful of others. Mr. Jones added that there would be reinforcement with the double checks from both the Fire and Police Departments. T. Ruskin responded that he believes 95% of people would follow the rules, but mentioned he is worried about the 5% who would not. T. Ruskin mentioned people could come from different areas and not follow the rules, an audience member added that neighboring community members would come because it is not allowed nearby. T. Ruskin reiterated his point about a need for a monitor. Mr. Jones and M. Tamborini added that a monitor would be present and call the Police Department. An audience member mentioned that the Police Department had mentioned previously that it was hard to control the beach fires. T. Ruskin clarified that the Police had mentioned it was difficult being at the beach all the time, T. Ruskin added that if the monitor was present, then they would be able to call the Police, who would respond immediately.

Mr. Newburg asked why the beach fires are being added to a fragile area of Town, T. Ruskin responded that the Board of Selectmen represent the wishes of the Town people, and that the Commission's mission is to abide by the Wetland Protection act, but to also allow Townspeople to enjoy the Town. T. Ruskin reiterated that the Commission needs to find a balance. T. Ruskin added that there needs to be more regulations and that looking at the regulations currently, he is not in favor.

T. Bandrowicz mentioned that the Board of Selectmen came forward with the Notice of Intent because the Townspeople wanted beach fires, but mentioned that there are also people who are concerned. T. Bandrowicz continued that the two sides to the issue are colliding, she continued to state that people want to have beach fires and if the regulations are in full accordance with the Wetlands Protection Act, then the fires would be "OK" on a trial basis for the summer, but that she does not want to see the sides "colliding".

T. Ruskin added that the Commission needs to find a balance, and feel comfortable that they are doing the best they can to protect the vegetation. Mr. Newburg mentioned that there was already a compromise, which allows fires at Fisherman's, T. Ruskin and T. Bandrowicz stated that the Commission was not previously concerned with Fisherman's, because it was not their purview. Mr. Newburg stated that fires at Fisherman's should satisfy the people who want beach fires, Mr. Jones and T. Bandrowicz responded that there have been requests from Townspeople for Phillip's as well.

An audience member asked if the hours for the fires could be reconsidered, and instead be 6pm-9pm, and mentioned the respiratory issues and that she cannot go near the beach due to smoke. The audience member added, if the fires are cooking fires, they could be during cooking hours. Mr. Jones added that this was a good point, but that some families do fires early and some like to cook late due to the nighttime allure. The audience member stated that she cannot go outside because of the smoke, and would like to breath salt air, not smoke. T. Ruskin asked the audience member if they could choose between 6pm-9pm Thursday through Sunday or 8PM-10PM Friday through Sunday. The audience member responded that many people cannot go to the beach due to the smoke and that many have to shut their windows. T. Ruskin mentioned that this is getting away from the Commissions purview.

Ms. Dansdill asked what the process of the Notice of Intent is, what happens if it is passed, and if it will go through the DEP, T. Bandrowicz responded that the Commission could vote tonight, T. Ruskin added, or continue it. T. Bandrowicz explained that the Notice of Intent does not go through the DEP, but that the Commission gives the Notice special conditions, T. Ruskin added that the public can call the DEP and appeal. T. Ruskin mentioned that the public can call and get involved, but that the DEP usually rules with what the Commission says, but mentioned a situation from the past when the DEP ruled against the Commission.

M. Lagerquist asked if the Notice of Intent was approved, when would the reports be submitted, T. Ruskin mentioned it could be by month, week, or how ever the Commission wanted. T. Bandrowicz mentioned they could add a special condition that the Commission could cancel the fires, and that a monitor must be present, possibly a Police Officer, Mr. Jones added it is a matter of operational costs. Mr. Jones explained that the Board of Selectmen would have to go to Town Hall and see what is in the budget. M. Tamborini asked if the monitor was made to be present in the special conditions, would this help with acquiring funding, Mr. Jones said it is up to if the Town feels confident. T. Bandrowicz asked if the fee paid by the applicant could be used to help fund, Mr. Jones responded that he did not know the rules involved with that.

