



# CONSERVATION COMMISSION MINUTES

131 Pleasant Street

Trailer, Room A

Nantucket, Massachusetts 02554

[www.nantucket-ma.gov](http://www.nantucket-ma.gov)

Wednesday, December 4th, 2024 – 10:00am.

*This meeting was held in a hybrid format with some participation using ZOOM and YouTube.*

<https://www.youtube.com/watch?v=p-bYtwYRZ98>

**Commissioners:** Seth Engelbourg (Chair), Linda Williams (Vice Chair), Tim Braine, Mike Misurelli, Joe Plandowski, RJ Turcotte, and John Schafer

Called to order at 10:00am. by Chair Engelbourg

Staff in attendance: Will Dell 'Erba - Conservation Agent, Vincent Murphy – Sustainability and Projects Manager, Jeff Carlson – Nantucket Natural Resources Department Director

Attending Members: Engelbourg, Braine, Misurelli, Plandowski, Williams

Absent Members: - Schafer, Turcotte not sitting

Members Left Early: -

## I. PUBLIC MEETING - Public Comment

Chair Engelbourg called for public comment.

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| Public Comment | <p>D Anne Atherton</p> <ul style="list-style-type: none"> <li>Reads public comment on behalf of Burton Balkind</li> </ul> <p>Burton Balkind</p> <ul style="list-style-type: none"> <li>Curious about procedure on enforcement orders to make public comment</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>One can do so during public comment when discussing enforcement orders</li> </ul> <p>Balkind</p> <ul style="list-style-type: none"> <li>I wasn't allowed to, and I want clarification</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>You are correct please send to staff</li> </ul> |
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## II. PUBLIC HEARING

1. Sconset Bluff Preservation Fund- 41-119 Baxter Road (various) SE48-3736 (Posner)

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| Sitting         | Engelbourg, Braine, Misurelli, Plandowski, Williams                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Recused:        | - Schafer and Turcotte not sitting                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Representative: | Posner                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Documentation:  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Discussion:     | <p>Engelbourg</p> <ul style="list-style-type: none"> <li>Staff, anything to add</li> </ul> <p>Carlson</p> <ul style="list-style-type: none"> <li>Not many changes added, final order in packet</li> <li>Discusses changes to findings</li> </ul> <p>Williams</p> <ul style="list-style-type: none"> <li>Asked for language to be patted, did everything make it?</li> </ul> <p>Carlson</p> <ul style="list-style-type: none"> <li>Most did yes</li> <li>Gives examples of what made it into packet and findings</li> </ul> |

