

Conservation Commission Public Meeting – July 27, 2016 Minutes

Time: 7:30 PM – 8:15 PM

Location: Police Station

Members Present: Tom Ruskin; Robert Salter; Marc Andler; Nelson Kessler, Jennifer Simon. and Toni Bandrowicz

Members Absent: Monica Tamborini

Others Present: See attached sign-in sheet

The Conservation Commission Public Hearing was called to order at 7:30 pm.

Before the Commission was a continuation of the public hearing held on July 14, 2016 regarding the Town of Swampscott's **Request for Determinations of Applicability** under Wetland Protection Act (WPA) to a proposed permit program for cooking fires on two public beaches in town: Fisherman's Beach and Philip's Beach.

If the Commission issues a **Negative Determination**, that means that the proposed site or activity is not subject to the WPA and not under the Commission's jurisdiction.

If the Commission issues a **Positive Determination**, that means that the proposed site or activity is subject to the WPA and is under the Commission's jurisdiction and the applicant needs to submit a Notice of Intent (NOI).

If the applicant submits a NOI, the Commission will then determine whether the proposed work meets or can be conditioned to meet the performance standards of the WPA regulations. Based on that determination, the Commission will write and issue an Order of Conditions either permitting or denying the project.

As noted, a public hearing on the RDA was held on July 14th. The Commission made some general observations at that meeting but also did not rule on the RDA, in effect taking the matter under advisement.

Ms. Bandrowicz presented a brief review of the testimony at the public hearing on July 14th. (A more detailed summary of that meeting is provided in the minutes of that date, which were approved later at the July 27, 2016 meeting):

The town had proposed placing concrete fire rings on the beach, an activity the DEP found was not allowed under the WPA. The town then developed a revised plan for beach fires, as spelled out in the RDA and the attachments to it. The new plan is to issue a limited number of permits for fires on the beach. This similar to permit programs of certain Cape Cod towns. Speaking for the town, Town Administrator Younger noted that the police and fire department would check to make sure people having fires on the beach had permits, and public works will review the sites in the morning to make sure it is cleaned up. The Town, he explained, planned to run the program through the summer, and then evaluate it in September to see if changes were needed. Both Mr. Younger and Fire Chief Breen stated that the purpose of the program was to control non-permitted fires.

There was also opposition voiced to the permit program at the July 14th hearing. In particular, concerns were raised with the conservation area (Palmer Pond) that abuts Philips Beach, and possible damage to that area from smoke and embers, as well as the flammability of the phragmites that surround the pond. Also raised was a concern over the potassium hydroxide resulting from wood ash mixing with water and possibly adversely affecting aquatic life. There was also testimony that, having such a permit system, will make illegal fire situation much worse, noting that there were a lot less illegal fires when there was a ban on beach fires. There was also concern over the ability of the police/fire dept. to monitor what happens at Philips beach, or to deal with a fire at that beach. With Philips Beach there is a huge visibility issue, fires go on all night, but police can't see what is happening as at Fisherman's Beach. Chief Breen did not dispute this, and in fact agreed with it.

There was less concern about Fisherman's beach which is more easily monitored, and has no conservation land, or dune vegetation for that matter, nearby.

A key concern of both the town in promoting the permit program, and the residents in opposing it, is prevention of illegal beach fires.

Following this summary of the July 14th meeting, the Chair asked if any of the Commissioners had further comments. Mr. Kessler noted his opposition to any fires on the beaches, as fires lead to alcohol consumption which is illegal, and potential for broken glass which can injure beachgoers.

The Chair then provided the public the opportunity to speak, noting that only new information should be presented, not restatements of information provided at the July 14th meeting. Martha Dansdill from the town Board of Health read the findings of a survey she conducted of the regulation of beach fires by various Northshore towns; the majority prohibited such fires (see attached below).

Another resident noted the increased risk of fire because of the current drought.

In response to Mr. Kessler comments, another resident noted that drinking occurs, even without fires. Mr. Ruskin clarified that drinking of alcohol and broken bottles is not within the purview of the Commission.

The Commission then turned to the RDA, indicating it would consider each beach separately.

Ms. Bandrowicz summarized that, at the July 14th meeting, the Commission first considered whether the area in question – Fisherman's and Philip's beaches – are within the jurisdiction of the WPA. Under the applicable regulations, they are specifically listed as an Area Subject to Protection under the WPA.

The question is then whether the activity – beach fires – is subject to the WPA which turns on whether the activity “*will remove, fill, dredge or alter that area.*” Under the WPA regulatory definition of “altering” some examples are provided, including “destruction of vegetation.”

