



CONSERVATION COMMISSION MINUTES

131 Pleasant Street
Nantucket, Massachusetts 02554
www.nantucket-ma.gov
Thursday, June 6th, 2024 – 4:00 p.m.

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

<https://youtube.com/live/zK4ujWmRtp0>

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

Called to order at 4:00 p.m. by Chair Golding

Staff in attendance: Jeff Carlson, Natural Resources Director, Will Dell’Erba, Conservation Agent
Attending Members: Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams (All Remote)
Absent Members: -
Members Left Early: - Seth Engelbourg arrived at (04:38)

I. PUBLIC MEETING - Public Comment

Chair Golding called for public comment.

Public Comment	Burton Balkind – On May 26th, Burton sent an email to the Natural Resources Department about zoom best practices by using video on zoom. – Asked that all members turn on video for transparency
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1. Sconset Bluff Preservation Fund- 41-119 Baxter Road (various) SE48-3736 (Posner)

Sitting	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Recused:	-
Representative:	Richard Nylén – SBPF Legal Council Steven Cohen – SBPF Legal Council
Documentation:	-
Discussion:	Williams – Expressed she had the chance to review the beta letter provided by the third party reviewee, although only received earlier that day – Understands the SBPF felt they provided all needed documentation – Pleased with the report Plandowski – In regard to the May 24th beta report – Expressed concern of the font size being too small – Concerned there was details hidden – All details were in addition to work already done which was unexpected Braine – Did not have time to review response but did have time to review beta report Misurelli – Only received Nylén’s response today, requested to go through responses during meeting. Golding – Agreed to go through responses with Nylén today Nylén – Expressed intention to only go through Commissioners questions today

	– Apologizes for delayed response – Pleased that the peer review was looking at the project methodically – One item that SBPF disagreed with – Not an issue that the peer reviewer saw a gap in information – Believed the peer review supports SBPF's stance that they meet performance standards – SBPF agrees that there should be a set of final plans before construction – More appropriate to submit final plan before construction – Agrees where the resource areas are and implementations for geotubes to be able to be installed – Wants to be measure what should be upgraded and downgraded as part of the or of conditions – Comfortable there is sufficient sand for phase 1 2 and 3 – To continue with phase 4, needs additional sand source of which beta agrees with – Beta believes there's not efficient information in the NOI for a set of public beach stairs – Acknowledges a need for separate notice of intent for beach stairs – Agrees with the request for planting plan – Acknowledges they have made sufficient efforts to move houses back from the coastal bank – Wil put the need for resource area on plan – In regard to grain size of sand, believes they have carefully gone through sufficient tests to ensure the sand matches the natural sand – Agrees they meet the performance standards given the response to the beta letter – Expressed they are not looking to stop retreating, only that they are looking to slow down erosion
	Bealle
	– Wondered why beta was not on the call
	Jeff Carlson – Director of the Natural Resources Department
	– Confirmed beta will be on the call on the 20 – Requests any additional questions for Beta to respond to
	Bealle
	– Admits sand sourcing was not satisfactory and desires more information on sand sources
	Nylen
	– Admits the sand source for the pilot project was not an ise and there was no problem with the sourcing for phases 1,2, and 3 – If they fail to meet the standards for phase 4, they need a failure removal process – Different from phase
	Bealle
	– Surprised to hear that even with the geotubes in place it will still be an eroding shoreline – Coir rolls can be temporary solution and believes they are more permittable than geotubes
	Nylen
	– Agrees coir rolls are a fair point but believes the geotubes protect the coastal bank better
	Golding