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|  | <p>Engelbourg</p> <ul style="list-style-type: none"><li>• Time to move on from deliberation</li><li>• Does want to remind everyone that the complete legal review is not done, 3 pending questions from town council</li><li>• Definitive assessments on waivers</li></ul> <p>Nylen</p> <ul style="list-style-type: none"><li>• In respect to waivers, are we working from Jeff's language</li></ul> <p>Engelbourg</p> <ul style="list-style-type: none"><li>• Yes, but will be going through the entire thing</li><li>• It is by resource area</li><li>• Describes how this process will work</li><li>• Coastal bank - Believes project could be granted a waiver for "long-term net benefit" but not for no reasonable alternatives</li><li>• Coastal beach – does not believe either waiver can be applied</li><li>• Coastal dune – does not meet waiver requirements</li></ul> <p>Misurelli</p> <ul style="list-style-type: none"><li>• Agrees in coastal bank resource area as positive</li><li>• In coastal bank and beach, does feel providing projection while following Maintenance, can see path forward with both waivers</li><li>• Believes project meets all standards</li></ul> <p>Williams</p> <ul style="list-style-type: none"><li>• Agrees with mike</li></ul> <p>Plandowski</p> <ul style="list-style-type: none"><li>• Agrees with mike and Linda</li></ul> <p>Braine</p> <ul style="list-style-type: none"><li>• Has concerns but agrees</li></ul> <p>Engelbourg</p> <ul style="list-style-type: none"><li>• Would like to sign negative under local regs and affirmative otherwise</li></ul> <p>Positive orders – now to see if everything attends</p> <p>Carlson</p> <ul style="list-style-type: none"><li>• Will add net positive</li><li>• Clarification on signatures</li></ul> <p>Engelbourg</p> <ul style="list-style-type: none"><li>• Walkable beach and sand need clarification</li><li>• In favor of linear distance</li></ul> <p>Plandowski</p> <ul style="list-style-type: none"><li>• Problem with the percentage greater</li></ul> <p>Misurelli</p> <ul style="list-style-type: none"><li>• Likes the physically distance</li><li>• Concerned ongoing monitoring and walkable beaches due to storms</li></ul> <p>Engelbourg</p> <ul style="list-style-type: none"><li>• Does have to be sensitive with seasonable beach changes</li></ul> <p>Carlson</p> <ul style="list-style-type: none"><li>• Agree</li><li>• Will be some variability</li></ul> <p>Williams</p> <ul style="list-style-type: none"><li>• Has same concerns with hardline</li></ul> |
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|                               | <ul style="list-style-type: none"> <li>• Set up to fail</li> </ul> Engelbourg <ul style="list-style-type: none"> <li>• Staff can figure it out</li> </ul> Plandowski <ul style="list-style-type: none"> <li>• Advantage to percentage</li> </ul> Braine <ul style="list-style-type: none"> <li>• Likes it being measured proportionately</li> </ul> Engelbourg <ul style="list-style-type: none"> <li>• Believes there should be an absolute minimum number</li> </ul> Nylen <ul style="list-style-type: none"> <li>• Recognizes walkable beach is regulated use, measurements vary</li> <li>• Comfortable with current language and measurements of 10 ft but any more than that isn't necessary</li> </ul> Engelbourg <ul style="list-style-type: none"> <li>• Analysis from staff is needed</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Public<br>Comment/Discussion: | Dennis Murphy – Greenhill family <ul style="list-style-type: none"> <li>• Is order of conditions for Sankaty beach club, believes there is president and landed on 20ft from toe of geotube</li> </ul> Engelbourg <ul style="list-style-type: none"> <li>• Please provide to staff</li> </ul> Trey Ruthven <ul style="list-style-type: none"> <li>• Mean high water is 3, next is 4 and doesn't see how there is a walkable beach given current wording</li> </ul> Vince Murphy – Town of Nantucket <ul style="list-style-type: none"> <li>• Anytime walking area he has seen first geotube, second geotube is at beach level</li> </ul> Engelbourg <ul style="list-style-type: none"> <li>• Ways to do this for everyone involved</li> </ul> Murphy <ul style="list-style-type: none"> <li>• Points out the set of stairs issues</li> <li>• Another alternative to provide passage</li> </ul> Engelbourg <ul style="list-style-type: none"> <li>• Permit process has gone on for a year, stairs not included in project</li> <li>• Can't permit access based on "possibility"</li> <li>• Need renderings</li> </ul> Nylen <ul style="list-style-type: none"> <li>• Don't believe that's their intension</li> </ul> Engelbourg <ul style="list-style-type: none"> <li>• Obligation per regulations to have access along shoreline</li> </ul> Burton Balkind <ul style="list-style-type: none"> <li>• No walking on top of geotubes and ramps are seldom</li> </ul> Dennis <ul style="list-style-type: none"> <li>• Mean high water finding</li> </ul> Engelbourg <ul style="list-style-type: none"> <li>• Final plan will determine mean high water</li> </ul> Ruthven <ul style="list-style-type: none"> <li>• Mean high water is not a matter of opinion it's a matter of reading data</li> </ul> Engelbourg <ul style="list-style-type: none"> <li>• True</li> </ul> |

