



CONSERVATION COMMISSION

PUBLIC MEETING

131 Pleasant Street
Nantucket, Massachusetts 02554
www.nantucket-ma.gov
Thursday, January 25, 2024 – 5:00 p.m.

This meeting was held via remote participation using ZOOM and YouTube.
<https://www.youtube.com/watch?v=D1YPMzV1zhE>

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:

PUBLIC COMMENT

Chair Golding called for Public Comment on items not on the agenda. There were no public comments.

Prior to the Public Hearing, Engelbourg requested an edit to the agenda order to discuss item two before item one, citing the potential for discussions in item two to inform actions regarding item one and to avoid repetitiveness.

Motion:	Motion to hear Item #2 (Request for Independent Legal Counsel for SE48-3736) prior to Item #1. (Made By: Engelbourg) (Seconded By: Plandowski)
Action:	Carried: //5:2 Beale, Braine, Engelbourg, Plandowski, Golding (aye) // Misurelli, Williams (nay)

PUBLIC MEETING

Discussion of Request for Independent Legal Counsel for SE48-3736

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams
Representative:	Brian Madden
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	-
Discussion: (00:03:36)	Engelbourg - Stated satisfaction with the contents of the draft letter sent by Jeff Carlson, Natural Resources Director, and agreed to move forward with it. - Expressed concern about proceeding without legal counsel, especially on matters that could be influenced by the commission's decision to obtain counsel, such as rehearing limits and ongoing enforcement issues. - Emphasized the importance of clarifying the commission's order of operations to avoid discussing or opening issues without appropriate legal guidance. Golding - Questioned Seth regarding the draft letter's exclusion of specific provisions previously presented to the select board, such as the rehearing limit, requirements of previous and existing MOUs, the current removal order, and engineering notes and removal plan documents.

	- Inquired if these items should be added to the letter or if it was assumed they would be included with the letter. Carlson - Clarified the intent of the draft letter was not to address specific questions submitted to the select board but to initiate engagement with a professional who could answer those questions. - Explained the letter's focus was on securing engagement with a consultant, similar to past practices, to assist the commission. - Suggested including the request made to the select board could be acceptable, but reiterated the primary goal was to establish a contractual relationship for professional assistance, not to seek immediate answers to the submitted questions. Engelbourg - Acknowledged understanding of the intent behind the draft letter based on a recording of the previous meeting, despite not being present. - Noted that during the meeting, discussion occurred regarding the four issues previously proposed as concerns to the select board, with some board members believing these issues fell within their scope. - Suggested attaching the original letter sent to the select board to the request for counsel would be sufficient, indicating agreement with the approach to include those concerns indirectly. Williams - Agreed with Jeff's explanation and understanding of the situation. - Expressed confusion regarding the necessity of sending another letter for answers to questions that are anticipated to be addressed by legal counsel once appointed, questioning the process following the acquisition of legal counsel as discussed in the previous meeting. Carlson - Clarified the purpose of the letter sent today was to solicit responses to questions asked by the select board to aid in screening potential legal counsel candidates. - Mentioned outreach through the Massachusetts Association of Conservation Commissions (MACC) for legal counsel recommendations, noting MACC maintains a list of legal counsel familiar with commission needs. - Explained the process of contacting potential candidates from the MACC list, excluding those already involved with the project or previously deemed not eligible, to ensure a broad yet relevant solicitation. - Aimed to expedite the selection process by gathering a pool of qualified candidates for the commission to review and select a suitable legal counsel to recommend to the select board. Plandowski - Questioned the reasonable timeline for selecting an attorney and getting them up to speed on the commission's matters, inquiring whether a month or longer would be expected for this process to be completed. Carlson - Recalled the process from the last time legal counsel was sought, noting a quick turnaround: a week for responses, selection by the commission, and approval by the select board shortly thereafter. - Estimated that getting up to speed for the attorney previously involved took less than a week, facilitated by phone calls and information exchanges.
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	- Suggested that, given the matter involves the application of existing law, the time required for a new attorney to become familiar with the situation and relevant laws would not be extensive. - Opined that the entire process, including analysis and addressing any arising questions during hearings, would not span months, implying a faster timeline is achievable. Misurelli - Questioned whether the requirement for special counsel to be specifically versed in wetland law, as opposed to litigation experts, needs explicit mention in the letter or if it is implicitly understood given the context of the outreach. - Referenced a portion of the select board hearing attended by Ian and Mark, noting discussions emphasized the need for counsel with wetland expertise for the current issues at hand. Carlson - Explained the rationale for reaching out through the Massachusetts Association of Conservation Commissions (MACC) to find a specialist in wetlands law, aiming for expertise specific to the application of wetlands law. - Mentioned McGregor, Lerer, and Stevens as an example of a firm recommended by MACC that has expertise in both litigation and wetlands law, indicating firms listed by MACC are likely to have a focus on the Wetlands Protection Act but may also have capabilities in other areas. - Suggested that while any selected firm or attorney might have crossover expertise in both wetlands law and litigation, the intent was to prioritize those with a strong focus on wetlands protection through the MACC's recommendations. Beale - Shared impressions from attending the Select Board meeting, noting the Board's approval for independent counsel focused specifically on a narrow wetland question, without delving into the history of prior geo tubes or enforcement orders. - Interpreted the Select Board's comments as indicating the process for obtaining answers to specific wetland questions would involve submitting those questions to the Select Board for approval by Libby or another designated individual. - Acknowledged the procedure as potentially unwieldy but recognized it as the approved method for engaging with counsel to address specific wetland-related inquiries. Golding - Added to Mark's comment, noting a direct question to John Giorgio regarding the Select Board's stance on rehearing issues, which Giorgio confirmed would fall within the counsel's remit to address. - Highlighted that Murphy also treated the topic as a wetland question, aligning with the focus on specific wetland-related inquiries approved by the Select Board. - Concluded that, based on these clarifications, all four questions outlined in the commission's letter are expected to be within the scope of issues that the appointed counsel will address, despite the initially perceived narrow focus.
Motion: (00:14:27)	Motion to authorize the entire Conservation Commission staff to send out the letter requesting solicitations. (Made By: Engelbourg) (Seconded By: Plandowski)

