



# CONSERVATION COMMISSION

## PUBLIC MEETING

2 Bathing Beach Road  
Nantucket, Massachusetts 02554

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

Wednesday, January 8, 2020

4 Fairgrounds Road, Training Room – 5:00 p.m.

**Commissioners:** Ashley Erisman (Chair), Ian Golding (Vice Chair), David LaFleur, Joe Topham, Seth Engelbourg, and Maureen Phillips

Called to order at 5:00 p.m.

Staff in attendance: Jeff Carlson, Natural Resources Director; Joanne Dodd, Natural Resources Coordinator; Terry Norton, Town Minutes Taker

Attending Members: Erisman, Golding, LaFleur, Engelbourg

Absent Members: Topham, Phillips

Late Arrivals: None

Earlier Departure: None

Agenda adopted by unanimous consent

\*Matter has not been heard

### **I. PUBLIC MEETING**

#### **A. Announcements**

#### **B. Public Comment**

**Bill Grieder**, Madaket Conservation Association (MCA) – A representative of the U.S. Department of Agriculture (USDA) addressing the MCA stated the USDA has revamped the definition of farming to include eel grass growing, dunes, and grasses; she suggested the Nantucket County Conservation district be revamped. In 1949, Nantucket had a county conservation district; he doesn't know when that went away. Asked that a discussion about revitalizing the Nantucket County Conservation District be put on the agenda; Nantucket is missing out on a number of federal monies for eel grass growth, shellfish, etc.

### **II. PUBLIC HEARING**

#### **A. Notice of Intent**

1. Bonnie L. Sacerdote, Trustee – 19 Kimball Avenue (30-29) SE48-3260

Sitting Erisman, Golding, LaFleur, Engelbourg

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Paul Santos, Nantucket Surveyors  
Cloe Coggins, Nantucket Surveyors

Public None

Discussion (5:04) **Santos** – Held for Natural Heritage Endangered Species Program (NHESP) comments, which we now have and is incorporated into the record. Reviewed their conditions, which are the same as for the abutting projects, to be placed on the project. They ruled no take subject to conditions.

Staff Have everything needed to close.

Motion **Motion to Close.** (made by: LaFleur) (seconded by: Golding)

Vote Carried

2. Patrick S. Keating – 49 Red Barn Road (63-15) SE48-3262

Sitting Erisman, Golding, LaFleur, Engelbourg

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Paul Santos, Nantucket Surveyors  
Cloe Coggins, Nantucket Surveyors

Public None

Discussion (5:07) **Santos** – This was held for NHESP comments, which were received and is in the records; they ruled no take/no adverse impact under the Wetland Protection Act. We have added the parking spaces to the plan as requested by the Zoning Board of Appeals. This is a setback to an eroding coastal dune. The foundation is piers and the driveway dirt. The old septic system – tank and pit - was removed and any debris from this move will be removed.

Staff Have everything needed to close.

Motion **Motion to Close.** (made by: Golding) (seconded by: LaFleur)

Vote Carried

3. \*46 Shimmo Pond Road N.T – 46 Shimmo Pond Road (43-77) SE48 (**Cont. 01/22/2020**)