	– Regrets the back and forwards communication – There was a problem with initial sand deliverer with the back and forth for trucks Engelbourg – Concerned that the classification of Beta classifying the project as permissible under the bylaw and the wetland protection act is an overstatement – Does not believe beta came out with a statement with overwhelming support for the project – Does not believe we are close to an end state, expresses concern over numerous documents that have not been received – In regard to phase 2, admits a large extensive process is needed for an off-island sand source, believes only a permit for phase 1 should be issued because they do not have enough information to permit phase 2 – Admits importance to receive some plans that have not been received in order to issue permits Misurelli – Requests deep dive into timeline for public access beach stairs Vince Murphy – Sustainability Programs Manager, Nantucket Natural Resource Department – Expresses that coastal engineering structures never stop erosion – States erosion rates are the only thing that changes with a CES, and erosion still occurs Misurelli – Referred to erosion from wave action
Public Comment/Discussion:	Steven Cohen – Expressed the areas being discussed for erosion were areas that were not currently proposed to be geotubes and erosion will stop at geotubes – There is no plan to maintain existing beach or dune – Expresses important to keep in mind that the sand source, process and funds are important – Questions if there is sufficiency for all three of these and states this is a separate legal process Balkind – Questioned if the W5 means that the geotube must be brought back into compliance Cohen – Believes it is the commissions prerogative to resolve any past issues Engelbourg – Concerned about the lack of monitoring in the beta report and the difference between this and the pilot project – Requests a discussion about the monitoring efforts Balkind – Curious about monitoring data and wondered when the last time a monitoring report was submitted to the commission for review Golding – Emphasized this was not a discussion for today Nylen – Agrees with Stephen on having a revolving order of conditions – States the commission does have a stamped set of plans from beard

	– States its important for the commission to have updated plans and monitoring prior to construction – Believes the commission should have enough to approve permits – References ARCADIS believes their programs is far more robust now than the pilot – Expresses the importance of appropriate data for monitoring – Comfortable they have a strong monitoring program and expresses availability to commission if need be Golding – Expresses need to address legal report Engelbourg – Expresses concern that the discussions in the ONM manual were done in a separate process and desires an updated discussion – Disagrees that the monitoring is more robust – Requests desire for beta to weigh in on monitoring efforts due to escalation triggers which depends on monitoring Cohen – Questioned wen the legal response will be before the board – Points out the original monitoring program was designed by the commissioners and now they are seeing recommendations from the commissioners – Requests commissioners collect questions through Carlson for Beta so everyone can be prepared Golding – Does not believe commissioners should have to prepare questions in advance Murphy – Corrects the statement that ARCADIS state the monitoring was robust, states that the oversight is more robust – States the monitoring frequency did make sense at the time in comparison to similar projects Carlson – Conveys receival of all legal engagement – Trying to have all councils available for the following meeting – Expresses importance of having questions available for individual to prepare ahead of time Golding – Desires a question to be added regarding the pre 1978 houses and the legal interpretation of both the state and local bylaws – Questions if commissioners feel this question is valid Engelbourg – Questions the need to go back to the select board to approve this question Carlson – States yes, for a question to be added it must be presented to select board Engelbourg – MOTIONS – Motions to ask select board to add the 5th question to the scope of services and provide NRD staff with resources to move this forward
Motion	Motions to ask select board to add the 5th question to the scope of services and provide NRD staff with resources to move this forward (Made by: Engelbourg) (Seconded by: Bealle)
Vote	Carried://7:0 Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams, Golding (aye)

Public Comment/Discussion Cont.	Meredith Moldenhauer – Representative of SBPF – Appreciates thank you to the commissioners and council – Desire for commission to find that SBPF has provided all documents and wishes to move forward soon – Emphasizes the appreciate of diligence but desires for a quick resolution Cohen – Requests continuance due to time
Action:	CONTINUED UNTIL JUNE 20 TH

2. Discussion of Revision and Potential Adoption of the Town of Nantucket Wetland Protection Regulations (Chapter 390)

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Recused:	-
Representatives:	-
Documentation:	
Discussion	Williams – Expresses concern with singular section and states no research has been conducted on the impact. – Exclaims most people have not seen updated version with the 75ft buffer Engelbourg – Is aware that the options with no buffer zone and buffer zone changes have been posted to the NRD website Golding – Desires staff to firm Engelbourg’ statement Carlson – Confirms clean versions were posted on March 24th, 2024 – Confirms all comments discussed by commission would put in during the majority of direction from the commission Dell’Erba – Adds there is a final draft clean version with no buffer zone changes as well as a final draft clean version with the staff recommended buffer zone changes Misurelli – Acknowledged the hard work staff and commissioners placed into the regulation updates – Concerned over zoom discussions but not public hearings Golding – States that anyone throughout the process could participate during zoom meetings Misurelli – Stands by statement Golding – Not disputing validity of comment Engelbourg – Does not believe Misurelli’ s suggestion is not agreed upon by discus, states they did occur in person at the town meeting trailer and commissioners incorporated all comments into the current draft. Braine – Questioned Williams on the type of research she desires Williams – States the impact of the 75 ft buffer, that the commission has not ascertained the impact of said buffer

