



CONSERVATION COMMISSION **PUBLIC MEETING**

131 Pleasant Street
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Thursday, January 4, 2024 – 5:00 p.m.

This meeting was held via remote participation using ZOOM and YouTube.

<https://www.youtube.com/watch?v=HXI3kCy8fC8>

Commissioners: Ian Golding (Chair), Seth Engelbourg (Vice Chair), Mark Beale, Tim Braine, Mike Misurelli, Joe Plandowski, and Linda Williams

Called to order at 5:00 p.m. by Chair Golding

Staff in attendance: Will Dell’Erba, Conservation Agent; Jeff Carlson, Natural Resources Director
Attending Members: Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Members Left Early: Beale left at 6:20pm
Public: Burton “Spruce” Balkind

I. PUBLIC MEETING

A. Chair Golding called for Public Comment on items not on the agenda.

Burton “Spruce” Balkind

- Inquired about the core project at 79 Baxter Road
- Had questions about the project and sought clarification
- Requested logs of the sand removed from the template to be moved to 79 Baxter Road

Golding

- Stated that Mr. Balkind’s concerns will be discussed under the “Enforcement Actions/Potential Enforcement Actions” on the agenda.

II. PUBLIC HEARING

A. Notice of Intent

***Siasconset Beach Preservation Fund- 41-119 Baxter Road (various) SE48- (Dunk)**

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Representative:	Dr. Dwight Dunk, Epsilon Associates
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion: (00:04:28)	Jeff Carlton Addressed the Notice of Intent submitted by the Siasconset Beach Preservation Fund for the project at 41-119 Baxter Road. The project is recognized as a separate and complex application, encompassing numerous resource areas and intricate components. Historically, the Commission has engaged third-party reviewers for independent evaluation of similar projects. Current efforts are focused on securing an independent legal review to assess the application's merits. Explained the process, as follows: - A separate hearing for this application is scheduled for January 25, 2024. This decision follows past practices for handling complex projects, allowing for focused discussion and public input. - Encouraged public comments to be submitted by January 19, 2024, to ensure adequate review time. Last-minute submissions will be discouraged to maintain fairness and thorough consideration. - Planning to publish an alternative schedule, including filing deadlines and specific issues for discussion in future hearings. This approach aims to organize the hearings around key concerns such as construction, sand delivery, maintenance, and legal matters, enabling targeted expert participation. - Highlighted the importance of scheduling the initial substantive hearing separately from regular meetings to facilitate detailed examination and public engagement.

	- Commissioners were reminded of the unique nature of this application and the administrative procedures historically adopted for such cases. New commissioners were offered further explanation on these processes. - The intent is to ensure efficient proceedings for this and other agenda items, avoiding overly lengthy meetings that could impact participant engagement. Steven Cohen, Cohen and Cohen Law - Stated that the applicant agrees to extend the 21-day deadline to the 25th for procedural reasons, as noted for the record. - Agreed that Jeff should work with the commissioners to establish a schedule for the next 1-2 months, detailing specific topics and meeting times to guide public comment submission. - Aimed to improve engagement and organization for both the public and the Commission by setting a clear framework. - Allowed for a 20-day preparation period before the first substantive hearing, with a two-week notice for stakeholders to prepare and submit their questions and comments. - Recommends categorizing comments and questions into legal, design, and mitigation to streamline the response process. Dr. Dwight Dunk, Epsilon Associates - Had no additional comments. Carlton - Announced that due to the large volume of submissions from both the applicant and the public, a separate filing page for Baxter Roads will be created in the coming days. - Stated that unlike the usual practice, the information will not be compiled in the normal packet for each meeting but posted on this new page. - Posted all agendas and minutes on the usual page, maintaining the common method of dissemination. - Planned to also have a separate page dedicated to all submitted filings, schedules, and relevant information for easy access at any time. - Aimed to provide ample opportunity for everyone to access the information through a focused webpage as well as from the regular agenda and minutes page, minimizing the need for extensive searching. - Ensured that the goal is to provide clear and easy access to all exchanged information for everyone's convenience.
Public Comment: (00:11:32)	William Wallace - Mentioned owning property at Five and Seven Bayberry Lane, which connects Sankaty Road with Baxter Road, since 1985. - Expressed concern about the historical issue of sand deliveries to the bluff, noting they disruptively roll down their road in the middle of summer. - Sought to explore solutions for the project's progression without the aforementioned disruptions. - Planned to send an email stating these concerns to Mr. Carlson. D. Anne Atheton - Asked whether all communications between the applicant and any of the commissioners must be conducted in the public hearing once it's opened, to which the Chairman confirmed that it is indeed the case, ensuring transparency. - Inquired about disclosure requirements for commissioners, particularly concerning personal or financial interests or conflicts due to the vast nature of the project and its impact on many property owners. Golding

