

Nauset Estuary Stakeholder Group

August 6, 2020 Meeting

MEETING MINUTES

**Members Present:**

**Orleans Representatives:** Charlie Carlson, Kevin Galligan, Mark Mathison, Nate Sears, Steve Smith, John Kelly.

**Eastham Representatives:** Jacqueline Beebe, Harry Swift, Shana Brogan, Jon Granlund.

**Members Not Present:** Trent Sullivan (Eastham), Silvio Genao (Eastham), Alexander Cestaro (Eastham).

**Others Present:** Leslie Fields and Beth Gurney of Woods Hole Group.

Charlie Carlson called the meeting to order at 5:02PM.

**Group Member Contact Information**

Charlie Carlson requested that group members contact him with their current contact information to be included on a member list to be distributed.

**Approval of Minutes**

July 9, 2020

**Jon Granlund moved to approve the minutes, Steve Smith seconded the motion.**

**The minutes of July 9<sup>th</sup> were approved by unanimous vote.**

July 25, 2020

**Jon Granlund moved to approve the minutes, Steve Smith seconded the motion.**

**The minutes of July 25<sup>th</sup> were approved by unanimous vote.**

**Revisions to first Memorandum of Understanding (MOU)**

Charlie Carlson said he would provide date revisions to the initial MOU as soon as possible for Select Board approval and signing.

## **Special Review Procedure (SRP), review draft letter**

The Group discussed revisions to the letter, including:

- Stating a range of dredge volumes, to be determined based on a future determination of the channel width.
- State and federal members would not be voting members of the NESG, but would be representatives of their agencies, and so the only voting members of the NESG would be the town representatives. Woods Hole Group advised that MEPA would not consider whether the members of NESG votes or not.

Leslie Fields informed the Group that the timing of the letter is ahead of where the Group is, because it is prior to when the Select Boards in Eastham and Orleans are voting to move forward. She said the timeline and voting does not need to be addressed in the letter, but it can be addressed in person with the agency representatives at the first meeting.

## **Permitting Processes Discussion**

### **MEPA Response**

MEPA has up to 60 days to respond to the SRP letter because they have to publish the request in the Environmental Monitor and they have a statutory time period to respond.

### **Environmental Notification Form (ENF)**

January 2021, an expanded Environmental Notification Form (ENF) will be submitted, MEPA will respond with a certificate from the Secretary that will detail the scope for the Environmental Impact Report (EIR). An ENF is submitted first, which provides the scope for the EIR.

The ENF will take three to four months to prepare from October due to its length. The document will contain reports, information, impacts, describes the preferred alternative, and addresses consistency with local and state plans and policies. A Dredge Materials Management Plan will be part of the ENF submittal as well as an Essential Fish Habitat Assessment, which has been completed and not been written. Red tide study details will be described in an appendix to the ENF document.

### **Shellfish Survey Results**

Jon Granlund stated that the shellfish survey was completed a few years ago, and now there are blue mussel sets being harvested, and asked how that affects the permitting, or if a productive bed moves elsewhere if it has been harvested. WHG responded that the Division of Marine Fisheries (DMF) will advise on the dynamic situations.

## **Local Permit Applications**

In response to a question raised by Kevin Galligan, WHG stated that it is acceptable for Orleans and Eastham to be co-applicants and both listed on the application. They stated that other towns have done this in the past. Kevin Galligan pointed out it would be helpful to be able to say that the local Conservation Commissions are aware of the project and have been consulted and he recommended that each local Conservation Agent be consulted, through an informal conversation or pre-application consultation, to ensure the project meets the local bylaws.

**Jon Granlund moved to send the Special Review Procedure Request letter with the changes as discussed, Steve Smith seconded the motion.**

**The Special Review Procedure letter was approved by unanimous vote.**

## **September 1<sup>st</sup> Meeting with State and Federal Representatives Overview**

WHG provided an overview for the meeting scheduled for Sept 1<sup>st</sup>. Leslie Fields said they would present a PowerPoint, and be open to questions. They would not go over other issues or topics, but give the representatives an idea of existing conditions, data collected, alternatives considered, impacts associated, and the expected permitting path.

The Group discussed ensuring the project met the Open Meeting Law, recording and broadcasting the meeting, and agenda postings.

## **Second MOU between Eastham and Orleans**

WHG said the second MOU will be similar to the one for the Herring River restoration project between Wellfleet and Truro, and they will review it again to draw comparisons. They stated that the MOU will not be complicated for Group to review.

## **WHG Scope Proposal for Future Consulting**

**Woods Hole Group described their proposal in detail:**

- The first task is an expanded Joint MEPA, NEPA, CCC review.

### **Task 13.1**

- Draft ENF and DRI and scoping with the National Park Service.
- Notices in paper re: public meetings, work with CCNS and federal notice requirements, attend meeting with Cape Cod Commission (CCC) prior to filing document, per CCC requirements, notify abutters within 300' radius of project, hold two public meetings after documents are filed, but

must satisfy all 3 agencies, respond to comments from agencies prior to final determination is made. At end, will receive decision certificate with scope for EIR, and will hear from CCNS as to whether an Environmental Assessment or Environmental Impact Statement is required, and what needs to be in these documents.