The Commission then consider the RDA as it applies to fires on Fisherman's Beach. Mr. Ruskin suggested that, based on the information provided at the July 14th meeting about there being a lack of vegetation at Fisherman's Beach coupled with the ability of the town officials to more easily monitor the activity at that beach, and with the safeguards provided by the town regulations on beach fires, that beach fires on Fisherman's

Beach would not alter the beach. After a brief discussion, a motion was made and seconded to issue a negative determination with respect to fires on Fisherman's Beach. The four members of the Commission present at the July 14th meeting (Mr. Ruskin, Mr. Andler, Mr. Salter, and Ms. Bandrowicz) voted in favor of the negative determination, as did Ms. Simon. Mr. Kessler voted against the negative determination. The vote carried for a negative determination.

Next, the Commission considered the RDA as it applies to fires on Philips Beach.

Ms. Bandrowicz suggested, that since there is vegetation as well as a conservation area abutting the beach, there is a chance – especially given the difficulty in monitoring activities at this beach -- that the fires could damage the dune and conservation area vegetation. In addition, as noted by the town officials themselves, dealing with beach fires at Philips Beach would be difficult. The argument that allowing beach fires in general would increase the likelihood of there being more illegal fires was also persuasive. After a brief discussion, a motion was made, and seconded, for finding that beach fires could alter the resource area, and therefore a positive determination on the RDA as it relates to Philips Beach be issued. What this means is that, if the town wishes to pursue beach fire permit program at Philips Beach, it will have to submit a NOI. The vote in favor of the positive determination was unanimous.

Although the town can submit a NOI for beach fires at Philips Beach, the Commission did question whether, even with the town's permit program regulations, sufficient safeguards would be present to protect the vegetation at Philips Beach and the abutting conservation land from possible fire damage and whether the Commission could in fact issue an Order of Conditions permitting the fires.

Clarification was requested by the town as to whether hibachi charcoal grills for cooking would be allowed. The Commission noted that it was open fires that were the issue, not such grills.

The Commission next approved the minutes of the July 14, 2016 public hearing with the edits provided by Mr. Andler.

The Commission adjourned at 8:15 PM.

BEACH FIRE SURVEY – NORTH OF BOSTON

1) Plum Island

No fires, Federal refuge (spoke to Refuge Office)

https://www.fws.gov/refuge/Parker_River/visit/rules_and_regulations.html

“...Camping and fires (of any type, including charcoal grills and gas stoves) are not permitted anywhere on the refuge.”

2) Crane Beach

No open fires, no charcoal fires for cooking. Small camp-style propane grills allowed. Rules provided at gate by attendants/rangers. (spoke to attendant)

3) Salisbury Beach

No Fires, no cooking of any kind. (spoke to Town of Salisbury)

<http://www.salisbury-beach.org/salisbury-beach.html> “...No, no, no - pets, motor vehicles, camping, floatation devices, alcohol, glass containers, or fires are permitted on the beach.”

4) Gloucester Beaches

<http://www.gloucester-ma.gov/index.aspx?NID=752> “...Open fires of any type are prohibited on city beaches and Stage Fort Park. Cooking is allowed with either gas or charcoal at Stage Fort Park only.”

5) Singing Beach, Manchester

<http://www.manchester.ma.us/Facilities/Facility/Details/Singing-Beach-11>

“...No open fires permitted. Grill fires by fire department permit only after 5 p.m.”

6) Lynn Shore, Nahant Beach, King’s Beach (Lynn), Revere Beach Reservation

“There are no open fires allowed on any DCR beaches. We allow gas grills by permit only, in certain day use areas, but not on the beach. (email from Stacey Jeffrey, DCR)

7) Marblehead Public Beaches

No fires allowed on public beaches, gas grills permitted. (spoke to Marblehead Recreation and Parks Department)

<http://ecode360.com/10439085> (Marblehead by-laws) "...No person shall, on any public park, playground or recreation area [beach]...make a fire, ... except with written authority from the Recreation and Parks Department."

8) Beverly Beaches

Beach fire permits through the Fire Department. Seldom are they requested. Single occasion celebratory fire permits requested by Recreation Department held once in a while. (Spoke to Beverly Recreation Department.)

9) Salem Beaches

No fires on beaches, grills ok. Info found on www.Salem.com website and DEP website. (Spoke to Salem Fire Department)

10) Nahant

Permit fires, \$25 non-refundable, \$100 deposit, 10 person limit. 7 Short Beach, 7 Tudor Beach, 5 Black Rock Beach, no permits on holidays, 2'x3' dimension. Fires not designated for cooking purposes, per MassDEP open burning regulations. (Spoke to Nahant Town Hall)

July 2016, compiled by Martha Dansdill, tj_dansdill@hotmail.com

TOWN OF SWAMPSCOTT
 CONSERVATION COMMISSION
 Public Hearing
 Date:

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