

Minutes
Herring River Executive Council (HREC)
Thursday, October 24, 2019
Wellfleet Fire Station Training Room
Wellfleet, MA

Members Present: Helen Miranda Wilson, Janet Reinhart, Dan Hoort, Brian Carlstrom, Geoffrey Sanders

Others Present: Carole Ridley, Bill Biewenga, Tim Smith, Martha Craig, John Portnoy, Christine Odiaga, Carole Ridley, Steve Spear, Karen Larocque, Gail Ferguson, Beth Chapman, Dave Koonce

Welcome and Introductions: Members of the HREC and other meeting participants introduced themselves.

Approval of Minutes: Helen Wilson moved to take a vote on the minutes of May 16, 2018. Janet Reinhart seconded the motion, and the motion to vote carried 5-0-0.

Dan Hoort then moved approval of the minutes of May 16, 2018, and Helen Wilson seconded the motion. The motion carried 5-0-0.

Review of Operating Procedures: The HREC reviewed proposed modifications to operating procedures to reflect the new Memorandum of Understanding between the Town and Cape Cod National Seashore (MOU IV). Carole Ridley had included in the meeting packet of documents the previously adopted "Policies for Herring River Executive Council Business," approved June 7, 2017, with suggested modifications shown in track changes.

Brian confirmed that the policies document is intended to be a separate document that complements MOU IV.

Janet Reinhart suggested approval by consensus of the Policies for Herring River Executive Council Business with the suggested revisions provided for discussion on October 24, 2019. Helen Wilson, Geoff Sanders, Brian Carlstrom and Dan Hoort all agreed.

Update on the Restoration Project: Carole Ridley provided the HREC with an update on project-related activities. Her presentation covered the following:

Project Need:

Several current problems underscore the need for the project, including:

- Herring River is currently classified as "impaired waters" out of compliance with federal Clean Water Act standards,

- The state has designated the Chequessett Neck Road dike as a possible cause of outflowing bacterial-contaminated water. The state has designated the structure as a “point source” of bacterial contamination. John Portnoy agreed.
- Large areas of marsh have subsided, and deteriorated peat has generated acid sulfate soils, and
- Low dissolved oxygen and acidic waters contribute to degraded aquatic habitat.

Permitting and design work is underway to implement Phase 1 of restoration. Phase 1 encompasses 570 acres of restoration area.

- All of this land is currently jurisdictional wetlands,
- 95% of this area is owned by the Cape Cod National Seashore.

Engineering and Design:

Engineering and design work has proceeded for all Phase 1 elements:

- The Chequessett Neck Rd (CNR) water control structure,
- The Mill Creek water control structure,
- Elevating low-lying portions of Pole Dike Road and installing tide gates,
- Elevating low-lying sections of Old County and Bound Brook Roads and installing upgraded culverts,
- Removing the portion of High Toss Road that crosses the estuary and blocks tidal flow, and elevating an upland portion of that same road,
- Completing flood protection measures at CYCC and specified private properties.

Permit level design plans are either completed or in process for each of these elements.

Permitting:

Permitting work is also underway. The Project has secured approval of its federal and state Final Environmental Impact Statement/Report in 2016. Earlier this year, the Town received a limited scope decision from the Cape Cod Commission, and intends to submit a Development of Regional Impact (DRI) application to the Commission this fall. Once the DRI application is submitted, there will be a public hearing scheduled.

Applications to MassDEP, and US Army Corps of Engineers are in development for submission, possibly early in 2020.

It was noted that the Cape Cod National Seashore/National Park Service will be the permit applicant for infrastructure elements they will own and construct on federal property, including the Mill Creek water control structure.

Funding:

Funding is in place for permitting and design. The current estimate of \$47 million

covers construction of all major water control infrastructure, mitigation and the first five years of implementation. The project has a commitment of \$11 million for construction from the state Capital Improvement Program. Cape Cod National Seashore is seeking \$4 million to construct the Mill Creek water control structure. The project team is in discussions with federal agencies and non-governmental sources regarding the balance of construction funding needed.

Outreach:

There have been numerous outreach efforts to keep stakeholders informed. These include:

- Newsletters mailed to households and property owners in Wellfleet and Truro,
- One on one meetings with property owners and stakeholders,
- Coordination with local planning efforts, and
- Technical support to the Herring River Stakeholders Group.

To date the project has generated strong support locally and across the region.

Janet Reinhart suggested hosting small groups for coffee, in a more informal setting. She also suggested broader distribution of the short videos created by the Friends of Herring River.

Monitoring and Adaptive Management:

Monitoring and Adaptive management work is ongoing. This includes extensive baseline monitoring, development of the Adaptive Management decision-making tools, and development of multiple resource management frameworks and policies that will be employed through the adaptive management process.