	- Acknowledged the complexity of the question regarding conflicts of interest and stated the ability to only speak for oneself, affirming no financial or other forms of interest beyond the role of a commissioner. - Expressed the expectation that all commissioners understand their duty to the public and the importance of transparency and integrity, assuming they would act accordingly in disclosing any potential conflicts. Carlson - Highlighted the necessity to review records to ensure compliance with state-required ethics and conflict of interest training for public employees and individuals on boards and commissions. - Emphasized that it is the personal responsibility of each commissioner to disclose any conflicts of interest they might have, in line with state regulations. - Encouraged commissioners with uncertainties about potential conflicts to reach out for guidance or connections to appropriate resources for clarification. - Informed attendees about the State Attorney General's Office offering a valuable resource, the "attorney of the day" service, which provides legal advice on conflict-of-interest queries or disclosure requirements. This service is accessible via phone or in writing, offering authoritative legal opinions to ensure compliance and address any concerns. - Advised anyone with questions or concerns about conflict of interest or ethical obligations to utilize this state resource for authoritative legal guidance.
Action:	Continued until Thursday, January 25, 2024.

Lampoon Nominee Trust- 6 Westco Place (42.4.3-49) SE48-3715 (Gasbarro)

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Representative:	Art Gasbarro, Nantucket Engineering & Survey, P.C
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion: (00:20:33)	Engelbourg - Pointed out a missing submission detail concerning an analysis of the types of vehicles expected to use the proposed accessway. - Questioned whether alternative materials or methods, like grass pave, crushed stone, or similar options, were considered appropriate for the site. - Asked if there had been any investigation into these alternatives or any consideration given to their suitability. Gasbarro - Advocated for maintaining cobblestone strips as the best solution to accommodate both construction needs and future vehicle traffic to the site. - Highlighted that grass pave alternatives would require a wider footprint, covering the entire driveway, whereas cobblestone strips allow for natural grass between them, reducing the reinforced area. - Stated that there's no significant benefit to having the entire driveway as reinforced turf with a full width of 10 feet compared to having two cobblestone strips designed to support vehicle traffic effectively while being environmentally less impactful. - Emphasized that cobblestone strips, being narrower, are seen as less environmentally disruptive than a full-width driveway made of alternative materials like grass pave or crushed stone, which would still necessitate a structural base and lead to more compacted material underneath. - Concluded that using two narrow cobblestone strips is perceived as less impactful and more environmentally friendly than employing a full-width gravel pave or similar structure, which requires additional support and drainage management while potentially compromising natural turf.

	Engelbourg - Agreed in principle with the proposed solution for the accessway but raised concerns about preventing its misuse by unauthorized vehicles. - Suggested the installation of a split rail fence at the east end of the property, near the border with the neighboring land, as a removable barrier to control access. - Posed a question to the applicant regarding their openness to implementing such a fencing solution to ensure that while authorized access remains possible, unauthorized use by cars, dirt bikes, or similar vehicles is effectively deterred. Gasbarro - Discussed the distinction between authorized and unauthorized vehicle use in relation to the Lily Pond property, questioning the necessity and definition of such categories. - Mentioned the possibility of a small parking area, potentially for ADA (Americans with Disabilities Act) purposes, indicating that the future use of Lily Pond Park would be determined through a separate application process. - Clarified that the driveway in question is designed to accommodate any amount of traffic, from one vehicle to a hundred, without impacting its environmental protection goals. - Expressed the view that implementing a control mechanism to differentiate between authorized and unauthorized vehicles may not be necessary for protecting the environmental interests associated with the property. Williams - Agreed with the points made by Seth but highlighted ongoing concerns regarding the potential for relocating the barn to a different area, specifically suggesting the south side of the easement to distance it from the wetlands. - Noted the absence of a formal analysis on the feasibility and environmental impact of moving the barn away from its current proposed location. - Expressed reservations about the current use and the implications of the easement in relation to the barn's location and its proximity to the wetlands. - Emphasized the priority should be the welfare of the wetlands over personal preferences for the barn's placement, indicating a struggle to reconcile the project's current plans with environmental best practices. Engelbourg - Acknowledged that future activities potentially altering the Lily Pond site would require a separate Notice of Intent, indicating a clear process for addressing future changes. - Highlighted that the 100-foot buffer zone of the wetland extends beyond the property line, underscoring a commitment to protect the wetland from any adverse impacts. - Expressed concern over the potential for excessive vehicle traffic to cause erosion, sedimentation, compaction, and debris, which could negatively affect the wetland area. - Emphasized that efforts to prevent excessive vehicle traffic are justified and necessary within the scope of reviewing the current Notice of Intent, aiming to mitigate any potential damage to the wetland environment. Beale - Shared concerns with fellow commissioners about the intensified usage of the right of way or easement, specifically referencing its potential development beyond pedestrian access. - Expressed a preference for the easement to remain a strictly walking path covered in grass, though acknowledged this idea might no longer be viable. - Mentioned the parking lot at Lily Pond as a separate issue, indicating that while related discussions (e.g., building a road to it) would require a separate Notice of
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	Intent (NOI), the concept of constructing access points is closely linked to broader usage concerns. - Conceded that a driveway for owner access is acceptable, given its longstanding presence, but remains uneasy about extending beyond this to more developed infrastructure. - Supported the suggestion of installing a split rail fence where the roadway or preferred walking path ends as a means to limit access and maintain the area's current state, underlining a general dissatisfaction with the proposed changes as they stand. Misurelli - Acknowledged previous experience with installing grass pave, highlighting its invasive nature due to the requirement for an approximately eight-foot-wide area and excavation down to about 12 to 18 inches. - Expressed concern that installing grass pave could be disturbing due to its extensive installation requirements. - Agreed with the perspectives and concerns raised by fellow commissioners. Engelbourg - Mentioned that Orders of Conditions allow the imposition of measures safeguarding resource area interests and performance standards. - Proposed the idea of linking concerns to performance standards related to vehicle traffic as enforceable conditions. - Pointed out that applicants have the option to request an amendment to the order of conditions or submit a new notice of intent if they disagree with the permitted use. Williams - Sole concern regarding moving the structure's location. - Suggests equal ease in moving it south or north with similar site disturbance. Golding - Strong opposition to a park in the area. - Suggested conditioning the driveway for land bank authorized vehicles only. - Proposed the installation of a split rail fence. Engelbourg - Believed it's beneficial to move structures further from wetlands when possible. - Suggested that the location depended on a plan showing if moving south could achieve greater distance from setbacks. - Speculated that the northern location might have more constraints. - Acknowledged the discussion with the Land Bank, even though it's outside the jurisdiction. - Emphasized the duty to minimize adverse impacts by placing structures farther from setbacks.
Public: (00:33:25)	James Hagedom - Main concern is parking in the park. - Supports the commissioners' focus on this issue. - Worried about the use of the driveway/road for purposes other than maintenance. Hunter Ziesing, Lampoon Trust - Acknowledged the lengthy and challenging process. - Appreciated the environmental efforts. - Strongly supported moving the barn north for aesthetic and practical reasons. - Hoped for minimal adverse impact, similar to the previous location. - Expressed willingness to work towards a resolution with the Land Bank. - Encouraged consideration of the proposal to move the barn.

