



CONSERVATION COMMISSION MINUTES

131 Pleasant Street

Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Thursday, March 7, 2024 – 5:00 p.m.

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

<https://www.youtube.com/watch?v=cTPG5z3mMkQ>

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 Vice Chair Engelbourg

Staff in attendance: Will Dell'Erba, Conservation Agent
Attending Members: Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Absent Members: Golding
Members Left Early: -

*Indicates items not previously opened/discussed

I. PUBLIC MEETING

A. Public Comment – Vice Chair Engelbourg called for Public Comment on items not on the agenda.

Comments:	Steven Cohen - Confirmed that the Baxter Road Project will not be discussed at today's meeting but is scheduled for the agenda next week. - Requested an update on the peer reviewer or the legal counsel. Dell'Erba - Updated on the peer reviewer situation, stating that they currently have one reviewer and sent a reminder to another potential reviewer. Expressed hope for an additional response but noted that they already have one quote. - Mentioned receiving a response from one legal counsel option, who will provide a quote by the end of business tomorrow, indicating progress in the selection process.
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II. PUBLIC HEARING

Discussion of and potential adoption of the Nantucket Wetlands Regulations update.

Discussion:	Engelbourg - Expressed a preference that all seven members of the commission be present before making substantive progress on the regulatory update, stating a belief that any vote should involve all members. Opened the possibility for discussion but recommended postponing the vote until all members are present. Misurelli and Williams - Concurred with Engelbourg. Engelbourg - Noted that there is a list of attendees interested in the discussed topic and encouraged them to reach out to the Natural Resources Department staff with any specific comments or to attend the upcoming meeting where the topic will be continued. Plandowski - Commented on the absence of the term "Coastal Engineering Structures (CES)" in the regulatory definitions, noting that while related terms appear under "engineering" or "structures," CES is not directly listed. - Suggested that there is an opportunity to correct this oversight in the regulatory update to enhance clarity.
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Conservation Commission Minutes – March 7, 2024, adopted on May 23, 2024

	Engelbourg - Acknowledged that "Coastal Engineering" is listed under current regulations as a structure but pointed out the need for clarification. - Suggested that such an edit would be minor and not likely to cause concern, requesting that staff look into making this clarification.
Motion:	Motion to continue the discussion until March 21, 2024. (Made By: Misurelli) (Seconded By: Plandowski) (00:10:03)
Vote:	Carried: /6:0 – Beale, Braine, Engelbourg, Misurelli, Plandowski, Williams, (aye)

A. Notice of Intent

1. Lampoon Nominee Trust- 6 Westco Place (42.4.3-49) SE48-3715 (Gasbarro) **Continued Until March 21, 2024.**
2. Minella- 5 Giny Lane (41-852) SE48-3735 (Rits) **Continued Until March 21, 2024.**
3. Third Point Holdings LLC- 39 Quaise Road (26-3) SE48-3738 (Gasbarro) **Continued Until March 21, 2024.**
4. Nantucket Islands Land Bank- 204 & 212 Cliff Road, 111 & 113 Madaket Road (40-57 & 56, 25.5 & 25.4) SE48-3742 (Gasbarro)

Sitting:	Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams
Recused:	-
Representative:	Art Gasbarro
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	Commissioners had no comments.
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made By: Misurelli) (Seconded By: Plandowski) (00:12:54)
Vote:	Carried: /6:0 – Beale, Braine, Engelbourg, Misurelli, Plandowski, Williams, (aye)

5. Van Den Born- 135 Wauwinet Road (11-12) SE48-3743 (Gasbarro) **Continued Until March 21, 2024.**

6. *Nantucket Yacht Club- 1 South Beach Street (42.4.2-11 & 12) SE48-3745 (Asadoorian)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams
Recused:	Beale
Representative:	Leo Asadoorian
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	Commissioners had no comments.
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made By: Misurelli) (Seconded By: Plandowski) (00:17:00)
Vote:	Carried: /5:0 – Braine, Engelbourg, Misurelli, Plandowski, Williams, (aye)