	- Agrees with Misurelli that there has not been enough public hearings Engelbourg - Regulation is derived by the DEP by the oversight of the wetlands protection act and gave commissions a huge amount of authority to introduce local regulations to ensure protections for their special wetlands. - Requests definition for impacts - States concerns must be limited to wet resource areas that best protect the resource areas as the conservation commission - States he personally has submitted multiple articles and research on the impacts of expanded buffer zones and believes that it is enough justification for Nantucket to say that these regulations will better protect resource area - Believes all requirements for the commission have been met - Desires to vote on issue tonight Golding - Is happy to put a vote up tonight Plandowski - Also wishes to vote tonight Golding - Notes approval from Bealle and Braine Dell'Erba - States if a vote is being conducted, the term MCFRM model in definition Sea level rise, it is not a sea level rise model it is a coastal flood model so this was corrected throughout the regulations Engelbourg - States best protocol to take public comment - When ready to move towards motion, must clearly clarify which version
Public Comment/Discussion	RJ Turcotte – Nantucket Land and Water Council - States current document is living document and if changes need to be made it can be done so - Would love to see a vote on the regulations tonight Steven Cohen) -local attorney - Disagrees that the version being voted on tonight has been made apparent to the public nor notified the public of this being a final version - Requests some information on the scientific methods/data used to explain this - Recalls the commission presented to the select board over a year ago and requests they go back to the select board to provide the final version Frank Daily - Understands science will always say less humans - Concerned this is not feasible in general and not feasible for Nantucket - Believes if there are any questions for the updated regulations there should be continued discussions and public hearing Sarah Alger - Believes that too much time has passed between now and the public meetings and wishes to have one more meeting - States the document may be living but it is a very slow living document Ashley Erisman - Comments that the regulations have been in the works for over 2 years and believes the public has had ample time to review the documents and that the science behind it is sound - Desires a 3-year update process

	– Believes the commission is just in voting tonight and that the public has had time to respond Engelbourg – Agrees that current process has been slow – Desires a once annual review meeting to discuss/fix any issues with updated regulations Carlson – Suggests the commission take a vote to publish the version tonight then schedule an in-person meeting to present all the changes for the public to review after which if there is any significant changes, the commission can then vote to put that final adoption out Golding – Feels the need to go forward with a vote tonight Paul Santos – Questions if there has been discussion about an effective date for te updated regulation Golding – States staff believes October 1st would be the effective date Engelbourg – Wishes to proceed with Carlson’s proposal – Does not believe anything will change as long as a motion is made tonight – Supports the effective date of January 1st, 2025 Williams – Agrees Daily – Cannot find link to what is being voted on MOTION AND VOTE Motion to write a letter of thank you on the conservation commissions behalf to previous chair Ashley Erisman MADE BY GOLDING, SECONDED BY ENGLEBOURG Unanimously passed Engelbourg – Implores commissioners to give chair credit that we will be able to retain appropriate public comment Carlson – If there are comments send to NRD staff
Staff Recommendations:	
Motion	Adopt the revised regulations with expanded buffer zones to take effect on January 1 st , 2025 (Made by: Plandowski) (Seconded by: Baele)
Vote	Motin was deafeacted://2:0 Beale, Plandowski (aye) Opposed:// 5:0 Braine, Engelbourg, Misurelli, Williamss, Golding (neigh)
Motion	Nantucket conservation Commission move forward with a hearing that will take place in both in person and zoom formats on Thursday June 27 th to take a final vote on the revisions to the Nantucket wetland regulations of which version will include the expanded buffer zones and the technical changes to the MCFRM entered into the meeting today and for staff to make that final version available before the meeting that will go into effect on January 1 st 2025. (Made by: Engelbourg) (Seconded by: Williams)
Vote	Carried://6:0 Engelbourg, Beale, Braine, Misurelli, Williams, Golding (aye) Plandowski (neigh)