T. Ruskin mentioned that personally, if there is a monitor, he would vote in favor. T. Bandrowicz asked how many hours, T. Ruskin stated that he is not concerned with the hours and mentioned that he likes the Friday to Sunday idea, but not against Thursday. T. Ruskin also added that he liked the condition that the Commission could pull the permit at any time. T. Bandrowicz mentioned that are a number of conditions that she would like added, including; signage, buckets or a kit, report at the end of the season, no bonfires, the monitor is trained by the Fire Department, there is a clean-up round done in the mornings after, and that the Commission can pull the permit at any time.

A audience member mentioned that if the Notice of Intent is passed, then they need a monitor. T. Ruskin asked if the Commission agreed, M. Tamborini stated that the monitor would appease the people with concerns, and agreed with using Town resources under the Commission's

purview appropriately. M. Tamborini continued that she does not know if this will help with the fires, as illegal fires will happen regardless, but if there are signs and increased presence, then maybe it will help. M. Lagerquist asked if there are fines for fires, T. Ruskin replied that there are.

T. Ruskin explained that with school being out for the summer, that on the weekends and possibly during the week there would be illegal fires, but if the fire happens after 10pm during the allowed days, then the neighbors can call the police because they know they are illegal. An audience member stated that she sees people bringing lots of wood down to the beach for fires, T. Ruskin stated that the monitor would have a set of rules and tell the permittees, and that the Fire Chief will know how to regulate the size of the fires.

T. Bandrowicz mentioned that if fires were allowed Thursday through Sunday 6pm-9pm then that is 16 hours, T. Ruskin explained the days could be amended. T. Bandrowicz asked if an increase in Fire and Police patrols would help, T. Ruskin mentioned that this did not “solve” the issue for him, and reiterated the concern that if an abutter sees smoke, how do they know if the fire is legal or not. T. Bandrowicz and T. Ruskin briefly discussed, T. Ruskin stated that the patrols happen hours apart. T. Ruskin and T. Bandrowicz briefly discussed possible issues and concerns along with benefits of allowing the beach fires.

M. Lagerquist asked if a monitor could be paid for 12 hours, Mr. Jones stated he couldn’t speak on the amount of hours, and that if the Commission feels it is needed, then the monitor can be a condition.

T. Ruskin asked if the Commission should vote on the Notice of Intent at the meeting, or have Mr. Jones come back with the changes.

Mr. Jones asked the Commission for a continuation to appease the concerns heard.

J. Simon-Lento mentioned the multiple changes, including the kits, size of fires, number of fires (four), placard system, the permit could be pulled, monitor present, and the tidal conditions.

MOTION : by T. Bandrowicz to continue MassDEP #71-308 to July 20<sup>th</sup>, 2017, seconded by M. Lagerquist, unanimously approved.

## **REVIEW EWING WOODS LAND SURVEY**

T. Bandrowicz then moved on to a land survey completed for Ewing Woods. T. Bandrowicz explained that Ewing Woods was surveyed and that the surveyor found some areas where abutters encroached on the land.

T. Bandrowicz explained and clarified the location of the woods to the Commission and the audience. T. Bandrowicz mentioned that it looks like the Church that abuts the woods, has a section of mulch that encroaches into Ewing Woods. T. Ruskin and T. Bandrowicz briefly discussed what the survey is showing and the different properties that abut the land and what specifically the survey stated is encroaching over the line (i.e., fences and yard areas). T. Bandrowicz mentioned that there is one abutter that has gone quite over the line into Ewing Woods.

T. Ruskin asked what happens now that the encroachment has been identified, T. Bandrowicz explained that she can arrange with the Director of Community Development, Peter Kane, to send letters to the abutters that are encroaching.