Action:	No action – Continued to 01/18/24
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Creekside Nominee Trust- 156 Orange Street (55-61) SE48-3718 (Rits)

Sitting:	Golding, Engelbourg, Beale, Braine, Plandowski, and Williams
Recused:	Misurelli
Representative:	Mark Rits
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	None
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Plandowski) (Seconded by: Beale)
Vote:	Carried: //6:0 – Beale, Braine, Engelbourg, Plandowski, Williams, Golding (aye)

***Knouf & Metz- 35 Madaket Road (41-410) SE48- (Rits)**

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Representative:	Mark Rits
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	None
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Plandowski) (Seconded by: Misurelli)
Vote:	Carried: //7:0 – Beale, Braine, Engelbourg, Misurelli, Plandowski, Williams, Golding (aye)

Nantucket Property Trust- 13 Hallowell Lane (30-11) SE48-3733 (Gasbarro)

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Representative:	Art Gasbarro, Nantucket Engineering & Survey, P.C
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	None.
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Plandowski) (Seconded by: Misurelli)
Vote:	Carried: //7:0 – Beale, Braine, Engelbourg, Misurelli, Plandowski, Williams, Golding (aye)

Carol W. Dean Revocable Trust- 48 West Miacomet Road (86-4) SE48- (Santos)

Action:	No action – Continued to 01/18/24
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***Great Harbor Yacht Club- 96 Washington Street (55.1.4-8) SE48-3729 (Asadoorian)**

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Representative:	Leo Asadoorian, Richard Fitzgerald
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion: (00:51:19)	Engelbourg - Questioned the materials mentioned in the Notice of Intent. - Highlighted the specific performance standard in Nantucket wetlands regulations related to construction of commercial piers. - Concerned about the potential for materials to destroy or pollute the environment.