Vote:	Carried: //7:0 – Beale, Braine, Engelbourg, Misurelli, Plandowski, Williams, Golding (aye)
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Discussion:	Engelbourg - Outlined the need for legal clarification on at least two or three basic questions before proceeding with a new order of conditions: the applicability of the rehearing limit, the requirement to resolve the enforcement order, and the potential influence of changes on other permitting agencies like NEPA or Chapter 81. - Expressed discomfort with moving forward to open the hearing and hear substantive discussions from the applicant without answers to these legal questions. - Acknowledged the significance of the scheduled hearing date for all parties involved but stressed the lack of a preliminary basis to determine if the Notice of Intent can be properly addressed at this time. - Emphasized personal hesitation to proceed under the current circumstances due to the unresolved legal questions, despite understanding the preparation and expectations set for the meeting. Williams - Disagreed with Seth's stance, expressing a personal belief in the commission's obligation to hear the applicant's presentation. - Proposed addressing legal issues in a subsequent meeting, emphasizing the commission's duty to consider the application regardless of its potentially repetitive nature. - Voiced no objection to listening to the presentation during the current meeting, with an expectation of holding further meetings to resolve legal questions definitively. - Advocated for proceeding with the presentation at the evening's meeting, highlighting a commitment to fulfilling the commission's responsibilities. Engelbourg - Sought staff input on the matter of the rehearing limit, emphasizing its potential to preclude the commission from considering an application regardless of its merits until certain issues are resolved. - Outlined two critical considerations: whether the application is a repetitive petition previously acted upon unfavorably within the last three years, and if the project has undergone substantive changes making it materially different from the earlier submission. - Clarified that if neither condition is met, the commission is not only free from the obligation to hear the application but is obligated to reject it based on regulations. - Stressed the importance of clarity on these logistic and regulatory requirements, distancing the discussion from any judgment on the project's merits. - Invited staff to contribute further insights or clarifications on the procedural aspects underlined. Plandowski - Questioned the accuracy of information encountered in recent documentation, suggesting that a town meeting approval may be required for the project, and sought clarification on the validity of this requirement.
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Carlson

