

Minutes
Herring River Executive Council (HREC)
Monday, January 9, 2017
Wellfleet Council on Aging
715 Old King's Highway
Wellfleet, MA
3:00 – 5:00pm

Members Present: Helen Miranda Wilson, Dennis Murphy, Paul Wisotzky, Robert Weinstein, Dan Hoort, Rae Ann Palmer, George Price

Others Present: Margo Fenn, Tim Smith, Don Palladino, Gary Joseph, Steve Spear, Peter Herridge, Nita Tallent, Kathy Tevyaw, Martha Craig, Christine Odiaga, Carole Ridley, Judith Stiles, Ron Gabel, David Koonce, Susan Baumgarten, Bari Hassman, Jennifer Shannon, Ernie Bauer

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

Restoration Project Update: Tim Smith, Restoration Ecologist at Cape Cod National Seashore gave the HREC a presentation on the Herring River Restoration Project. He described the Project area, noting that while the historic floodplain contains about 1,100 acres, that the proposed intertidal restoration area comprises about 890 acres. He explained that the Chequessett Neck Road (CNR) dike greatly reduced tidal flow into the river, reducing the tide range to approximately two feet, as opposed to the natural tide range of over ten feet just downstream in Wellfleet Harbor. The effects of this have been poor water quality, acidification, loss of estuarine vegetation, and degraded habitat for fish and shellfish.

The Restoration Project proposes to carefully remove tidal restrictions so as to allow incremental restoration of tides, salinity, water quality and plant and animal communities. Some of the benefits of restoration include improved water quality, expanded habitat for clams and oysters, improved habitat for many fish species such as striped bass and flounder, improved recreational access for boating, hiking and fishing, natural control of mosquito breeding, improved coastal resiliency in the face of sea level rise and reduced methane emissions.

Smith described the key components of the Restoration Project as set forth in the Final Environmental Impact Statement/Report (FEIS/EIR). These include removal of tidally restrictive structures at Chequessett Neck Road, High Toss Road and numerous upstream culverts. He reviewed the design plans for a new CNR bridge, which would allow for a much wider opening (165 feet) with adjustable tide gates to incrementally restore tidal flow. There are also a number of actions proposed to prevent impacts to low-lying roads and structures, including building a dike with tide gates at the mouth of Mill Creek, elevating the Chequessett Yacht and Country Club (CYCC) golf course, installing a tide gate at Pole Dike Creek Road, raising portions of Old County, Bound Brook and Pole

Dike Creek Roads, and providing on-site flood prevention measures for privately owned structures.

There are also a number of secondary management activities that may be needed such as removal of woody vegetation in the flood plain, restoring the natural sinuosity of the river channel, dredging accumulated sediment and applying sediment to build up subsided marsh surfaces. These activities will be directed by the adaptive management plan with careful monitoring. The Herring River Restoration Committee (HRRC) is developing a phasing plan for Project activities that will be proposed to permitting agencies later this year. Next steps include finalizing engineering design plans for Project infrastructure, developing the adaptive management plan, preparing permitting applications and starting the fundraising process.

The HREC briefly discussed how monitoring will be handled over time. The Adaptive Management Plan will set forth the monitoring protocols for a whole suite of different factors such as surface water elevations, salinity, water quality, vegetation changes, fish passage and related measures. The Project will provide funding for monitoring efforts during the adaptive management phase, and the National Park Service also has an active, long-term monitoring program in place.

Review of MOU III: Robert Weinstein reviewed the section of the recently signed Memorandum of Understanding (MOU III) that establishes the Herring River Executive Council. The key provisions are as follows:

“2. The Town of Wellfleet, the Town of Truro and CCNS agree to cooperate on implementation of the Detailed Restoration Plan, as set forth below. Representatives of the Town of Wellfleet, the Town of Truro and CCNS will form an intergovernmental team to direct the Restoration Project consisting of the following elements:

- a. The Towns and Cape Cod National Seashore shall form a Herring River Executive Council (HREC) to: coordinate project implementation activities; serve as a forum for establishing and providing policy direction; review and approve the Adaptive Management Plan; monitor progress; and ensure compliance with laws, policies and regulations of member towns and the CCNS, project permits and agreements and other applicable legal regulations. The HREC shall meet quarterly or as needed and shall consist of seven members as follows:*
 - 1) Two members of the Wellfleet Board of Selectmen and the Town Administrator;*
 - 2) Two members of the Truro Board of Selectmen and the Town Administrator;*
 - 3) The Superintendent of Cape Cod National Seashore or his/her designee(s).*

The HREC shall operate by consensus decision-making (agreement among the two towns and CCNS), recognizing that the towns and Cape Cod National Seashore all have obligations to their own established laws, policies and regulations. In the event that there is dissent among the representatives of one of the towns, they shall determine

among themselves the town's position. The HREC shall operate in Open Meetings according to MGL Chapter 30A."

The HREC discussed how to conduct business by consensus-and whether voting would be needed. Since there are three equal partners represented on the HREC (each with obligations to their own laws, policies and regulations), both the towns and Cape Cod National Seashore must agree in order to take actions. The HREC will get reports and recommendations from the HRRC about potential future actions. Helen Miranda Wilson noted that the HREC must have a recommendation from the HRRC prior to modifying tide gate openings. While not all members will always agree with every proposed action, all three parties must be willing to go along before an action can be implemented. Any of the parties can request additional information before moving forward.

The HREC discussed the role of Friends of Herring River (FHR) in the Restoration Project. Don Palladino noted that FHR was established as an independent non-profit organization in 2009 to provide public education and outreach regarding restoration of Herring River. FHR has received several grants in recent years to help with engineering design, scientific studies and related work.