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|  | <p>Williams</p> <ul style="list-style-type: none"> <li>• How does it deal with sea level rise</li> </ul> <p>Murphy</p> <ul style="list-style-type: none"> <li>• Doesn't know the date of 2020 but still using 80's and 90's data</li> </ul> <p>Misurelli</p> <ul style="list-style-type: none"> <li>• Enough to turn over to staff</li> </ul> <p>Carlson</p> <ul style="list-style-type: none"> <li>• Agrees</li> <li>• Appreciates vote of confidence</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>• Multiple conditions need to be fleshed out</li> </ul> <p>Plandowski</p> <ul style="list-style-type: none"> <li>• 27, sand must be delivered</li> <li>• Wants truck and barge</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>• No interest in delivering by barge per applicant</li> </ul> <p>Plandowski</p> <ul style="list-style-type: none"> <li>• 29, terraces</li> <li>• Can't find core terraces as a CES and doing so is a penalty</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>• There's been several meetings and commission majority has agreed</li> </ul> <p>Plandowski</p> <ul style="list-style-type: none"> <li>• You just set a new policy for the island</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>• I hear what you're saying</li> <li>• Aren't changing their regulations</li> </ul> <p>Plandowski</p> <ul style="list-style-type: none"> <li>• Problem is you're setting a precedent</li> </ul> <p>Misurelli</p> <ul style="list-style-type: none"> <li>• Puts himself in agreement with Joe but each Application is treated separately</li> </ul> <p>Carlson</p> <ul style="list-style-type: none"> <li>• These are core terraces adjacent to geotubes, explains definition of CES</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>• Core terraces and sand fencing have been viewed as a CES, it's a continuous linear protection</li> </ul> <p>Nylen</p> <ul style="list-style-type: none"> <li>• Agrees with Joe</li> <li>• Comprehensive system</li> <li>• Understands they must go to town meeting</li> <li>• Protect current terraces</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>• Correct</li> </ul> <p>Dennis Murphy</p> <ul style="list-style-type: none"> <li>• Notes in paragraph 17, current replaces reamend order</li> <li>• As drafted sees nothing for makeup sand</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>• Points out condition for replacing sand</li> </ul> <p>Dennis</p> |
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|  | <ul style="list-style-type: none"> <li>Asks commission to require applicant to place all sand ordered</li> </ul> <p>Nylen</p> <ul style="list-style-type: none"> <li>Two issues, submitted document that add 26,000 cubic yards over next 2 years</li> <li>Post 21, no order of conditions</li> <li>Has taken it as they cannot do any work after the removal order</li> <li>Believes they have met requirement pre 2021 and current</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>Does not believe commission has taken assessment of adequate plan</li> </ul> <p>Emily Molden - NLWC</p> <ul style="list-style-type: none"> <li>Echos the desire to discuss the sand</li> </ul> <p>D Anne Atherton</p> <ul style="list-style-type: none"> <li>Concerned about sand deficient and timing</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>Will be many months or years before project is constructed</li> <li>Applicant needs a license, requiring town vote</li> <li>Potential for appeals and litigation</li> </ul> <p>Atherton</p> <ul style="list-style-type: none"> <li>Requests another agenda item to deal with current state of geotubes</li> </ul> <p>Balkind</p> <ul style="list-style-type: none"> <li>Disagrees with Nylen because the geotubes exist and no mitigation has been done</li> <li>Please take into consideration geotubes are there and scientifically noted beach degradation</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>Notes comments and explains Nylen's point</li> <li>Does believe geotubes need more mitigation</li> </ul> <p>Ruthven</p> <ul style="list-style-type: none"> <li>Their own reports were where the sand came from</li> <li>Explains why sand should be made up</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>Explains point of removal order</li> </ul> <p>Molden</p> <ul style="list-style-type: none"> <li>Respectfully disagrees, intention of order is to replace removal order and therefore enforcement is prudent</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>Understands points and turns to commission if enforcement would like to be discussed</li> </ul> <p>Plandowski</p> <ul style="list-style-type: none"> <li>Agrees</li> </ul> <p>Atherton</p> <ul style="list-style-type: none"> <li>CC board of directors will submit full comment for record</li> <li>Explains why they believe an enforcement issue is at hand as the geotubes are not being maintained and the beach is harmed</li> </ul> <p>Mr. Atherton</p> <ul style="list-style-type: none"> <li>Reads alternatives comment and how they can be altered</li> <li>Reads previous report on geotubes</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>That report is over 10 years</li> </ul> <p>Moldenhauer</p> |
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|         | <ul style="list-style-type: none"> <li>• They are here to protect bank, beach, and dunes</li> <li>• Asks to not repeat issues already voted on</li> <li>• Requests vote on 56</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>• Agrees repeating issues</li> <li>• Desires to bring meeting to close and have staff work on items discussed</li> </ul> <p>Carlson</p> <ul style="list-style-type: none"> <li>• Is it ok to make new clean order to clean it up a bit</li> <li>• Permit revoked but commission never took a formal action per vote therefore sand is still required but will double check</li> </ul> <p>Nylen</p> <ul style="list-style-type: none"> <li>• Does not see difference between revoked or expired</li> <li>• Mentions monitoring</li> <li>• Mentions 10 percent of sand on site if feasible</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>• Believes different wording is better</li> <li>• Explains difference between revoked and expired order</li> <li>• Next meeting tomorrow</li> </ul> <p>Misurelli</p> <ul style="list-style-type: none"> <li>• Thought it was quite productive</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>• Have to continue to specific date</li> </ul> <p>Staff</p> <ul style="list-style-type: none"> <li>• Special meetings definitely, regular meetings will be hard</li> </ul> <p>Carlson</p> <ul style="list-style-type: none"> <li>• Could continue to regular meeting on 19<sup>th</sup></li> </ul> <p>Nylen</p> <ul style="list-style-type: none"> <li>• Consents continuing it to the 19<sup>th</sup> but wants more special meetings if needed</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>• Explains issues with</li> </ul> <p>Williams</p> <ul style="list-style-type: none"> <li>• Does not want to sit through this because it'll be rushed with 21 applications</li> </ul> <p>Engelbourg</p> <ul style="list-style-type: none"> <li>• Could continue to tomorrow</li> </ul> <p>Carlson</p> <ul style="list-style-type: none"> <li>• Can continue to tomorrow</li> </ul> |
| Motion  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Vote    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Action: | Continued until December 5 <sup>th</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

#### A. Other Business

1. Commissioner's Comments -None

#### 7. Administrator/Staff Reports –N/A

##### Adjournment:

|         |                                                                          |
|---------|--------------------------------------------------------------------------|
| Motion: | <b>Motion to adjourn. (Made by: Plandowski) (Seconded by: Williams )</b> |
| Vote:   | Carried://5:0 Engelbourg, Braine, Misurelli, Williams, Plandowski (aye)  |

Submitted by: Morgan Nelson