	- Suggested the need for an independent assessment of materials to ensure they do not contain pollutants like PCBs. - Requested the applicant to provide an analysis of the materials and their potential environmental impacts. Fitzgerald - Explained that petrolatum is essentially petroleum jelly. - Specified the use of White Petroleum Jelly, known for being a clean and non-reactive material. - Mentioned the additional protection of the structure through fiberglass wrapping. - Emphasized that petrolatum helps prevent corrosion and is not exposed to seawater. Engelbourg - Expressed a willingness to provide articles to the commission. - Raised concerns about the potential contamination of petrolatum and petroleum jelly with pH and other substances. - Emphasized the need for a chemical assessment or review of these materials before using them in the ocean. Braine - Agreed with Seth's concerns. - Raised concerns about the potential impact of the wrapping material degrading and contributing to microplastic pollution in the water. - Suggested seeking additional opinions and assessments on the matter. Williams - Addressed Mr. Fitzgerald's point and builds upon previous comments. - Questioned the longevity of the wrapping and the petrolatum product. - Inquired whether the petrolatum product ever comes into contact with water or if it remains completely isolated. Fitzgerald - Explained the initial contact of petrolatum with water during application. - Described the subsequent isolation of the petrolatum with fiberglass wrapping. - Noted that if the fiberglass is damaged, it can be easily repaired to maintain the structure's integrity. - Provided an example of using petrolatum and fiberglass to protect timber piles in the boat basin and timber from marine activity. Golding - Shares the concerns expressed by Seth and Tim. - Expresses curiosity about the mud line seal and whether it extends below the mud line. - Requests additional information and suggests continuing the discussion for two more weeks to address these questions and concerns from the commissioners.
Action:	No action – Continued to 01/18/24

***14 16 Sheeps Pond LLC- 14 & 16 Sheep Pond Road (63-29 & 30) SE48-3731 (Madden)**

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Representative:	Brian Madden, LEC Environmental Consultants
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	None.
Action:	Pending Natural Heritage Determination – Continued to 01/18/24

***Nantucket Islands Land Bank- 40 Western Avenue (87-84) SE48-3730 (Freeman)**

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Representative:	Rachael Freeman, Nantucket Islands Land Bank
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	None.
Action:	Pending Natural Heritage Determination – Continued to 01/18/24

***21 Sankaty Head Trust- 21 Sankaty Head Road (48-4) SE48-3732 (Madden)**

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Representative:	Brian Madden, LEC Environmental Consultants
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion: (01:06:00)	Engelbourg - Stated that if the bank isn't actively eroding, the expanded structural setback in the Nantucket Wetlands Regulation (20 times the annual average erosion rate) should be considered. - Asked if structures have been located based on that calculation and requests analysis and information on the matter. Madden - Provided a calculation to illustrate the application of this rule. Multiplying the annual erosion rate of 2.7 feet by 20 years indicates that the structural setback should significantly exceed a 50-foot threshold. The precise calculation results in a setback of 54 feet.
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Plandowski) (Seconded by: Misurelli)
Vote:	Carried: //7:0 – Beale, Braine, Engelbourg, Misurelli, Plandowski, Williams, Golding (aye)

***23 Sankaty Head Trust- 23 Sankaty Head Road (48-4.1) SE48-3734 (Madden)**

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Representative:	Brian Madden, LEC Environmental Consultants
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	None.
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Beale) (Seconded by: Plandowski)
Vote:	Carried: //7:0 – Beale, Braine, Engelbourg, Misurelli, Plandowski, Williams, Golding (aye)

***Minella- 5 Gingy Lane (41-852) SE48- (Rits)**

Action:	No action – Continued to 01/18/24
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B. Amended Orders of Conditions***63 Hulbert LLC- 63 Hulbert Avenue (29-9 & 9.1) SE48-3677 (Rits)**

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Representative:	Mark Rits
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	None
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Engelbourg) (Seconded by: Plandowski)
Vote:	Carried: //7:0 – Beale, Braine, Engelbourg, Misurelli, Plandowski, Williams, Golding (aye)

32 Hulbert Trust- 32 Hulbert Avenue (29-72) SE48-3575 (Gasbarro)

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Representative:	Art Gasbarro
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	Engelbourg - Expressed significant concerns over the proposed planting plan for an area affected by coastal storm flows, highlighting the inclusion of mostly non-native, cultivar-type plants. - Particular attention was drawn to the sweet autumn clematis, identified as a potential invasive species currently under review by the Massachusetts Invasive Plant Advisory Group (MIPAG). Strongly opposed its use in Nantucket, advocating for a cautious approach towards plants under scrutiny for invasiveness. - Emphasis was placed on the necessity of prioritizing native plants in the planting schedule. The rationale provided centered on the superior wildlife habitat provided by native species compared to non-native or invasive plants, underscoring this as a critical aspect of the committee's duty to protect and enhance wildlife habitat within resource areas subject to coastal storm flows. - Expressed the importance of aligning planting plans with environmental stewardship goals, specifically the enhancement of wildlife habitat through the selection of appropriate native plant species.
Action:	No action – Continued to 01/18/24

III. PUBLIC MEETING**A. Requests for Determination of Applicability – None****B. Minor Modifications*****42/44 ARBWAY LLC- 9 Arbour Way (29-137) SE48-3589 (Haines)**

Sitting:	Golding, Engelbourg, Braine, Misurelli, Plandowski, and Williams
Representative:	David Haines
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	None
Staff Recommendation:	Recommend issuing the minor modification.
Motion:	Motion to approve the issuance of the minor modification. (Made by: Plandowski) (Seconded by: Braine)
Vote:	Carried: //6:0 – Braine, Engelbourg, Misurelli, Plandowski, Williams, Golding (aye)