Benefits of Restoration:

The benefits of tidal restoration, include:

- Vastly improved water quality and habitat for fish, shellfish and coastal wildlife,
- Re-opening and expanding harvestable shellfish beds which is a benefit to the local economy and help to sustain jobs in that industry,
- Restoring tidal marsh, and the many benefits provided,
- Removing barriers to fish passage,
- Reconnecting the river system to Cape Cod Bay and the Gulf of Maine,
- Improving views and recreational opportunities,
- Reducing mosquito breeding habitat,
- Generating spending in the local economy from construction and implementation of the restoration,
- Road improvements alone are expected to save Wellfleet millions in needed road repair.

Report from the Herring River Stakeholders Group Chair:

Bill Biewenga, Chair of the Herring River Stakeholders Group (HRSG), presented an overview of recent activity.

The HRSG met on June 21, 2018, July 25 2018, October 11, 2018, and June 19, 2019. All meetings are posted public meetings. Bill reviewed the topics discussed at each meeting, including administrative matters, presentations about adaptive management, water surface and groundwater modeling, and risk management. Meeting summaries, presentations and other materials discussed at the meetings are posted on the Friends of Herring River website on the HRSG page.

He noted that the HRSG is working to develop new ways for representatives to reach out to the constituent groups they were appointed to represent. They also hope to meet more regularly every two months or so to address aspects of the project. Bill presented a list of topics that the HRSG had developed, which serves as its initial work plan.

Bill Biewenga raised the fact that HRSG appointments expired in October 2019 and sought the HREC's direction on how they would like to handle it. He suggested coming up with a structure of staggered terms. Carole noted that the current HRSG charge mentions that the members would be appointed or re-appointed for two-year terms.

Helen Wilson asked if there was a Vice Chair to stand in if the Chair is unavailable. Bill Biewenga told her there is not a Vice Chair currently. Carole Ridley noted that the HRSG Chair is appointed by the HREC, and so they could also choose to appoint a Vice Chair.

Janet Reinhart recommended that the HREC agree by consensus that the HREC should appoint a Vice Chair, with recommendations for such an action at the next HREC meeting, and that this would be reflected in the HRSG charge. All HREC members agreed to this recommendation by consensus.

Janet Reinhart recommended that the HREC agree by consensus that the HRSG members be asked to volunteer for re-appointment for either one-year or two-year appointments, so there could be staggered terms. Dan Hoort added that the appointment of all current members would be extended through December 31, 2019, and the re-appointments to staggered terms would take place effective January 1, 2020. Thereafter, all HREC members would be appointed or re-appointed to two-year terms. All HREC members agreed to these recommendations by consensus.

Dan Hoort asked about the status of the Cape Cod National Seashore Advisory Council representative. Brian Carlstrom reported that the Advisory Council remains

suspended. Helen Wilson recommended that the Advisory Council representative be renamed the Cape Cod National Seashore Community Representative, so that the current appointee could continue to serve on the HRSG. All HREC members agreed to this recommendation by consensus.

Carole Ridley asked Bill Biewenga if there were any other issues he wanted to highlight. Bill mentioned that the HRSG had a lengthy discussion about risk management. Some of the questions raised included: what would happen if the existing tide gates failed, would insurance cover any claims? If property owners thought something went wrong with a well, whom would they contact?

Dan Hoort responded that under the town's current insurance coverage, any claims for damages caused by failure of the existing tide gates in the Chequessett Neck Road dike would not be covered.

Helen Wilson noted that these are questions for implementation. Wilson noted that Phase 1 included two phases; a construction phase during which contractors are bonded and insured, and an implementation phase during which adaptive management is to be implemented as permitted to protect against potential adverse impacts. John Portnoy agreed. Janet Reinhart noted that based on adaptive management and the small amount of property involved, the scope of potential claims is reduced.

Steve Spear also noted that a detailed ground water study has concluded that there are no major well impacts, and the few property owners that need to have a well moved have already agreed.

Steve Spear also mentioned that some have raised concerns about sedimentation of shellfish beds, but the science does not support this. Also, there is extensive baseline monitoring underway to characterize what happens with sediment movement today. Helen Wilson noted that the dredging of Wellfleet Harbor is a major project and yet none of these questions are asked about that project.

Public Comment: There was no public comment.

Wrap-up and Next Steps:

The HREC members all agreed to the following future meeting dates and also agreed that the meetings should be held at the Wellfleet Council on Aging facility:

Thursday, January 16, 2020, 3pm
Thursday, April 16, 2020, 3 pm
Thursday, July 16, 2020, 3 pm

The meeting was adjourned at 3:58 pm.

Submitted by Carole Ridley, Coordinator
Approved by the HREC on January 16, 2020