#### **Task 13.2**

- Prepare EIR and EA, or, EIS. The cost is an estimate for now, with the true cost to be determined based on agency requirements that emerge after the ENF is filed..

#### **Task 13.3**

- Provide information and meet with the CCC . CCC staff will make a recommendation, however the process includes completing the process to the satisfaction of MEPA and NEPA first.

After review by MEPA, NEPA and CCC, other local and federal permits will be sought. Engineering plans will need to be reformatted for Chapter 91 and US Army Corps of Engineers (USACE) permitting.

#### **Task 13.6**

- An application would be completed and filed that describes consistency with coastal zone policies. USACE would be an individual permit, including consulting with tribes for sensitive archeological considerations as well as an application with National Marine Fisheries.

Twelve meetings are budgeted with Woods Hole Group.

The total cost for the services described is \$240,000 - \$280,000.

### **Permitting Funding Eastham and Orleans**

Kevin Galligan stated the towns should consider that the cost be divided evenly between Orleans and Eastham. Jacqui Beebe replied that the Eastham Town Warrant is going to the printer in two weeks so the Select Board would need to decide very soon, as Eastham does not have an appropriation to fund the permitting tasks.

Shana Brogan asked if the draft matrix, dredge feasibility study, and cost estimates would be ready in order to consider them prior to going forward with the permitting phase.

Charlie Carlson said the information would not be ready, but there is sufficient information for the Select Boards to make decisions.

Mark Mathison joined the meeting.

WHG said they would break the funding down by fiscal year for budgeting purposes.

Jacqui Beebe stated that the Eastham Select Board is going to ask what the dredging is going to cost and suggested that some of the Orleans and Eastham Select Board members meet informally due to the time constraint.

### **Project Schedule**

Charlie Carlson asked about whether there are ways to shorten the process.

Leslie Fields responded that the joint review process is complicated, takes a lot of time, and there are statutory comment and review periods that have to be followed. They can try to work faster and harder to the extent they can. She reiterated the joint review is a long-term project and will take time and that the CCNS will involve the National Park Service, not just the CCNS.

They said they can file with other agencies prior to receiving local Orders, but the other agencies will not issue permits until they have a copy of the local Order of Conditions.

### **Project Cost**

Shana Brogan stated that the costs associated with implementing restorations and mitigation should be factored into the cost of the project. Shana Brogan also asked whether project bid specifications, bidding assistance, and project oversight would be included into the construction cost estimates. Leslie Fields said the bidding items would be factored into the cost.

Kevin Galligan asked about cultural archeological resources, and stated that PAL may have done work in this area that could be utilized. He agreed that more data may be required to provide to local boards and committees, and suggested building in a contingency into the overall cost of the project.

The Group agreed to request that Woods Hole Group add a 10% contingency to the permitting scope to account for possible additional meetings and data collection.

Charlie Carlson stated that the project is very important to the two towns and would like Woods Hole Group to pay special attention to the project timeline and production of deliverables, especially given that it already has a long timeline.

### **Channel Width**

Charlie Carlson said that a 100' channel is preferred for fishermen, navigational safety, and the amount of boat traffic and he sees three alternatives. He went over options for the width of the channel, and suggested seeking a permit for a 100' channel for flexibility.

Charlie Carlson suggested delaying a decision on 100 or 50' channel until after the September 1<sup>st</sup> meeting with the regulatory agencies.

Steve Smith suggested a 50' channel in Eastham, and a 100' wide channel in Orleans waters, and believes this will be more acceptable to both towns and help move the project along, and both towns should use the same disposal areas.

Kevin Galligan said from an environmental review standpoint, that the impacts anywhere within the dredge zone are being evaluated, and therefore, it may not be necessary to decide the width of the channel at this point because the impacts that will be evaluated are the entire dredge zone.

Leslie Fields estimated that the dredge zone is 300 – 400’ wide, and they have to only provide impacts related to the proposed channel width.

Harry Swift said we have to look at the impacts within the entire zone, as there could be dredging anywhere within the dredge zone.

Leslie Fields said over time it is possible that impacts would be spread within the dredge zone, and we should ask the regulators for feedback.

**Jon Granlund made a motion to table a decision on the channel width until Eastham can review future information and decide, Kevin Galligan seconded the motion.**

**The channel width was tabled by an unanimous vote.**

Kevin Galligan asked what the permitted channel width is in Chatham, and what they constructed. Leslie Fields replied that she would provide that information and would clarify where their dredge zone is located.

Leslie Fields said a 100’ wide channel would result in one acre of additional impact to tidal flats as opposed to a 50’ wide channel.

Jacqui Beebe requested that the cost estimates reflect what the difference would be for the 50 v. 100’ channel. She stated she has heard from shellfishermen that they are making profits from harvesting shellfish in the estuary, and there will be additional costs associated with creating more shellfish habitat, and seeding.

### **Cost Estimates**

Leslie Fields stated that in 2016, the construction estimate was \$1.5 - \$1.7 million. Currently the cost is approximately \$17 per cubic yard not including costs for pipe and additional equipment.

**Kevin Galligan moved to adjourn the meeting, Jon Granlund seconded the motion.**

**The meeting was adjourned at 7:05PM by unanimous vote.**

Respectfully Submitted as prepared by,

Shana Brogan