C. Certificates of Compliance**Nantucket Conservation Foundation- Medouie Creek (20-25) SE48-2915 (Beattie)**

Sitting:	Golding, Engelbourg, Braine, Misurelli, Plandowski, and Williams
Representative:	Will Dell'Erba
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion: (01:21:51)	Engelbourg - Raised concerns about granting an indefinite permit for ongoing invasive species management without monitoring, as requested by the Nantucket Conservation Foundation in their Certificate of Compliance. - Indicated an increase in the Phragmites patch size, questioning the effectiveness of current management practices. - Proposed that instead of approving ongoing management under the current certificate, a new Notice of Intent should be submitted by the Foundation. This

	would allow for a detailed assessment and planning to address the invasive species issue more effectively. Golding - Concurred with Engelbourg. Dell’Erba - Clarified that new conditions cannot be added to a Certificate of Compliance (COC). However, stated that there's a possibility to issue a COC for completed work while stipulating that any future work requires the submission of a new Notice of Intent (NOI). Engelbourg - Recommended to include a specific condition that future management activities under the current order are not permitted. Instead, any new management efforts will require the filing of a new Notice of Intent (NOI)
Staff Recommendation:	Recommend issuing the Certificate of Compliance.
Motion:	Motion to approve the Certificate of Compliance with the condition that future management efforts will require the filing of a new Notice of Intent. (Made by: Engelbourg) (seconded by: Misurelli)
Vote:	Carried: //6:0 – Braine, Engelbourg, Misurelli, Plandowski, Williams, Golding (aye)

Padir- 69 ½ Cliff Road (30-204) SE48-3361 (Bracken)

Sitting:	Golding, Engelbourg, Braine, Misurelli, Plandowski, and Williams
Representative:	Will Dell’Erba
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	None
Staff Recommendation:	Recommend issuing the Certificate of Compliance
Motion:	Motion to approve the Certificate of Compliance. (Made by: Engelbourg) (seconded by: Plandowski)
Vote:	Carried: //6:0 – Braine, Engelbourg, Misurelli, Plandowski, Williams, Golding (aye)

D. Orders of Conditions**Creekside Nominee Trust- 156 Orange Street (55-61) SE48-3718 (Rits)**

Sitting:	Golding, Engelbourg, Braine, Misurelli, Plandowski, and Williams
Recused:	Misurelli
Representative:	Will Dell’Erba
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	None
Motion:	Motion to approve as drafted. (Made by: Plandowski) (Seconded by: Braine)
Vote:	Carried: //4:1 – Braine, Plandowski, Williams, Golding (aye) //Engelbourg (nay)

***Knouf & Metz- 35 Madaket Road (41-410) SE48- (Rits)**

Sitting:	Golding, Engelbourg, Braine, Misurelli, Plandowski, and Williams
Representative:	Will Dell’Erba
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	None
Motion:	Motion to approve as drafted – (Made by: Misurelli) (seconded by: Plandowski)
Vote:	Carried: //6:0 – Braine, Engelbourg, Misurelli, Plandowski, Williams, Golding (aye)

Nantucket Property Trust- 13 Hallowell Lane (30-11) SE48-3733 (Gasbarro)

Sitting:	Golding, Engelbourg, Braine, Misurelli, Plandowski, and Williams
Representative:	Will Dell'Erba
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	None
Motion:	Motion to approve as drafted - (Made by: Braine) (seconded by: Plandowski)
Vote:	Carried: //6:0 – Braine, Engelbourg, Misurelli, Plandowski, Williams, Golding (aye)

***Great Harbor Yacht Club- 96 Washington Street (55.1.4-8) SE48-3729 (Asadoorian)**

Action:	No action
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***14 16 Sheeps Pond LLC- 14 & 16 Sheep Pond Road (63-29 & 30) SE48-3731 (Madden)**

Action:	No action
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***Nantucket Islands Land Bank- 40 Western Avenue (87-84) SE48-3730 (Freeman)**

Action:	No action
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***21 Sankaty Head Trust- 21 Sankaty Head Road (48-4) SE48-3732 (Madden)**

Sitting:	Golding, Engelbourg, Braine, Misurelli, Plandowski, and Williams
Representative:	Will Dell'Erba
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	None
Motion:	Motion to approve as drafted – (Made by: Misurelli) (seconded by: Plandowski)
Vote:	Carried: //6:0 – Braine, Engelbourg, Misurelli, Plandowski, Williams, Golding (aye)

***23 Sankaty Head Trust- 23 Sankaty Head Road (48-4.1) SE48-3437 (Madden)**

Sitting:	Golding, Engelbourg, Braine, Misurelli, Plandowski, and Williams
Representative:	Will Dell'Erba
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion: (01:35:16)	Engelbourg - Suggested adding the lighting condition (in accordance with Chapter 102 of the Town of Nantucket) given the gazebo.
Motion:	Motion to approve, as amended. (Made by: Braine) (seconded by: Plandowski)
Vote:	Carried: //6:0 – Braine, Engelbourg, Misurelli, Plandowski, Williams, Golding (aye)