- Affirmed the requirement under the Town of Nantucket's code, specifically referencing Chapter 67 regarding coastal properties, that town meeting authorization is necessary for the use of town land in the context of the discussed project.
- Advised that informing the town meeting about the permitting process and project requirements could be beneficial, regardless of the project's permit status, to facilitate informed decision-making.
- Acknowledged the potential for an appeals process to delay decisions if the project were to receive a permit denial but considered it a future concern.
- Emphasized the importance of public debate and discussion at the commission level, given its role in environmental protection and scientific review, suggesting that such discourse would be instrumental in guiding the town meeting towards making well-informed decisions on the project.
- Acknowledged the presence of an article within the current warrant that pertains to the project and project area, though the specific article number was not recalled.
- Admitted to not having fully reviewed the warrant in its final form but confirmed the inclusion of the project within it.
- Acknowledged previous experiences with the rehearing limit, expressing a nuanced view that neither fully agrees nor disagrees with Seth's perspective on the matter.
- Explained that there exists a standard for overcoming the rehearing limit if the commission determines there are specific and material changes in the circumstances since the previous unfavorable action, which must be documented in the commission's records.
- Highlighted the procedural necessity of hearing from the applicant to assess whether such changes exist, framing it as a prerequisite for deciding on the applicability of the rehearing limit.
- Noted the rehearing limit as a local bylaw requirement, distinct from state law, which necessitates a dual consideration of applications under both local and state regulations.
- Voiced from a staff perspective a slight disagreement with Seth, emphasizing the importance of understanding the project sufficiently to decide on the existence of specific and material changes.
- Suggested using the opportunity to hear a basic project description, allow public input, and assign tasks for the next meeting, while awaiting an independent counsel's opinion on the rehearing limit.
- Recommended proceeding with a preliminary analysis of the project to facilitate a more informed decision-making process, while recognizing the commission's responsibility to make a final determination based on counsel's advice and further deliberation.

Engelbourg

- Expressed agreement with the previously stated views regarding the process of addressing the rehearing limit, with a clarification regarding procedural norms.
- Clarified that traditionally, projects subject to the rehearing limit are categorized distinctly on the agenda, not under "Notice of Intent" but under a specific "rehearing limit" heading. This process involves initially opening the project under the rehearing limit to assess if specific and material changes warrant proceeding.

	- Pointed out a procedural concern with the current agenda, which lists the item under "Public Hearing Notice of Intent" rather than under a rehearing limit category, suggesting a preference to address the rehearing limit first. - Questioned the feasibility of adjusting the procedural approach given the agenda's publication, highlighting a technical concern with how the meeting was structured in relation to the rehearing limit discussion. Steven Cohen, Applicants Legal Counsel - Proposed on behalf of the applicant that the commission could reserve its rights regarding the rehearing limit issue, suggesting a path forward without immediate resolution. - Recommended that the commission seeks a written response to Mr. Murphy's concerns and obtains an opinion from independent counsel before making any decisions. - Expressed satisfaction that the commission will have access to independent counsel for guidance on the matter. - Acknowledged the applicant's agreement to note for the record the commission's reservation of rights on the rehearing limit issue, with the applicant's assent. Carlson - Suggested for future meetings to list the rehearing limit and the notice of intent as separate items on the agenda to clarify the distinct considerations involved. - Noted that this meeting marks the first instance of opening discussion on the rehearing limit, as well as the first time the commission is considering its applicability to the current case, based on public submissions. - Opined that the current posting is adequate for initiating a discussion on the rehearing limit but recommended splitting it into two separate agenda items for subsequent meetings to ensure clarity and proper procedural handling. - Encouraged taking advantage of the current gathering to discuss the issue, despite the procedural nuances, to make efficient use of the meeting time and facilitate a preliminary exploration of the matter at hand. Misurelli - Expressed a desire to proceed with the discussion during the current meeting, acknowledging the significant preparation and attendance, with 45 participants present. - Supported Steve's suggestion for handling the agenda and the discussions, indicating a preference for making progress by hearing what is available tonight, despite any procedural concerns. - Highlighted the anticipation and the importance of the discussion, underscoring the meeting's significance after a prolonged period of planning and preparation. Beale - Agreed with Michael's remarks on moving forward with the meeting and hearing the information presented tonight. - Expressed gratitude to Steve for addressing and managing the procedural aspects concerning the rehearing limit and the Notice of Intent (NOI). - Voiced support for continuing with the planned agenda to hear the NOI, offering to make a motion to that effect if necessary. - Suggested that the chairman could formally decide to proceed with the hearing, emphasizing a collective inclination to advance with the discussion despite earlier concerns.
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PUBLIC HEARING - Notice of Intent

Siasconset Beach Preservation Fund/Town of Nantucket – 41-119 Baxter Road (various) SE48-3736