Notice of Intent

1. Sconset Beach Preservation Fund- 59-83 Baxter Road (various) SE48-3759 (Dunk)

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Recused:	-
Representatives:	-
Documentation:	-
Public Comment:	-
Discussion	-
Staff Recommendations:	
Action:	CONTINUED UNTIL JUNE 20 TH

2. Turk Family LLC- 15 Marsh Hawk Lane (56-113.6) SE48-3766 (Santos)

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Williams and Plandowski
Recused:	
Representatives:	Paul Santos – Nantucket Surveyors
Documentation:	Site and topographical plans
Public Comment:	No public Comments
Discussion:	Engelbourg – Requests updated site plan be provided to commissioners
Staff Recommendations	All necessary items have been received to close
Motion:	Motion to close (Made by: Williams) (Seconded by: Misurelli)
Vote	Carried:/7:0 Engelbourg, Beale, Braine, Plandowski, Misurelli, Williams Golding (aye)

3. Town of Nantucket- Miacomet Pond (various) SE48-3764 (Price)

Recused:	-
Representatives:	Will Dell’Erba
Documentation:	
Public Comment:	There were no public comments.
Discussion:	– Request for continuance
Staff Recommendation:	
Motion	CONTINUED UNTIL JUNE 20 TH

4. Pazone Real Estate Trust- 14 Waquoit Road (89-9) SE48-3773 (Haines)

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Recused:	-
Representatives:	David Haines
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	No discussion
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Plandowski) (Seconded by: Braine)
Vote:	Carried://7:0 Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams, Golding (aye)

5. *Gault- 52 Miacomet Avenue (67-83.9) SE48-3774 (Haines)

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Recused:	-
Representatives:	David Haines
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	No Discussions
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 Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams, Golding (aye)

6. * The Ocean Avenue Nominee Trust- 20 Ocean Avenue (73.2.4-20) SE48-3777 (Madden)

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski,
Recused:	Williams
Representatives:	Brian Madden, LEC Environmental Consultants, Inc., presented the item and responded to Commissioners questions.
Documentation:	Site and topographical plans
Public Comment:	Arthur Reade – Gave support for project
Discussion:	No discussion
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Misurelli) (Seconded by: Beale)
Vote:	Carried://7:0 Engelbourg, Beale, Braine, Misurelli, Plandowski, Golding (aye) Recused: Williams

7. *Great Harbor Yacht Club, Inc- 96 Washington Street (55.1.4-8) SE48-3775 (Asadoorian)

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Recused:	-
Representatives:	Leo Asadoorian
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	There were no comments from the Commissioners
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Plandowski) (Seconded by: Braine)
Vote:	Carried://7:0 Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams, Golding (aye)

B. Amended Order of Condition

1. 3 North Gully Road LLC- 7 North Gully Road (73.1.3-123) SE48-3099 (Haines)

Sitting:	Golding, Engelbourg, Beale, Braine, Plandowski, and Williams
Recused:	Misurelli
Representatives:	David Haines
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	

Motion:	Motion to approve the Amended Order of Condition for 3 North Gully Road (Made by: Bealle) (Seconded by: Plandowski)
Vote:	Carried://6:0 Engelbourg, Beale, Braine, Plandowski, Williams, Golding (aye) Recused: Misurelli

PUBLIC MEETING

A. Requests for Determination of Applicability - None

B. Minor Modifications

C. Certificate of Compliance

1. Loftus Brothers LLC- 10 Alexandria Drive (67-410 SE48-2958 (Loftus))

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, and Plandowski,
Recused:	Williams
Representatives:	Will Dell'Erba
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	No discussion
Staff recommendation	Dell'Erba – Recommends issuing certificate of compliance with no continuing conditions
Motion:	Motion to approve the issuance of the Certificates of Compliance 10 Alexandria Dr. With no continuing of conditions as stated by Mr. Dell'Erba. (Made by: Plandowski) (Seconded by: Misurelli)
Vote:	Carried://6:0 Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams, Golding (aye) Recused: Williams

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

1. . Turk Family LLC- 15 Marsh Hawk Lane (56-113.6) SE48-3766 (Santos)

