

# Sippewissett Association

## Newsletter

### SippOwissett Pond Reservation Settlement Reached

By: Arthur G. Gaines, Jr.

After decades of hearings, acrimony, and litigation in three venues, neighbors of the SippOwissett subdivision have settled with Joseph Sweeney and his business partner John Corcoran regarding the disposition of the Pond and Reservation lands at Gunning Point beach.

Lot owners at SippOwissett have long contended the pond and surrounding lands, 6.8 acres in all, were intended as undevelopable reservation lands in the 1897 plan defining the subdivision.

Since 1981, when he obtained fee in the title of this land from Stephen Langley's widow, Philip Williams, and later Mr. Sweeney and Mr. Corcoran, contended the land was like any other lot in the neighborhood. Over the years they have proposed various development schemes.

For 29 years neighbors have opposed any development of the Pond Reservation. They have been supported by the Falmouth Conservation Commission (ConCom) and the Barnstable Superior Court. The most recent plan, submitted by Sweeney and Corcoran in 2005, was also denied by the ConCom. This decision, however, was overridden on a procedural basis by the Superior Court, and referred to the Massachusetts Department of Environmental Protection (DEP) in 2006. In this instance, as in all reviews of ConCom denials, the DEP supported the developer.

Meanwhile, in 2005, neighbors filed a complaint to the Land Court disputing, among other points, whether Mr. Sweeney could obstruct the passage of lot owners through this property.

The recent settlement,

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#### *From the President*

I hope that you will be able to take an hour or two off from your garden or entertaining chores and join us on Saturday morning, June 26, for the Association's annual meeting.

We always start with a half-hour of socializing with coffee and donuts. There will be a brief business meeting at 10 a.m. for a financial report and the election of officers and board members. We will bring you up-to-date on some of this year's activities, including a summary by Arthur Gaines of the settlement reached in the SippOwissett/Sweeney matter.

Then at 11 a.m. Betsy Gladfelder, Chair of the Falmouth Conservation Commission, will give a brief overview of the Falmouth Wetlands Regulations and the impact they may have on homeowners. The *Falmouth Enterprise* has reported on the difficulties some Sippewissett residents have had in running afoul of these laws, and your board thought that a little education on this topic might help others avoid making the same mistakes.

—Peter Waasdorp

*The mission of the Sippewissett Association is to: protect and foster the mutual benefit and interests of landowners of the Sippewissett region of the Town of Falmouth, Massachusetts; to promote and encourage cooperation among such landowners in order to ensure that the future development of said region shall be in keeping with its general residential zoning restrictions and to take whatever action or actions may be necessary to this end; and to protect and prevent the misuse of public and common areas in the Sippewissett region.*

*(SippOwissett, continued from page 1)*

negotiated by Atty. Robert Mangiaratti (Murphy, Hesse, Toomey & Lehane, LLP), grants each party its most important interests, although by definition requires some galling concessions on both sides. Basically the Pond Reservation has been divided about in half. Lot 1 contains approximately 3.1 acres, of which about 2.5 acres are upland and beach; 0.6 of an acre is pond. Lot 2 contains approximately 4.0 acres in all, of which about 1.2 acres are upland and beach (along the south and west side of the Pond) and 2.8 acres are pond. Lot 1, the northeasterly portion of the Pond Reservation, will be developable as a house site.

Lot 1 incorporates Lot 71 (229 Sippewissett Road), which provides access to Sippewissett Road and a septic system site. An advanced treatment denitrifying septic system is required as part of the settlement to protect water quality. The new town designation for the combined parcel is Lot 71A. Lot 2 has been conveyed by Sweeney/Corcoran to the Salt Pond Areas Bird Sanctuaries, Inc. (SPABSI), with conservation restrictions held by The 300 Committee. Thus,

Lot 2 will be protected in perpetuity as open conservation space.