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams
Representative:	Steven Cohen, Legal Counsel, introduced the representation and experts for the applicants, Sconset Beach Preservation Fund (SPF) and the Town of Nantucket, detailing the roles and expertise of each individual involved. - Outlined the presentation agenda for the evening, including: Richard “Chip” Nylon, Legal Counsel. An introduction to SPF and its motivations, as well as the Town of Nantucket's involvement, presented by Meredith Moldenhauer and Vincent Murphy. A wave energy analysis by Gordon Thompson from Baird, focusing on the project's impact on wave dynamics. A presentation on project design by Dwight Duncan and Nicole Prologue from Epsilon. An alternatives analysis by Kate Edwards from Arcadis.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion: (00:34:00)	Cohen - Emphasized the collaborative effort between legal counsel, technical experts, and consultants to address the Conservation Commission's inquiries and provide a thorough understanding of the project's scope, objectives, and environmental considerations. - Previewed the topics to be discussed, providing a roadmap for the commission and attendees on key aspects of the project under consideration. - Indicated that these topics would be divided into two primary discussions: the immediate operational and environmental concerns and the subsequent legal and regulatory considerations requiring external counsel. - Expressed a desire to pause and reassess the project with a renewed focus on the merits of the Wetlands Protection Act and the local bylaw. - Suggested aiming to propose and gain approval for a project that aligns well within the frameworks of these environmental protections. - Appreciated the commission's willingness to reconsider and approach the project with a fresh perspective, highlighting the importance of a thoughtful and comprehensive review process. Meredith Moldenhauer - Introduced herself as representing the Sconset Beach Preservation Fund (SBPF), a nonprofit organization formed by homeowners to combat erosion along Sconset’s northern bluff. - Outlined SBPF's history and mission, emphasizing its solution-oriented approach and dedication to protecting the Sconset beach, Baxter Road, the bluff, and the Sconset community from erosion and storm threats. - Described the challenges faced due to erosion, including the need to relocate the Sankaty Lighthouse, move homes back from the bluff, and the loss of the bluff walk. - Reviewed the efforts since the early 1990s to find effective erosion control solutions, leading to the geo-tube project initiated after significant bluff collapse in March 2013.