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Recused:	-
Representatives:	-
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	Dell'Erba presented the item. No further discussion
Motion:	Motion to approve as drafted. (Made by: Bealle) (Seconded by: Misurelli)
Vote:	Carried://7:0 Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams, Golding (aye)

2. Pazone Real Estate Trust- 14 Waquoit Road (89-9) SE48-3773 (Haines)

Sitting:	Golding, Engelbourg, Beale, Braine, Plandowski
Recused:	Misurelli, Williams
Representatives:	-
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	Dell'Erba presented the item. No further discussion
Motion:	Motion to approve as drafted. (Made by: Misurelli) (Seconded by: Braine)
Vote:	Carried://7:0 Engelbourg, Beale, Braine, Misurelli, Williams, Plandowski, Golding (aye)

3. *Gault- 52 Miacomet Avenue (67-83.9) SE48-3774 (Haines)

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Recused:	-
Representatives:	-
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (02:53:25)	Dell’Erba presented item
Motion:	Motion to approve as drafted. (Made by: Plandowski) (Seconded by: Beale)
Vote:	Carried://7:0 Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams, Golding (aye)

4. *The Ocean Avenue Nominee Trust- 20 Ocean Avenue (73.2.4-20) SE48-3777 (Madden)

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski
Recused:	Williams
Representatives:	-
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	Dell’Erba presented the item No further discussion
Motion:	Motion to approve as drafted. (Made by: Braine) (Seconded by: Misurelli)
Vote:	Carried://6:0 Engelbourg, Beale, Braine, Misurelli, Plandowski, Golding (aye) Recused: Williams

5. *Great Harbor Yacht Club, Inc- 96 Washington Street (55.1.4-8) SE48-3775 (Asadoorian)

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Recused:	-
Representatives:	-
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	Dell’Erba presented the item.
Motion:	Motion to approve as drafted (Made by: Beale) (Seconded by: Braine)
Vote:	Carried://7:0 Engelbourg, Beale, Braine, Misurelli, Plandowski, Williams, Golding (aye)

E. Extension of Order

1. Town of Nantucket DPW- Town Wide Operations NOI (Patnode)

Sitting:	Golding, Engelbourg, Beale, Braine, Misurelli, Plandowski, and Williams
Recused:	-
Representatives:	-
Documentation:	-
Public Comment:	There were no public comments.
Discussion:	Presented by Will Dell’Erba Engelbourg – Requests Drew Patnode to appear in front of the conservation commission – Points out conditions 19, 20, and 21 as annual report submissions that have been missed

	Dell’Erba – States no availability for this meeting for representatives to appear, but can be the following week Engelbourg – Original expiration date of June 2nd Williams – Mentioned tolling due to complications with tolling – Asks if there is any point to not approve the extension Engelbourg – States no issue with expiration
Action	CONTINUED UNTIL JUNE 20 TH

F. Other Business

1. Approval of Minutes- None

2. Monitoring Reports - None

3. Enforcement Actions/Potential Enforcement Actions - None

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

CRAC:	Braine - No report.
CPC:	Beale - Lost chairman
NP&EDC:	Engelbourg – Staff signed and submitted letter on the NOAA proposed regulation updates for sped restrictions.
Harbor Plan	Williams – Update is going well.
Offshore Wind Work Group:	Plandowski - No report.

6. Commissioner’s Comments

Discussion:	Williams – Good meeting Mr. Chairman Goulding – Dawn Hill Holdgate asked why the commission had not switched to a hybrid meeting. – This was due to notifications needing to be made to the public – Curious as to the other commissioners’ feelings on hybrid meetings Misurelli – Asked why there wasn't a move back to the town building as opposed to the trailer Dell’Erba – Will make request to have hybrid meetings in town building Engelbourg – Voices desire for the public safety facility rather than the trailer. Dislikes hybrid meetings Misurelli
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	– Questioned if Will or Jeff had to be present to run interference on the computer Golding – Confirmed
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7. Administrator/Staff Reports

Discussion:	Dell’Erba – Thanks to the commissioners for the effort this evening – Highly probably wetland regulations will be passed
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Adjournment:

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

Submitted by:
Morgan Nelson