7. *2020 Flax Family Irrevocable Trust- 12 Moors End Lane (43-215) SE48-3746 (Madden)

Sitting:	Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams
Recused:	-
Representative:	Brian Madden, LEC Environmental Consultants, Inc.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	Commissioners had no comments.
Staff Recommendation:	All necessary items have been received in order to close.
Motion	Motion to close. (Made By: Plandowski) (Seconded By: Misurelli) (00:19:34)
Vote:	Carried: /6:0 – Beale, Braine, Engelbourg, Misurelli, Plandowski, Williams, (aye)

8. *Slosek- Tuckernuck Island (93-1.1) SE48- (Madden) **Continued Until March 21, 2024.**

9. *Pocomo Point Realty Trust- 90 Pocomo Road (15-43) SE48- (Gasbarro)

Conservation Commission Minutes – March 7, 2024, adopted on May 23, 2024

Sitting:	Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams
Recused:	-
Representative:	Art Gasbarro
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:23:44)	Beale - Raised a concern about a popular family picnic area from the point northward, expressing hope that the snow fence will be kept as close to the bank as possible to accommodate the high volume of people, including children and small boats, who frequent the area during summer. Gasbarro - Responded to the concern about the placement of the snow fence by noting that on the current plan, the fence is set further back than the existing fence. - Clarified that the intention is not to block access to the beach and assured that the back row of posts is planned to be installed as far back as possible, effectively confirming the approach to keep the fence close to the toe of the bank. - Admitted to not knowing the specific scheduling details but mentioned that it would be under a three-year permit, expressing uncertainty about the availability of contractors and the exact timing for initiating the project. Engelbourg - Questioned whether the bank had been subject to any coir roll protection in the past or if it is a naturally occurring bank, learning that in this specific location, it is a natural bank.
Staff Recommendation:	All necessary items have been received in order to close.
Motion	Motion to close. (Made By: Misurelli) (Seconded By: Plandowski) (00:26:25)
Vote:	Carried: /6:0 – Beale, Braine, Engelbourg, Misurelli, Plandowski, Williams, (aye)

10. Sconset Bluff Preservation Fund/ Town of Nantucket - SE48-3736 **Continued Until March 14, 2024.**

B. Amended Order of Conditions

1. 8 High Brush Path, LLC- 8 High Brush Path (56-370) SE48-3702 (Madden)

Sitting:	Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams
Representative:	Brian Madden, LEC Environmental Consultants, Inc
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	Engelbourg - Stated the applicants have requested that this item be withdrawn.
Motion:	Motion to withdraw without prejudice. (Made By: Plandowski) (Seconded By: Misurelli) (00:27:20)
Vote:	Carried: //6:0 – Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams (aye)

2. *Nantucket Islands Land Bank- 321 Polpis Road (25-8) SE48-3656 (Freeman)

Sitting:	Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams
Representative:	Rachael Freeman, Nantucket Land Bank
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	Engelbourg - Expressed concern about the proximity of the parking area to the 25-foot buffer, noting it appears very close to the edge. Suggested the possibility of installing a split rail fence to prevent cars from encroaching into the buffer zone. Freeman - Agreed to the suggestion of installing a split rail fence around the parking area, noting that the area is somewhat defined by shrubbery but acknowledging that adding a fence could enhance the definition.