***Siasconset Beach Preservation Fund- 41-119 Baxter Road (various) SE48- (Dunk)**

Action:	No action
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E. Extension of Order

Elizabeth Pratt Meier Continuing Trust- 43 ½ Shell Street (73.1.3-4) SE48-3383 (Bracken)

Sitting:	Golding, Engelbourg, Braine, Misurelli, Plandowski, and Williams
Representative:	Will Dell'Erba
Public:	None
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	None
Staff Recommendation:	Recommend issuing the Extension of Order until February 3, 2027.
Motion:	Motion to approve the Extension of Order. (Made by: Misurelli) (Seconded by: Plandowski)
Vote:	Carried: //6:0 – Braine, Engelbourg, Misurelli, Plandowski, Williams, Golding (aye)

F. Other Business

Approval of Minutes 06/01/2023; 06/08/2023

Motion:	Motion to approve minutes for the meetings of June 1, 2023, and June 8, 2023. (Made by: Plandowski) (Seconded by: Misurelli)
Vote:	Carried:// 5:0 - Golding, Engelbourg, Misurelli, Plandowski, Williams (aye) Braine (Recused)

Monitoring Reports

Discussion: (01:38:49)	Dell’Erba (102 Wauwinet Road) - Reviewed a detailed monitoring report for an ongoing restoration project on Wauwinet Road, highlighting its completion of active management and the plan for future monitoring and follow-up treatments. - Stated that there are challenges such as invasive species from neighboring areas were noted, with measures like hand-cutting being employed. - The report was praised for its thoroughness in documenting the project's progress and challenges. Misurelli - Commended the clarity and presentation of the restoration project's monitoring report, finding it easy to understand and well-structured. - Appreciated the efforts of those who compiled the report.
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Enforcement Actions/Potential Enforcement Actions

Discussion:	Golding (01:40:22) - Took a moment to address concerns raised by Linda at the beginning of the meeting under Public Comments, regarding email communications sent by Burton “Spruce” Balkind to staff, with the Chair being CC'd. It was noted that no other commission members were included in this correspondence. Williams - Expressed her concern regarding the protocol for handling communications sent to staff. It was emphasized that if something is submitted to the staff and constitutes a public record, it should be disseminated to the entire board for transparency and inclusiveness. Misurelli - Expressed concern regarding the need for transparency in disseminating communications that are considered public records to the entire board. - Believed that a specific issue was brought up concerning emails and photographs of destroyed coir logs. There was confusion about whether these communications had been appropriately distributed by the office or if there was a misunderstanding regarding the dissemination process. Dell’Erba - Acknowledgment of the oversight was expressed, with an admission that there was an assumption another individual was responsible for the task. The commitment to avoid such misunderstandings in the future was affirmed. Burton “Spruce” Balkind - Offered an apology for any confusion or oversight regarding email communication practices, specifically addressing the assumption that including the chairman in emails would ensure distribution to the entire board. - Acknowledged not intending to exclude or slight any board members and expressed willingness to include everyone's email in future communications for clarity and inclusiveness. Dell’Erba (01:44:36) – 79 Baxter Road - Stated that he has consulted with Jeff Carlson, Natural Resources Director, who have been closely involved in addressing issues at 79 Baxter Road. A meeting was held with the property owner's representatives regarding an open enforcement order and a cease and desist issued due to damage on the property.
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- Current discussions are focused on initiating cleanup work, with Jeff Carlson engaging contractors this week to plan the cleanup efforts.
- While the exact timeline for the cleanup is not specified, the discussions indicate a commitment to addressing the situation.
- The situation at 79 Baxter Road is under active consideration, with efforts underway to ensure the cleanup of the area in compliance with the enforcement actions taken.

Meredith Moldenhauer, on behalf of Siasconset Beach Preservation Fund

- Confirmed ongoing collaboration with Jeff and Will, highlighting communication between Dr. Dwight R. Dunk (Epsilon Associates), and the contractor regarding the situation.
- Homeowners have been informed about the necessity of finding separate sand sources for the maintenance of core terraces, distinct from the geo tubes.
- Despite a previous calculation provided on November 16 regarding the sand quantity for core terrace maintenance, a decision was made, out of caution, to avoid using any sand previously allocated for maintenance purposes.
- The contractor is actively seeking alternative sand sources, with plans to consult Jeff and Will for approval before proceeding with maintenance work. This is to ensure the suitability of the sand for core terrace maintenance and confirm the feasibility of starting the work.
- Damage assessment was mentioned, with images from the contractor dated December 28 showing the impact.
- While multiple homes are covered under one permit, not all core terraces were damaged by the storm. Coordination between individual homeowners and the contractor is ongoing for those whose core terraces were affected.