	- Highlighted the effectiveness of the geo-tubes and substantial sand mitigation efforts, with SBPF members funding about one to two million dollars per year for these measures. - Acknowledged the past issues and expressed a commitment to learning from these experiences to propose a thoughtful, expanded, and sustainable project. - Expressed regret for past mistakes and complexities but emphasized the intent to move forward with a new stage and application, showing the lessons learned and engagement with the commission. - Thanked the town for its partnership, which has enhanced the project, and invited the commission to review the NOI, expressing confidence in the project's design and compliance with legal requirements. Vince Murphy, Town Natural Resources Department - Emphasized the critical role of Baxter Road as not just a surface road but a vital corridor providing essential services like sewer and water, along with access to electricity and telecommunications. - Stressed the town's obligation to maintain access to these services for homeowners in the area and highlighted the significance of Baxter Road as an access point to the lighthouse and a major tourist attraction. - Pointed out the historical and public value of Sconset Beach and the Bluff Walk, noting the impact of erosion on these areas. - Outlined the town's partnership with the Sconset Beach Preservation Fund (SBPF) in addressing erosion and enhancing the area, demonstrating a shared interest in preserving access and amenities. - Warned of the severe consequences of road loss due to erosion, including potential infrastructure failures and environmental hazards. - Discussed the economic impacts of erosion on the Sconset area and the broader community, underlining the necessity of a proactive approach to erosion control. - Linked the project to the Coastal Resilience Plan (CRP) and Baxter Road long-term planning efforts, showing alignment with broader town goals. - Highlighted SBPF's initiatives to improve public recreation facilities in the project area, such as adding seating, bike racks, and public stairs for beach access. - Asserted the town's significant interest in the project, indicating a strategic alignment with SBPF to fulfill both public and private objectives in the region. Cohen - Provided context for the commission on the history of the geo-tube project and erosion issues on Nantucket, emphasizing the significant and unprecedented erosion events of 2012-2013. - Recalled the initial response to massive erosion along Baxter Road, leading to a proposed 4000 linear feet rock revetment, later reconsidered due to concerns about its permanence and potential negative impacts. - Transitioned to a geo-tube solution, initially 1500 linear feet, then reduced to 900 feet under emergency conditions, to address the most critical erosion threats. - Described the evolution of the project through various stages of approval, denial, appeals, and emergency interventions, highlighting the complexity of the regulatory and environmental challenges faced. - Mentioned the establishment of a working group to seek compromise and reduce litigation, leading to the approval of a smaller scale geo-tube installation and subsequent monitoring and adaptations based on learned experiences.
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	- Outlined the ongoing debate and legal battles over the project's expansion, non-compliances, and the issuance of a removal order, reflecting tensions and disagreements between the parties involved. - Indicated a shift towards reconciliation and strategic planning, with the town and SBPF reapplying with new proposals and the town preparing for alternative access solutions. - Mentioned that with a forward-looking perspective, noting improvements in relationship and project approach, leveraging a decade of experience, lessons learned, and enhanced coastal resiliency efforts to inform future actions. - Assessed the utility of data collection efforts over the past decade, identifying what information has been most valuable. - Recognized the opportunity to enhance public benefits and access within the coastal protection system. - Improved the coastal protection system significantly, based on experiences and feedback over the last ten years, especially in the last six months. - Resolved numerous legal questions and assumptions that previously hindered the project, with DEP affirming the permissibility of the coastal engineering structure four times. - Clarified legal misunderstandings regarding the relocation of structures, the application of the substantial improvement rule, the legality of gap lots, and the consideration of utilities loss. - Addressed operational and financial challenges through the updated Operations Maintenance Manual and MOU with the town. - Proposed a revised geo-tube system design, with improved stability, sand coverage, and quick recovery features, while enhancing public access and better defining sand mitigation strategies. - Established more effective operations and maintenance protocols to prevent past issues, including clear financial plans and failure criteria. - Emphasized the necessity of the coastal engineering structure in one of the country's most challenging marine environments, discussing the inadequacy of alternative solutions and their potential for negative impacts. - Indicated the legal compliance of the project, asserting that it enhances the bank's protective functions against storm and flood damage, aligning with the objectives of the Wetlands Protection Act. Dwight Duncan, Epsilon Associates - Outlined the regulatory standards relevant to the project, emphasizing that the design and mitigation measures aim to protect the interests of the Wetlands Protection Act and local bylaw values. - Confirmed DEP's approval of the project through superseding orders, indicating its compliance with coastal bank protection, storm damage prevention, and flood control standards. - Highlighted the project's focus on meeting performance standards and addressing differences in local bylaw regulations. - Discussed the purpose and need for the project, tracing the erosion issues back to the loss of a fronting dune in the 1970s, leading to significant bluff erosion. - Illustrated the ongoing retreat of the coastal bluff with LIDAR data, showing substantial losses over time and underscoring the urgent need for effective protection measures. - Presented the alternatives analysis included in the Notice of Intent, evaluating various methods for coastal bank retreat abatement and identifying sand-covered geo-tubes as an effective solution.
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	- Reviewed SBPF's efforts over 25 years to trial both structural and non-structural erosion control techniques, noting the managed retreat and de-watering as examples of practices explored. - Visualized past projects and alternatives considered, including relocations of buildings, de-watering efforts, and marine mattresses, to provide context for the commission on explored solutions. Kate Edwards, Principal Engineer with Arcadis - Collaborated with the town on the coastal resilience plan and Baxter Road long-term planning project, evaluating the feasibility of various erosion control methods and adaptation strategies for both short and long-term scenarios. - Analyzed alternatives for stabilizing the bluff and nearby infrastructure, reviewing both hard and soft toe protection methods discussed previously, like sea walls, rock revetments, and coir terraces. - Determined that toe protection is essential for stabilizing the bluff and infrastructure, geo-tubes identified as the most effective and suitable form of protection against the high-energy coastal environment. - Focused on adaptation pathways developed during the planning project, which highlighted feasible alternatives, including the use and potential expansion of geo-tubes to protect vulnerable bluff areas. - Acknowledged the ongoing development of an alternative access plan, emphasizing the need for immediate to mid-term erosion control solutions to safeguard at-risk infrastructure until long-term measures are implemented. Gordon Thompson, Baird and Associates - Explained the use of data from the Army Corps of Engineers' North Atlantic Coast Comprehensive Study (NACCS) to understand the wave climate affecting the Nantucket shoreline. - Displayed a storm track diagram showing the highest waves along the Nantucket shoreline, derived from the NACCS data at specific extraction points. - Analyzed wave height data from station 684 to model the wave impact at different return periods, indicating significant wave heights of up to 14 feet for a 100-year event. - Clarified the concept of a return period, noting that a 1-in-100-year event has a 1% chance of occurring in any given year, not only once in a century. - Showed cross-sectional views of the beach profile to illustrate the impact of storm surge and wave heights on the coastal bluff and the positioning of geo-tubes. - Discussed the importance of burying the lowest geo-tube deep enough to prevent scouring and undermining during severe storm events, ensuring the stability of the entire geo-tube structure. - Described the design considerations for the geo-tubes, balancing height and width to minimize beach encroachment while providing adequate storm protection. Dwight Duncan - Engaged with the town on the coastal resilience plan and Baxter Road long-term planning, evaluating feasibility and adaptation pathways for bluff protection in Sconset. - Introduced the concept of dividing the shoreline into "reaches" or segments to tailor the bluff protection strategy more effectively, moving away from the 2018 one-size-fits-all approach.
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- Identified five distinct reaches along Baxter Road, each with unique bluff characteristics and proposed specific types of protection for each, breaking the project into phases for implementation.
- Outlined Phase 1 to include maintaining and extending the existing geo-tube system in reaches 1-3 and installing coir terraces in reach 4 as an interim measure, with a long-term sand source determining the transition to Phase 2.
- Proposed Phase 2 to replace coir terraces with geo-tubes in reach 4 and introduce dune nourishment in reach 5, enhancing the existing dune with a sacrificial dune for additional protection.
- Presented design plans and cross-sections illustrating the proposed geo-tube placement, the interim coir terraces, and the sacrificial dune, detailing their installation and functions.
- Explained the compensatory sand volume calculation and the adaptive sand management plan, emphasizing the project's intent to comply with both Wetlands Protection Act regulations and local bylaw regulations.
- Highlighted the project's regulatory compliance, the effectiveness of the pilot project in not adversely affecting downdraft beaches, and the DEP's allowance for the extension of Coastal Engineering Structures (CES) across vacant lots.
- Promised a detailed discussion on regulatory compliance, monitoring, and the adaptive sand management plan in a subsequent session, ensuring the project aligns with established environmental protection standards.