Conservation Commission Minutes – March 7, 2024, adopted on May 23, 2024

	- Clarified that the 25-foot buffer zone is adjacent to a ditch, which is located within the shrub area.
Motion:	Motion to close and issue the amended order. (Made By: Plandowski) (Seconded By: Misurelli) (00:33:13)
Vote:	Carried: //6:0 – Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams (aye)

III. PUBLIC MEETING

A. Requests for Determination of Applicability – None

B. Minor Modifications

1. Easton Street LLC- 55 Easton Street (42.4.1-86) SE48-3590 (Madden)

Sitting:	Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams
Representative:	Brian Madden, LEC Environmental Consultants, Inc
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	There were no questions from Commissioners.
Motion:	Motion to Issue the Minor Modification. (Made By: Plandowski) (Seconded By: Braine) (00:35:38)
Vote:	Carried: //6:0 – Beale, Braine, Engelbourg, Misurelli, Plandowski, Williams(aye)

2. Nantucket Whales End II, LLC- 43 & 45 Squam Road (13-23 & 24) SE48-3607 (Madden)

Sitting:	Engelbourg, Beale, Braine, Misurelli, Plandowski
Recused:	Williams
Representative:	Brian Madden, LEC Environmental Consultants, Inc
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	There were no questions from Commissioners.
Motion:	Motion to Issue the Minor Modification. (Made By: Plandowski) (Seconded By: Braine) (00:37:15)
Vote:	Carried: //5:0 – Engelbourg, Beale, Braine, Misurelli, Plandowski (aye)

C. Certificate of Compliance

1. Shriberg- 60 West Chester Street (41-374) SE48-3536 (Bracken)

Sitting:	Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams
Representative:	Brian Madden, LEC Environmental Consultants, Inc presented for Don Bracken
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	There were no questions from Commissioners.
Motion:	Motion to Issue the Certificate of Compliance. (Made By: Misurelli) (Seconded By: Plandowski) (00:40:40)
Vote:	Carried: //6:0 – Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams (aye)

2. Tucket, LLC- 4 Woodbine Street (87-57) SE48-3204 (Bracken)

Sitting:	Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams
Representative:	Will Dell’Erba presented for Don Bracken
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	There were no questions from Commissioners.
Motion:	Motion to Issue the Certificate of Compliance. (Made By: Beale) (Seconded By: Plandowski) (00:42:22)
Vote:	Carried: //6:0 – Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams (aye)

3. Jones- 6 East Lincoln Avenue (42.4.1-49.1) SE48-3384 (Blackwell)

Sitting:	Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams
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Conservation Commission Minutes – March 7, 2024, adopted on May 23, 2024

Representative:	Jeff Blackwell, Blackwell & Associates, Inc.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	There were no questions from Commissioners.
Motion:	Motion to Issue the Certificate of Compliance. (Made By: Misurelli) (Seconded By: Plandowski) (00:43:58)
Vote:	Carried: //6:0 – Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams (aye)

Items 4 & 5 were presented concurrently.

4. Eleven Crooked Lane, LLC- 10 Hickory Meadow Lane (41-904) SE48-2682 (Bracken)

Sitting:	Engelbourg, Beale, Braine, Plandowski, Williams
Recused:	Misurelli
Representative:	Will Dell’Erba presented for Don Bracken - Stated that there will be a continuing condition 20.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	There were no questions from Commissioners.
Motion:	Motion to Issue the Certificate of Compliance with Ongoing Condition 20. (Made By: Plandowski) (Seconded By: Beale) (00:48:55)
Vote:	Carried: //5:0 – Engelbourg, Beale, Braine, Plandowski, Williams (aye)

5. Eleven Crooked Lane, LLC- 10 Hickory Meadow Lane (41-904) SE48-3311 (Bracken)

Sitting:	Engelbourg, Beale, Braine, Plandowski, Williams
Recused:	Misurelli
Representative:	Will Dell’Erba presented for Don Bracken - Stated that there will be a continuing condition 20 and 23.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	There were no questions from Commissioners.
Motion:	Motion to Issue the Certificate of Compliance with Ongoing Condition 20 and Condition 23. (Made By: Plandowski) (Seconded By: Beale) (00:48:55)
Vote:	Carried: //5:0 – Engelbourg, Beale, Braine, Plandowski, Williams (aye)

D. Orders of Conditions (If the public hearing is closed – for discussion and/or issuance)

1. *Nantucket Yacht Club- 1 South Beach Street (42.4.2-11 & 12) SE48-3745 (Asadoorian)