Golding

- Addressed concerns related to the Siasconset Beach Preservation Fund (SBPF) and its efforts to combat erosion along Nantucket's eastern shoreline, particularly focusing on damage to coir rolls at 79 Baxter Road. The discussion highlighted photographs referenced by Spruce, showing extensive damage and questioning the adequacy of the geohazard (GH) use.
- The photographs demonstrated significant damage to the coir rolls, which have been exposed for a considerable period. There was particular concern about sand starvation affecting the dune system, as evidenced by the lack of sand contribution and the visible degradation.
- Given the observed damage and the fact that no corrective action has been taken for five weeks, Chair Golding proposed issuing an enforcement order to address the situation effectively.

Engelbourg

- Expressed hesitation about taking immediate enforcement action regarding the geo tubes, noting the absence of this specific item on the posted agenda. This concern stems from the procedural requirement to have such issues explicitly listed when official actions are contemplated.
- Acknowledged the request for clarity in agenda listings concerning enforcement actions and suggested scheduling the discussion for a future meeting to comply with transparency and procedural standards.
- While open to discussing issues related to 79 Baxter Road and the broader situation, including the geo tube solution, opposed taking official action during the current meeting without prior notice on the agenda, emphasizing the need for adherence to established meeting protocols.

Dell'Erba

- Stated that 79 Baxter Road has an open enforcement order.

Williams

- Concurred with Golding.

Moldenhauer

- Aiming for transparency and openness, provided an update on the efforts to address the geo tube issue.
- Stated that an email was sent to Jeff Carlson and Vince Murphy on December 24, detailing plans to have the geo tubes covered by January 15th through the 18th. This timeline fell within the 30-day period discussed during the removal process, demonstrating compliance with the agreed-upon actions.
- Expressed pride in adhering to the commitment and emphasized that this update was communicated to the Conservation Commission (ConCom) promptly.
- Although acknowledging that the specific issue might not have been explicitly listed on the meeting's agenda, Moldenhauer took the opportunity to inform the commission of their proactive steps.

Balkind

- Reflected on Meredith's earlier comments about sand being moved from the template to 79 Baxter Road, shared concerns about the accuracy of the sand logs provided by the Natural Resource Department.
- Noted that while he received data on the amount of sand available and moved, there was no detailed accounting like bucket counts, raising doubts about the accuracy of the reported sand quantities.
- Expressed skepticism about the reliability of the sand movement records, suggesting that without proper counting or a chain of custody, the figures might not be accurate.
- Requested a more detailed verification of the actual sand quantities moved, questioning the current method of estimation.
- The second request concerned the conditioning of future core work.
- Referenced a recent storm that resulted in substantial core material being scattered along the beaches, with significant cleanup efforts by local citizens.
- An additional concern was raised about the environmental impact of the core material, particularly the presence of nylon threads in the coconut core, which could pose entanglement risks for wildlife.
- Urged the commission or staff to investigate and address these environmental concerns in future core installations.

Engelbourg

- Addressed uncertainties regarding whether a specific condition related to the identification of core materials was included in the order for an older core installation.
- Noted that such conditions have been commonly applied in more recent orders but were unsure if it applied to this particular, older installation.
- Clarification was provided on the nature of the material used in core installations.
- Noted that the material in question is not a nylon thread but rather a tag made of a durable, damage-resistant material that is easily identifiable. This suggests that the environmental concerns raised about nylon threads might be based on a misunderstanding of the materials used in these core installations.

Golding

- Suggested to issue an emergency order for the immediate removal of coir material that has dispersed in front of the rolls and scattered across the beach.

D.Anne Atherton

- Provided a detailed recounting of a 2007 incident, highlighting a catastrophic failure under a permit for a banking and terracing project, which resulted in treated timber and jute bags washing up around Nantucket. This incident led to significant concern and prompted the Siasconset Beach Preservation Fund (SBPF) to revise their approach, introducing an order of condition that included a colored thread to identify core bags from this specific installation.