T. Bandrowicz explained that she did not think that this requires a vote, and T. Ruskin mentioned that the Commission would just like it cleaned up. An audience member asked for clarification on what the Commission was looking at. T. Ruskin explained. T. Bandrowicz mentioned some characteristics of Ewing Woods to the Commission. An audience member asked who deals with evasive plant species. T. Bandrowicz mentioned that the Commission does. T. Bandrowicz mentioned that there is hope that a group, such as “Friends of Marblehead”, who are volunteers, and go on trips and take care of the different lands would be created. T. Bandrowicz mentioned that she had spoken with a gentleman about invasive species control, and that she (T. Bandrowicz) would like to start a “Friends of Swampscott Conservation Land” to help get out to the different conservation areas and help clean them up.

T. Bandrowicz explained that she knows in Ewing Woods there is a lot of “burning bush”. An audience member asked who did the Ewing Woods survey, T. Ruskin explained that the Commission wanted a survey and used their funds to have the survey done, to confirm which properties were encroaching.

An audience member asked how the idea of the survey came before the Commission, T. Ruskin explained that the Open Space plan called for the conservation lands to be surveyed. T. Bandrowicz reiterated that it would be nice to have a “Friends of Ewing Woods” group, and mentioned that at the last Commission meeting an Ewing Woods management plan was just approved. T. Ruskin mentioned that in the past the Boy and Girl scout’s troops had helped out. An audience member asked if the Schools, specifically the science classes do anything to help. T. Bandrowicz mentioned that she has been trying to get the school involved with Foster Pond, T. Ruskin mentioned in the past some school classes had visited the conservation lands near the ocean or the pond, but that they have not participated in projects, such as clean ups.

An audience member asked if there was a penalty for the properties that had encroached on the Ewing Woods land, T. Ruskin explained the Town or Commission will likely ask the abutters to remove the encroachments. T. Bandrowicz mentioned that in the past, medallions have been placed on the conservation lands, delineating where the boundaries are. T. Bandrowicz continued that when the lands are made to look nicer, users will take more pride in the areas and help take care of them. T. Bandrowicz mentioned that she hopes this will be done with all the conservation areas, and that this can help cut down on vandalism.

## **LETTER OF REQUEST – LINCOLN HOUSE AVENUE**

The Commission then moved on to a letter of intent filed by representatives of a project at 51 Lincoln House Point, for a modification of the issued Orders of Conditions for MassDEP file #71-307 to remove the existing Pennsylvania fieldstone wall south of the proposed dwelling on the westerly lot line, and to replace it with a fieldstone wall more in keeping with other walls on the site. The letter also requests to cut one additional tree along the easterly property line.

T. Bandrowicz explained that there was a pre-construction meeting at the location. Peter Ogren, of Hayes Engineering, and representing the property owners was present at the pre-construction meeting, and the current. Mr. Ogren explained that the owners wish to remove a Pennsylvania fieldstone retaining wall, because it is not the same as the other one on site, and that the owners wish to make the new one similar. T. Ruskin asked for clarification, Mr. Ogren explained that the owners wish to make the wall like the other on the property. T. Ruskin asked if the material is currently rock and concrete, Mr. Ogren replied that it is. Mr. Ogren mentioned that they also wished to remove a tree, but that the owners spoke with the neighbors and that they will not be removing, but pruning the tree.

T. Ruskin asked if the height on the wall is changing, Mr. Ogren replied it is not. J. Simon-Lento asked about a fence on the property. Mr. Ogren explained he is not sure if the fence is on the public walkway, and mentioned he believes it is on the right of way. M. Tamborini mentioned that the wall will be hard to replace with the fence, Mr. Ogren explained they will access the wall from the opposite side. T. Ruskin asked if the depth of the wall will stay the same, Mr. Ogren mentioned that it depends, but it would not be substantially deeper, and mentioned the wall is founded on ledge, and would be founded again.