Margo Fenn noted that MOU III provides that *"the Towns or Cape Cod National Seashore may engage the services of an independent organization to undertake some or all of the responsibilities and functions outlined below, in coordination with HRRC:*

- a. Provide and manage professional level technical and administrative staff necessary for the completion of all project elements;*
- b. Compete for, receive, and administer available project funding from state, federal, and private sector sources;*
- c. Prepare and submit permit applications, ensure compliance with all permit conditions, noticing requirements, and other environmental compliance obligations;*
- d. Prepare and advertise bid solicitation packages, manage and oversee competitive bidding processes, select and manage contractors, oversee construction activities, pay invoices, and comply with funder and contractor stipulations subject to the provisions of MGL Chapters 30, 30B and 149, if applicable;*
- e. Facilitate agreements with affected landowners;*
- f. Conduct operations and maintenance of public infrastructure in cooperation with the towns and CCNS as stipulated in any contract agreement(s);*
- g. Implement the adaptive management plan under the technical direction of HRRC;*
- h. Perform public outreach and education activities."*

The Project partners (the Towns and Cape Cod National Seashore) could engage Friends of Herring River to undertake some or all of these tasks in the future, but that has not yet been decided.

Meeting Logistics and Coordination: The HRRC discussed how to conduct its business and facilitate public notice of meetings, preparation of minutes, and related matters. The group agreed that it would be helpful to have a facilitator to run the

meetings and handle the meeting logistics (i.e. agendas, minutes, etc.). Margo Fenn agreed to facilitate the meetings and prepare agendas and minutes, as part of her administrative responsibilities with Friends of Herring River. Rae Ann Palmer suggested that the two town managers, Don Palladino and Margo Fenn meet to develop ground rules for HREC business. This will include designating a centralized place for posting of agendas, minutes, and other meeting materials, and establishing an email address for HREC business. The HREC also discussed setting aside some time in each of its meetings for public comment, but members noted that discussion of any issues raised by the public that are not on the agenda, should be deferred until a future meeting so that topic can be posted on the agenda.

The HREC suggested that upcoming meetings be scheduled for the first week of the month, if possible, preferably on a Wednesday or Thursday. However, the group agreed on its next meeting date: Thursday, March 9, 2017 from 1:00-3:00 pm.

Public Outreach: Carole Ridley provided the HREC with an overview of public outreach activities that FHR and the HREC have undertaken in recent months. Public outreach has been a cornerstone in the development of the Herring River restoration effort as it has moved from idea to concept, from concept to plan, and now from plan to implementation. This commitment to engagement has involved a lot of people, resources and expertise over the years including:

- 50+ public meetings and presentations with community stakeholders to describe the need for the project, explain potential benefits, explore design alternatives, address potential impacts issues and, importantly, gather feedback.

- 100+ one-on-one meetings property owners to discuss their questions and concerns about the project and to seek permission for survey work on specific properties. This work is on-going.

- 125+ technical meetings with technical staff from the towns, CCNS, MassDER, NOAA, USFWS and NRCS to review technical studies and develop project plans for the environmental assessments. During this time project plans and environmental reports were extensively reviewed by state and federal agencies, presented at public hearings and were open for public comment.

As the project moves into the permitting, fundraising and implementation phase, the Project team will continue to meet with interested community stakeholders and undertake additional outreach efforts designed to inform, educate and engage local residents, business owners and property owners. These on-going efforts include:

- Scheduling update presentations with town committees and community organizations
- Co-hosting a forum in concert with the Wellfleet Shellfish Advisory Board
- Co-sponsoring special programs with MA Audubon, Center for Coastal Studies, and other regional organizations
- Hosting informational meetings as needed to discuss key issues, ie., upcoming forum on shellfish co-sponsored with Wellfleet SAB
- Developing/updating and distributing informational materials: brochure, e-newsletters, fact sheets, and videos.

- Considering a town-wide informational mailing, to include a letter and brochure, which we would like to hear your thoughts about
- Keeping the media informed of pertinent Project information
- Posting reports and documents to FHR website

HREC members discussed the process for responding to questions about the Project. Friends of Herring River has lots of information about the Project on its website, and the FHR Board members and staff are available to answer questions, as are members of the HRRC.

Potential Policy Issues for Future Discussion: The HREC briefly reviewed a list of issues for upcoming meetings, including:

- Preparation and Submission of Project Permit Applications
- Project Fundraising
- Adaptive Management
- Legal Review and Coordination
- Establishment of a Stakeholders Group

Helen Miranda Wilson commented that she would prefer to do direct outreach to interested stakeholder groups, rather than relying on a committee to represent these interests. Dennis Murphy noted that Wellfleet would likely have long-term maintenance responsibility for some of the main Project infrastructure, such as the CNR dike and tide gates. He said that Wellfleet taxpayers would have to decide about matters that have financial implications for the Town. Margo Fenn noted that MOU III includes a provision about this: Section 6. b. states that: *“This Memorandum of Understanding and the obligations of the Towns hereunder shall be subject to the availability of funding and staff, and nothing herein shall be construed as binding the Towns to expend in any one fiscal year any sums in excess of those appropriated by Town Meeting and made administratively available for the purpose of this Agreement for the fiscal year.”*

Next Steps: The HREC agreed on the following next steps:

- Margo Fenn will prepare draft minutes and circulate them to the HREC members for review.
- Margo Fenn, Don Palladino, Rae Ann Palmer and Dan Hoort will work together to draft a set of operating ground rules for the HREC.
- The HREC will meet again on Thursday, March 9, 2017 at 1:00 pm. Margo Fenn will confirm a location for that meeting.

The meeting was adjourned at 5:10 pm.

Materials reviewed in the meeting:

- MOU III