Sitting:	Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams
Recused:	Beale
Presented By:	Will Dell’Erba
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	Misurelli - Asked if wording could be included in the conditions for construction projects near the water to protect the harbor from construction debris, expressing concern about preventing pollution from building materials entering the water. Engelbourg - Confirmed that there is an existing condition addressing the concern about construction debris near water. - Described the condition as requiring measures to prevent erosion or sedimentation into the water. Additionally mentioned that past requirements have included daily checks of debris at the site, offering to consider this practice for current projects if deemed necessary. Misurelli - Emphasized the importance of daily site cleanups, particularly due to wind that could easily blow debris from second-floor constructions into the harbor, highlighting the potential for environmental impact if not managed properly. Engelbourg

Conservation Commission Minutes – March 7, 2024, adopted on May 23, 2024

	- Proposed adding a condition stating that debris shall not be allowed to enter the water and that best management practices should be implemented to minimize erosion, sedimentation, or pollution into the resource area. Further suggested a second condition requiring daily checks and cleanup of the site to ensure compliance and environmental safety shall be required.
Motion:	Motion to Issue the Order of Conditions, as amended. (Made By: Braine) (Seconded By: Misurelli) (00:56:25)
Vote:	Carried: //5:0 – Engelbourg, Braine, Misurelli, Plandowski, Williams (aye)

2. *2020 Flax Family Irrevocable Trust- 12 Moors End Lane (43-215) SE48-3746 (Madden)

Sitting:	Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams
Presented By:	Will Dell'Erba
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	There were no questions from Commissioners.
Motion:	Motion to Issue the Order of Conditions, as drafted. (Made By: Plandowski) (Seconded By: Beale) (00:58:35)
Vote:	Carried: //6:0 – Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams (aye)

3. *Pocomo Point Realty Trust- 90 Pocomo Road (15-43) SE48-3747 (Gasbarro)

Sitting:	Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams
Presented By:	Will Dell'Erba
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	Engelbourg - Suggested adding survivorship conditions for any plantings involved in the project, ensuring that there is a requirement for the plants to survive and thrive post-installation to meet environmental restoration or stabilization goals. Gasbarro - Sought to clarify the scope of the planting within the project, emphasizing that the intent was not to fully revegetate the entire bank as might be expected in more comprehensive mitigation projects. - Explained that the project aimed to infill certain areas and enhance them with beach grass, under commission approval. This effort was described more as a supplement to assist in stabilization rather than a complete restoration or mitigation effort typically seen in projects involving coir rolls and requiring high success rates of plant survival. Engelbourg - Suggested maintaining the initial part of the proposed condition but recommended removing the second sentence to better align with the clarified intent and scope of the planting efforts discussed. - Discussed past practices regarding the submission of monitoring reports, noting variations in how deadlines were set. - Mentioned that previously, a common deadline was December 31st, which resulted in a large influx of reports at year's end. - Highlighted a preference, for ease of staff workload, to have monitoring reports submitted by the anniversary date of the permit issuance, rather than setting an annual blanket deadline. Dell'Erba - Mentioned an upcoming Conservation Commission Agents Network meeting next week, expressing an intention to seek advice on effective systems for managing monitoring report submissions before making any commitments. Engelbourg - Suggested retaining the requirement for a yearly monitoring report in the current format, indicating openness to revising this approach in future permits based on

Conservation Commission Minutes – March 7, 2024, adopted on May 23, 2024

	additional information and practices that may emerge from the upcoming network meeting and other sources.
Motion:	Motion to Issue the Orders, as Amended. (Made By: Misurelli) (Seconded By: Plandowski) (01:06:50)
Vote:	Carried: //6:0 – Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams (aye)

E. Extension of Order

1. 04TST36WASHINGPOND, LLC- 36 Washing Pond Road (31-13.2) SE48-3425 (Gasbarro)