T. Bandrowicz mentioned that she is in favor of an amendment to the Orders, and may add a special condition regarding the disposal. T. Ruskin asked if there are currently special conditions regarding disposal, Mr. Ogren explained there usually is. M. Tamborini added that the fence is very close.

T. Ruskin asked T. Bandrowicz to research if this is a special condition, T. Bandrowicz stated it is, and T. Ruskin clarified. The Commission members then briefly discussed the process of amending the conditions. Mr. Ogren asked if the project needs an amended Orders, and mentioned that the architect didn't put this on the plans, to fill in the wall, and that this is what lead to the request, that the architect pointed out the change in material. Mr. Ogren asked if it was possible to just let it show in the minutes that the change was allowed. M. Tamborini clarified, and asked if Mr. Hayes just wanted the minutes to reflect the change instead of an amended Orders, Mr. Ogren agreed. T. Ruskin stated that if there is no special condition for disposal, then the owners would be responsible for appropriate disposal, T. Bandrowicz asked for clarification. Mr. Ogren explained that there is currently a special condition about not leaving material on the beach, T. Ruskin stated that there is a difference between leaving stuff on the beach and removing, and mentioned the Commission does not want blasting. T. Bandrowicz mentioned this would be reflected in the original Orders.

T. Ruskin mentioned some possible conditions to add, T. Bandrowicz mentioned that she wants this to be clarified so that something by other than what is being proposed does not happen.

Mr. Ogren mentioned there is an ability to vote on minor modifications, T. Bandrowicz mentioned she does not believe this to be minor. M. Tamborini asked the length of the wall, Mr. Ogren replied 30 feet.

T. Ruskin asked the timeline, Mr. Ogren stated that this wait would not hold up the entire project, T. Ruskin mentioned that he is sympathetic to holding up the job, Mr. Ogren reiterated that this piece is not urgent. Mr. Ogren mentioned that the Commission has been understanding in the past, and that the house is gone and the debris fence is up.

T. Bandrowicz clarified that this is not the seawall, M. Tamborini agreed and reiterated that the wall is 30-feet long. Mr. Ogren clarified that the wall is up above the water, but in the buffer. T. Ruskin asked if the wall will be concrete, Mr. Ogren stated yes, but it is Pennsylvania Shale stone, T. Ruskin reiterated that it has concrete in it.

T. Bandrowicz mentioned that the special conditions only mentioned the sea wall, and that it seems appropriate to amend the Orders of condition. The Commission briefly discussed the process of this. T. Ruskin asked for further clarification, T. Bandrowicz mentioned that the proper thing to do is to amend.

T. Ruskin stated that the concrete material makes him want some specific things to be done.

## **DISCUSSION – EWING WOODS SURVEY**

T. Bandrowicz mentioned that she had spoken with P. Kane and that P. Kane had mentioned that there could be letters from the Town sent.

**MOTION** : by T. Bandrowicz to tell P. Kane to arrange for someone in Town Hall to send letters to abutters who are encroaching on Ewing Woods property on survey recently submitted, seconded by J. Simon-Lento, unanimously approved

## **DISCUSSION – NORTHSTONE BEACH CONCRETE STAIRS**

T. Ruskin stated that for the sake of time, the discussion regarding stones at Northstone beach will be discussed at the Commissions next meeting in July.

## **REVIEW AND APPROVE MINUTES FROM PREVIOUS MEETINGS**

The changes that were brought up at the beginning of the meeting were discussed. M. Tamborini mentioned that she was not present at the previous meeting, and it was discovered that M. Laguerquist had been improperly labeled as M. Tamborini.

**MOTION** : by T. Bandrowicz to accept the minutes with the changes made by T. Bandrowicz and changing M. Tamborini to M. Laguerquist, seconded by M. Tamborini, unanimously approved.

**MOTION** : by T. Ruskin to adjourn, seconded J. Simon-Lento, unanimously approved, the meeting adjourned at 9:38 PM.

Andrew Levin

Assistant Town Planner