Cohen

- In summary stated, the evaluation of the coastal engineering project under the state Wetlands Protection Act and local bylaw involves assessing several critical factors in a simplified manner. The primary consideration is whether there are pre-1978 structures at risk due to erosion, as their presence is a prerequisite for qualifying for protection. The project must also consider "gap lots," or areas without pre-1978 structures, and whether these can be legally protected. The effectiveness of the proposed coastal engineering structure in preventing storm damage and managing floodwaters is a key factor, alongside ensuring the design uses the best measures to minimize adverse impacts on adjacent coastal beaches, particularly in relation to wave energy changes.
- Further, the project's impact on bank stability, wildlife habitat, vegetation, scenic views, and its role as a sediment source must be scrutinized to avoid negative outcomes. Alternative solutions that offer less environmental impact while effectively protecting the bank and structures must be explored, with a keen focus on the unique wave energy challenges of the area. The potential for mitigating impacts on coastal beaches through monitoring, sand replenishment, and failure criteria must be considered, ensuring the project aligns with the protective intent of both state and local regulations.
- Moreover, the compatibility and sourcing of the sand used for beach or dune nourishment are critical to confirm, maintaining the natural sediment balance. The proposal concludes with a request for a continued hearing to address any outstanding legal, regulatory, and public concerns in detail, aiming for a comprehensive understanding and approval of the project in subsequent sessions.

Golding

- Denied the request for hearing continuation, opting instead to allow immediate questioning.
- Emphasized the importance of commissioners' rights to ask questions after the presentation.