Sitting:	Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams
Representative:	Art Gasbarro
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	There were no questions from Commissioners.
Motion:	Motion to Issue a (1) One-Year Extension. (Made By: Beale) (Seconded By: Plandowski) (01:08:13)
Vote:	Carried: //6:0 – Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams (aye)

2. Island Harbor Farm LLC- 9 Salem Street (42.3.1-89) SE48-3435 (Santos)

Sitting:	Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams
Representative:	Paul Santos
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	There were no questions from Commissioners.
Motion:	Motion to Issue a Three-Year Extension. (Made By: Plandowski) (Seconded By: Braine) (01:10:33)
Vote:	Carried: //6:0 – Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams (aye)

Monitoring Reports

Discussion: (01:11:24)	Dell'Erba - Received a monitoring report for Pest House Pond, inviting any specific questions from the commission. The report noted plans to file an extension by July, before the current permit expires, in order to continue management efforts targeting widgeon grass and conducting algicide treatments.
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Enforcement Actions/Potential Enforcement Actions

Discussion:	-
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Reports: CRAC, CPC, NP&EDC, Harbor Plan, Offshore Wind Work Group, etc.

CRAC	Braine No report.
CPC	Beale No report.
NP&EDC	Engelbourg - Discussed the ongoing updates to the membership structure at NPNC, noting that nothing has been finalized yet. Indicated that all current indications suggest the Conservation Commission will retain a seat. Committed to keeping the Commission informed as updates occur and mentioned that any finalized changes would require state legislative approval.

Conservation Commission Minutes – March 7, 2024, adopted on May 23, 2024

Harbor Plan	Williams Reported on the Harbor Plan, noting it is progressing steadily. Highlighted that an upcoming agenda item will focus on the creation of an eelgrass subgroup, which is considered one of the most critical issues. This topic is scheduled to be discussed separately in a meeting either next week or in two weeks.
Offshore Wind Work Group	Plandowski No Report.

Commissioner's Comments

Discussion:	Engelbourg - Expressed urgency in scheduling a discussion for the next meeting regarding town meeting articles previously mentioned. - Emphasized the need for the Conservation Commission to vote on these matters prior to the town meeting, particularly focusing on the potential disbursement of lands held in joint ownership by the Conservation Commission. Beale - Suggested that the topic of discussing town meeting articles, specifically the disbursement of lands held in joint ownership by the Conservation Commission, be placed as the second item on the agenda. Engelbourg - Assumed that the topic of land disbursement isn't very controversial and likely won't require extensive discussion. - Detailed that the articles presented at the town meeting, initiated by the select board, propose transferring land from the town and the Conservation Commission to the Land Bank. Expressed personal support for this transfer, noting the Land Bank's greater capacity for stewardship and maintenance of these properties. - Expressed concern about the process, as these articles were moved forward without the Conservation Commission's consent, despite their name being on the deeds. - Emphasized the need for the Commission to vote to either accept the warrant articles or decide on further actions. Dell'Erba - Recommended scheduling the discussion of the land disbursement articles for the agenda on the 21st, acknowledging the uncertainty that the discussion on wetlands regulations might not conclude before the town meeting. Beale - Expressed concern and surprise that the Select Board did not inform the Conservation Commission or seek input before moving forward with the land disbursement articles. Engelbourg - Mentioned a conversation with Jeff about similar past actions where the Conservation Commission has transferred lands to other entities. Noted that in all previous instances, there was a discussion within the Conservation Commission prior to such actions. Stressed the necessity of having a thorough discussion regarding the current proposed land disbursement to ensure proper procedure and transparency.
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Administrator/Staff Reports

Discussion:	Dell'Erba Commended Seth on a well-managed meeting.
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Adjournment:

Motion:	Motion to adjourn at 6:19. (Made by: Misurelli) (Seconded by: Plandowski)
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Conservation Commission Minutes – March 7, 2024, adopted on May 23, 2024

Vote:	Carried://6:0 Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams (aye)
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Submitted by:
Elaina Cano