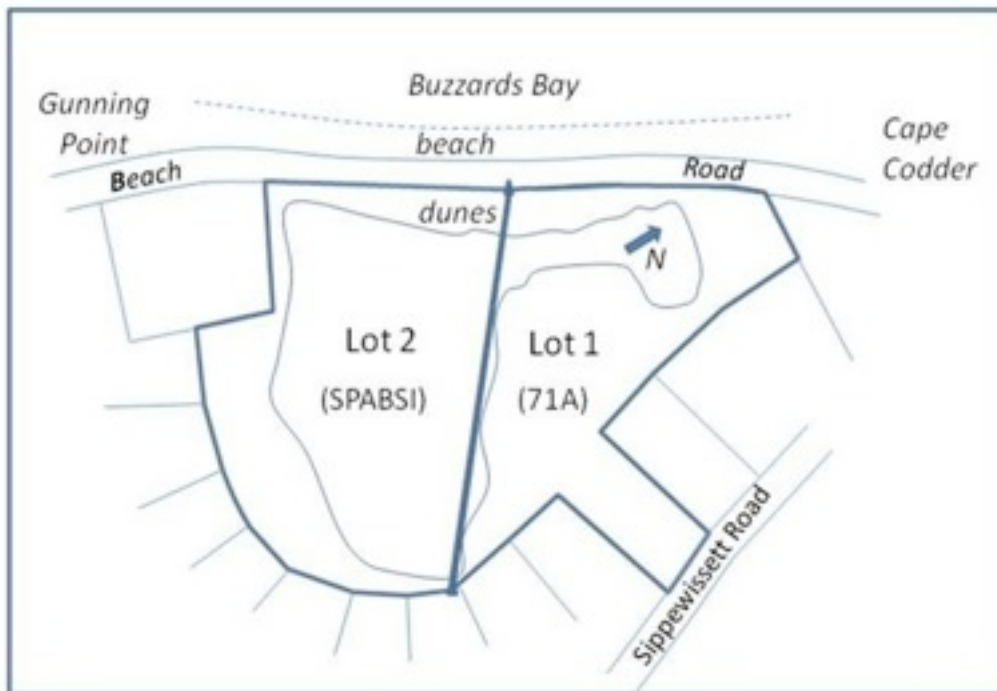
Key to this settlement was issuance to all lot owners in the SippOwissett subdivision of beach and access rights from the low tide line in Buzzards Bay to the western shore of the pond (including portions of the beach in Lot 1). These rights will move with the beach as it responds to coastal processes, such as erosion and overwash. Abutters to Lots 1 and 2 are assured of beach access via the SPABSI land (Lot 2), or by deeded access paths through Lot 1.

In exchange for the protection of the coastal pond and the neighborhood beach and access rights, the neighbors have agreed to drop the Land Court suit and acquiesce in Sweeney/Corcoran's application for a building permit. That permit was issued by the town building commissioner on April 15, 2010. Plans are for a 4,809 sq. ft., 110-foot long, three-story house, to be built on Lot 1 (aka Lot 71A).

### Frequently Asked Questions

**Q:** Because we already had deeded beach rights to the shore at Buzzards Bay, what has been gained by this settlement?

**A:** Of the 193 lots at SippOwissett, 115 contained deeded rights to a 480-foot length of beach at the northern end of the beach. Due to erosion and overwash of sand, most of this area is presently under water. By this negotiated settlement the entire beach and dune field, as they currently exist and as they evolve over



*The Pond and Reservation Lands at Gunning Point Beach have now been divided into two lots in the settlement of SippOwissett subdivision's case with Joseph Sweeney and John Corcoran.*

## Sippewissett Spring Clean-Up: Thanks for the Help!

By Nancy McDonald

The Annual Falmouth Spring Clean-up, sponsored by the Falmouth Beautification Council, was held Saturday, April 23rd—May 1st. Nancy McDonald coordinated volunteers in Sippewissett. Special thanks to all of the local volunteers: Carolyn & Courtney Bird, Carol DeYoung, Jim Doutt & Jane Parhiala, Mary Kay Fox, Bob Grosch, Vicky & Pete Lowell, Ellen Mecray & Steve Remsen, Bobbie & Rich Miner, Nancy McDonald, Pat & Jim O'Connor, Bob & Ann Picollo, Carolyn Powers, Meg Todd, Peter Waasdorp & Tinker Cavanaugh.