	- Opened the floor for questions from commissioners to facilitate dialogue. - Encouraged public input within a reasonable timeframe to avoid an overly long session. Williams - Expressed appreciation for the historical overview provided by Steve, noting its value for understanding the project's background. - Indicated a preference to reserve questions for the subsequent session. - Requested a copy of the presentation for further review. Cohen - Confirmed that a copy of the presentation will be distributed and made publicly available. Plandowski - Commended the presentation for its comprehensiveness and depth of information. - Noted the absence of details regarding the financial impact of the project on all involved parties in the provided segments. Golding - Clarified that discussing the financial impact of the project falls outside the commission's scope of responsibility, emphasizing the focus on environmental and regulatory compliance rather than financial oversight. Engelbourg - Appreciated the detailed presentation and its focus on compliance with the Wetlands Protection Act and state regulations. - Pointed out a lack of discussion on compliance with Nantucket's local wetland regulations and bylaws. - Highlighted that assertions made might not hold under Nantucket's local regulations, noting that DEP's superseding orders of conditions do not address local compliance and are subject to ongoing appeals. - Emphasized the importance of addressing local regulatory issues, including gap lots, appropriateness of geotextile tubes, and compliance with pre-1978 structures and substantial alteration criteria. - Reserved substantive comments for the actual hearing but stressed the need for a comprehensive review of these local concerns in future discussions. Golding - Shared similar reservations about the presentation's assumptions, indicating a thorough note-taking process. - Planned to review and address disagreements with certain assumptions presented, signaling a readiness to engage in detailed discussions at an appropriate future time. Cohen - Clarified that the issue raised by Seth is extensively covered in the Notice of Intent (NOI), spanning 12 pages, to ensure it was not overlooked. - Acknowledged the brevity of its mention in the presentation and suggested a more detailed discussion in the next session. - Assured the commission that the matter was not glossed over, emphasizing its thorough examination in the NOI documentation. Beale - Indicated the intention to withhold questions for now, specifically regarding the critical issues of sand volume and sand sources, which are likely of general concern.
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Public Comment: (02:07:00)	Dennis Murphy, Esq. - Addressed inaccuracies in the presentation, specifically the claim that a remediation plan was not considered, stating personal involvement in crafting one and asserting that the plan was rejected during the public hearing. - Contested the assertion of no negative beach impact, citing personal client experience and expert analysis showing encroachment on private property and public beach areas due to the geo-tubes. - Emphasized DEP's role as a permitting agency similar to the commission, underscoring local authority over Nantucket's Wetlands Protection bylaw and questioning the blanket acceptance of DEP's stances, particularly on gap lots and sand volume requirements. - Introduced a zoning concern, arguing that geo-tubes qualify as structures under local bylaw and building code, thus requiring zoning considerations and potential variances for crossing district boundaries. - Criticized the application's completeness, pointing out outdated plans, lack of stamped engineering documents, and insufficient survey data. - Highlighted the absence of detailed plans for the project's construction phases and a clear quantification of required sand volume, estimating a significant sand deficit. - Expressed a desire for a conciliatory approach but stressed the need for a comprehensive plan addressing the sand deficit to consider the project viable for the community and affected neighbors. RJ Turcotte, Antioch Atlanta Water Council - Submitted a letter to the commission advocating for independent legal counsel, welcoming the recent acquisition of such counsel. - Announced plans to submit detailed technical critiques from their consultant, Applied Coastal Engineering, at the next meeting, highlighting gaps in the project, including recent data on coastal bank and bluff changes. - Emphasized the project's scale, comparing its length to nearly four U.S. aircraft carriers, to underscore the magnitude and dynamic nature of the coastal area in question. - Advised new commissioners to consider the project's complexity and controversy, noting its history of denials and sand sourcing problems, and the long-term advisement for retreat from the affected area. Burton "Spruce" Balkind - Inquired about the status and submission of monitoring reports, referencing Mr. Duncan's mention of a decade-long monitoring effort. - Sought clarification from either the staff or Mr. Duncan on when the latest monitoring report was actually provided to the commission or staff. Duncan - Committed to verifying the historical submission of monitoring reports. - Promised to review the records and provide a response regarding the latest submission date of the monitoring report to the commission or staff. Carlson - Clarified the scheduling of the hearing, stating that Session Two of the presentation, initially expected on the 15th, will not occur on that date. - Indicated a tentative plan to hold Session Two on the 22nd, contingent on receiving updates and independent reviews from various sources during the meeting on the 15th.
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Motion:	Motion to continue to February 15th, with a tentative plan to hold Session 2 on February 22nd, contingent on receiving updates and independent reviews from various sources during the meeting on the 15th. (Made By: Beale) (Seconded By: Misurelli)
Action:	Carried://7:0 Beale, Engelbourg, Golding, Braine, Misurelli, Plandowski, Williams (aye)

Adjournment:

Motion:	Motion to adjourn. (Made by: Plandowski) (Seconded by: Misurelli)
Vote:	Carried://7:0 Beale, Engelbourg, Golding, Braine, Misurelli, Plandowski, Williams (aye)

Submitted by:
Elaina Cano