	- Stated that the ongoing issue of material from coastal erosion control installations dispersing across beaches was noted as disturbing, with a call for the commission to take aggressive action due to the adverse impacts on various parts of the island. - Additional observations were made regarding the current installation's performance, suggesting it might be acting as a coastal engineering structure by forming a promontory and restricting public access, potentially violating conditions of its permit. - Expressed that the complexity of the permit situation was discussed, noting that while the permit was issued to SBPF for a lengthy stretch of coastline, maintenance responsibility seems to have been passed to individual property owners over time. This has led to inconsistent maintenance and monitoring, with the property owner at 79 Baxter Road being highlighted for their consistent maintenance efforts. - The discussion underscores the need for comprehensive action and oversight by the commission to address the cumulative environmental and regulatory challenges presented by coastal erosion control measures. Engelbourg - Highlighted the necessity of reviewing the order of conditions before making any determinations regarding potential violations, specifically requesting Will to locate the document for 79 Baxter Road. - Acknowledged that the site is part of a larger installation managed by the Siasconset Beach Preservation Fund (SBPF), which bears the responsibility for maintaining compliance with the order of conditions. The arrangement between SBPF and individual property owners regarding maintenance, whether divided or collective, was noted as secondary to the accountability of the permit holder. - The presence of SBPF representatives at the meeting was recognized, indicating their awareness of the discussion and the commission's concerns regarding compliance and maintenance responsibilities. Golding - Made a proposal to include further discussion regarding 79 Baxter Road and related compliance issues with the Siasconset Beach Preservation Fund (SBPF) on the agenda for the next meeting. This would allow all parties to prepare adequately for a comprehensive discussion on maintenance responsibilities and any potential violations of the order of conditions. Dell'Erba – Navy Base – Potential Enforcement (02:05:22) - Explained that the Navy base, particularly the bluff in Tom Nevers, has experienced significant erosion, with an estimated loss of approximately 20 feet. - In response to the immediate danger posed by the erosion, particularly to road safety near the bluff's edge, the Department of Public Works (DPW) has initiated emergency measures. This includes setting up barriers to prevent vehicles from driving off the bluff. - Stated that additional concerns were raised about debris on the beach, including potentially hazardous materials like asbestos piping and large concrete structures, necessitating a careful and coordinated cleanup effort. - The DPW, in collaboration with Weston and Sampson, is in the process of obtaining a Notice of Intent (NOI) for a comprehensive cleanup of the beach, bluff, and bank areas. This procedural step is critical for addressing both the erosion impact and the debris issue systematically. - An enforcement order is being considered to facilitate immediate action by the DPW to remove loose debris and manage other manageable materials in anticipation of the formal NOI submission for the full cleanup project. Golding - Expressed a firsthand observation of the situation at the Navy base, emphasizing the surprising amount of debris on the beach.
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	- Recommended an urgency of establishing an enforcement order to facilitate the Department of Public Works' (DPW) cleanup efforts, with the commission's approval, was stressed. - Proposed adding this item to a future agenda.
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Reports: CRAC, CPC, NP&EDC, Harbor Plan, Offshore Wind Work Group, etc.

CRAC	No report.
CPC	Williams - Provided an update on the Community Preservation Committee's (CPC) current activities, highlighting the challenges faced in allocating funding. - Stated that there has been significant disagreement and issues among some members, which has delayed final decisions. - Mentioned that the committee is scheduled to meet next Thursday to finalize the allocation, as all recommendations must be submitted to the select board by January 17th.
NP&EDC	Engelbourg - Stated that during a recent meeting, the issue of the Nantucket Planning & Economic Development Commission (NP&EDC) potentially altering its membership structure was discussed, with concerns raised about the possibility of the Conservation Commission losing its representation. These concerns were communicated to the NP&EDC. In response, the latest draft for updated membership from the NP&EDC retains the Conservation Commission as a member, addressing and likely alleviating those concerns. - However, it was noted that any formal action regarding this change would require an update to the state legislation that established the NP&EDC. - The current outlook suggests that the Conservation Commission will continue to have representation on the NP&EDC, reflecting the importance of conservation perspectives in planning and development discussions.
Harbor Plan	Williams - Reported on the progress in organizing and addressing a comprehensive list of concerns and suggestions for a particular project or plan. - The group has successfully adopted a format that facilitates efficient discussion and resolution of items within a specific section. With this new approach, they've almost completed one section and plan to continue with the next section in their upcoming meeting on Monday. - The adoption of this format is particularly helpful for navigating through an extensive document, described as a "grid" spanning 16 pages, streamlining the review and discussion process.
Offshore Wind Work Group	Plandowski - No report.

Commissioner's Comments

Misurelli - Posed the question as to whether the length of time taken to finalize and present minutes would be standard going forward or if there could be an expectation for a quicker turnaround. Dell'Erba - Suggested establishing a plan that ensures timely processing of current meeting minutes while also addressing the backlog. The idea involves finding a balance that allows for the prioritization of documenting recent meetings to prevent further delays, without neglecting the need to catch up on past meetings' documentation. Plandowski - Raised an important point concerning the management and future plans for land that the commission supposedly controls, owns, or has some relationship with. This issue, emphasized several times by Seth, highlights the need for a focused discussion on the stewardship and utilization of these lands.

Dell'Erba

- Responded to this concern by suggesting the necessity of one or more special meetings dedicated to addressing this topic. However, there is a concern that organizing these special meetings may not be feasible within the next two months.

Adjournment:

Motion:	Motion to adjourn. (Made by: Braine) (Seconded by: Misurelli)
Vote:	Carried://6:0 Engelbourg, Golding, Braine, Misurelli, Plandowski, Williams (aye)

Submitted by:

Elaina Cano