A survey of the trash that was collected concluded that beer bottles were the most prevalent items, with beer cans a close second. Blue Moon was more popular than Bud! One

stretch of Sippewissett Road yielded more beer cans than bottles, while another had more nips and cigarette packs and only a few beer cans and bottles. Large plastic Dunkin' Donuts cups were also found, but few McDonald's bags and wrappers. One of the heaviest areas of trash concentration was the sharp curve just west of Woodneck Road, yielding enough litter to fill an entire trash bag! The majority of the items reported were most likely tossed from vehicles, as opposed to having blown out of the trash collection and recycle trucks.

Roadside trash is a constant problem, and everyone can help throughout the year, picking up little bits here when walking in the area. Let's keep Sippewissett clean!

*(Sippewissett, continued from page 3)*

time, become legally available to the community for typical beach use. For lot owners who did not formerly have express deeded beach rights, the new settlement provides them.

**Q:** Do owners of the Cape Cod Condominiums have deeded beach rights under this agreement?

**A:** Yes. All owners of properties included in the 1897 plan of John Haynes have right of access and use.

**Q:** Does this agreement change the routes of beach access?

**A:** For lot owners who do not abut directly on the former Pond Reservation, the legal access routes from the north and south are via either end of the paper road called "Beach Road," or "Langley Road," which runs from Gunning Point Road across the beach to Cape Codder Road.

Lot owners abutting Lot 2 can use the same access route (now on SPABSI land) along the south shore of the pond. Abutters to Lot 1 have deeded access routes through Lot 1 either directly to the beach or to the SPABSI land and thence to the beach.

**Q:** Can we still walk around the pond, through Lot 1?

**A:** Not without the permission of the owner of Lot 1. This was one of the concessions we needed to make to solidify this agreement.

**Q:** What constraints now control the Sweeney / Corcoran use of Lot 1?

**A:** The developer's plan, including siting and setbacks, was reviewed by DEP and approved as "adequately protecting the interests of the wetland protection act" according to a Final Order of Conditions. The developers

agreed to install a denitrifying septic system to protect the wetland resources and coastal pond.

The house on the former Lot 71 will be razed. The new landscaping of Lot 71 will improve the buffer area habitat of the large vernal pool on this lot. The proposed new house on the expanded Lot 71A must meet building department and public health department codes, as well as setback and use constraints within the 100-foot wetland buffer zones and coastal banks. If the developers make significant changes to the existing plan, they would need to go before the ConCom again. If the developer failed to meet conditions defined in the Agreement for Judgment, approved by a Land Court judge, then the developer would be in contempt of court.

# Aquaculture Update

*From Eric Matzen*

It's been hard work on and in the water, but we have had seed oysters on the bottom for almost a month now. The growers all confirm that the oysters are looking good. There seem to be enough food particles for the oysters to filter now and as a result of the open water habitat the oysters are looking very clean and healthy.

Both the sites off Flume Pond and North of Woodneck Beach have more seed to be planted this year and we will be slowly adding cages as the oysters grow. During every visit to the site we see increasing numbers of juvenile fish using the cages as habitat.

The four oyster operations in Falmouth are in the process of formalizing a cooperative. As an informal group we have worked together buying seed and gear, and sharing cooler facilities.

Only time will tell how long it will take our oysters to grow to market size, but we hope to have an event later this year to celebrate the first tasting. Feel free to contact your local oyster grower through the Sippewissett Association.

**Save the Date!**

**Sippewissett Annual  
Meeting**

**Saturday, June 26**

9:30 a.m.—Coffee and Donuts

10:00 a.m.—Business Meeting

11:00 a.m.— Betsy Gladfelter, Chair of  
the Falmouth Conservation  
Commission, will give a brief overview  
of the Falmouth Wetlands Regulations