4. John J. Moller – 10 Monomoy Creek Road (54-54.2) SE48-3258
5. Monomoy Creek Road Nominee Trust – 12 Monomoy Creek Road (54-54.1) SE48-3259
  - Sitting Erisman, Golding, LaFleur, Engelbourg
  - Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
  - Representative Brian Madden, LEC Environmental
  - Public Annie Mendelsohn, 43 Crooked Lane
  - Discussion (5:10) **Madden** – These were held for Massachusetts Natural Heritage (MNH) letter, which were received and are now in the record. We have added taller proposed sassafras saplings within the restoration area to the plan; 6 to 10 feet is the most to minimize impact on the area. We did some additional clean-up around the property.  
**Erisman** – When she walked this property, she is not happy with the damage to the resource area, which had occurred. She wants there to be a landscaper contract on file with the office before works start. The wetland resource area has been abused here on a regular basis by throwing debris into the bushes; this is at least the second time this has happened. Feels whoever did the cutting should not be called a landscaper.  
**Golding** – Asked if there are photos of the brush before it was cut that shows swamp maples.  
**Madden** – He does have photos of pre-existing conditions. Nine trees of varying width were cut.  
**Erisman** – Unfortunately, she feels a number of trees won’t survive and this will continue to be a work area.  
**Engelbourg** – Recently bayberry has been put in and areas showing fresh disturbance. There was at least one cedar adjacent to the cut area. Cedar and sassafras contiguous across the site would look better.  
**Golding** – He’d like to see it restored to what it was regardless the cost. Feels they are getting away with total disregard to the environment by hacking down growth for a view.  
**Madden** – If you’re looking at providing trees commensurate with what was cut, you are looking at disturbance equivalent to the damage done; the best regeneration will be from the existing root system. Pruning does occur across the Island.  
**Erisman** – This was clearcutting, not pruning. This is maybe somewhere we would want to fine per square foot plus the cost of restoration. They fully destroyed established trees.  
**Engelbourg** – It doesn’t seem that many sassafras saplings were growing on this site; it seemed to be more cat briar, green briar, grasses, and privet. Regrowth of the root system needs to be monitored as well as assisted by seedlings of a diverse mix of native shrubs and eliminating invasive species and which should be an on-going condition when the Certificate of Compliance is issued.  
**Mendelsohn** – It is really hard to move a sassafras; the chance of it surviving is very slim. If it can sprout from roots in the ground, that will be its best chance.  
**Erisman** – Asked if an erosion control blanket will be used, especially once the debris is removed.  
**Madden** – He’d like to keep that open based upon conditions. The intent is to minimize soil disturbance.
  - Staff We can consider SE48-3258 & SE48-3259 together. The Commission did a field viewing on Monday. Have everything needed to close.
  - Motion **Motion to Close.** (made by: Golding) (seconded by: Engelbourg)
  - Vote Carried unanimously
6. \*Greg R. Edell – 25 High Brush Path (56-379) SE48-3266
  - Sitting Erisman, Golding, LaFleur, Engelbourg
  - Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
  - Representative Brian Madden, LEC Environmental
  - Public None
  - Discussion (5:31) **Madden** – This is for construction of an addition, pool, patio, deck, cabana, and landscaping. The resource area is a bordering vegetated wetland. All work is upland of the 25-foot buffer zone and less the 50% alteration between the 25- and 50-foot buffers; no structural work within the 50-foot buffer. Requesting a waiver for distance of the bottom of the pool to high groundwater but no excavation into high groundwater. Runoff from the structure will go into a proposed infiltration system.  
**Golding** – Feels the pool can be redesigned to preclude the need for a waiver.
  - Staff If you don’t grant the waiver for the pool, they will have to maintain the 2-foot separation. Have everything needed to close.
  - Motion **Motion to Close.** (made by: Golding) (seconded by: LaFleur)
  - Vote Carried unanimously
7. \*Robert Goldrich – 41 Crooked Lane (41-202) SE48-3265
  - Sitting Erisman, Golding, LaFleur, Engelbourg
  - Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
  - Representative Brian Madden, LEC Environmental
  - Public Annie Mendelsohn, 43 Crooked Lane
  - Discussion (5:29) **Madden** – This is for sewer connection and abandonment of the existing septic system. The tank will be cleaned out, ruptured, and back-filled with clean sand in compliance with Title 5. That and the new sewer line are within existing development area.  
**Mendelsohn** – Fiber optic cables were installed in December and hit the sewer stub, which is now ruptured. Asked this be denied until the situation be rectified.  
**Erisman** – This is a concern but can’t hold up this project if it isn’t impacting the resource area. They can’t connect if the line isn’t working. Asked if the busted sewer is impacting the adjacent wetlands.

Staff The broken sewer would have to be passed along to the Sewer Department. We can insert the condition that prior to start of work, they supply the connection application signed off by the Sewer Department indicating the line is working correctly.  
Have everything needed to close.

Motion Motion to Close. (made by: Engelbourg) (seconded by: LaFleur)

Vote Carried unanimously

8. \*2 South Beach, LLC – 2 South Beach Street (42.2.4-60) SE48-3270

Sitting Erisman, Golding, LaFleur, Engelbourg

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Brian Madden, LEC Environmental

Public None

Discussion (5:35) **Madden** – This is for upgrade to the existing commercial restaurant building within land subject to coastal storm flowage. The intent is to remove some brick walks and replace with cobble and grass. On the south side an existing landing and porch will be replaced with an elevated porch above the flood zone and placing A/C units above the flood plain.

Staff Have everything needed to close.

Motion **Motion to Close.** (made by: Golding) (seconded by: LaFleur)

Vote Carried unanimously

9. \*Great State Properties, LLC – 92 Washington Street Ext. (42.2.3-22) SE48-3268 (Cont. 01/22/2020)

10. \*53 West Chester St, LLC – 53 West Chester Street (41-614) SE48-3269

Sitting Erisman, Golding, LaFleur, Engelbourg

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Art Gasbarro, Nantucket Engineering & Survey  
Julie Jordan, Garden Design Co.

Public None

Discussion (5:38) **Gasbarro** – This is for work within buffer to a bordering vegetated wetland. Work is to landscape and hardscape within an existing backyard and removal of invasive species. Included the planting plan for the abutting property on which the wetland sits. Work within 25-foot buffer to remove bush honeysuckle and a proposed small curb with slight expansion of the lawn with a small sitting wall. The waiver is justified as a net benefit due to removal of invasive species.  
**Erisman** – This is already a very disturbed area and agrees the removal of the invasive species would be a net benefit.  
**Engelbourg** – He can't see to justification of the stone sitting wall within the 25-foot buffer.  
**Jordan** – Noted that the house next door is within the 25-foot buffer; feels the wall is a negligible impact.  
**Engelbourg** – We have to consider each application on its own merit under the Wetlands Protection Act. He doesn't feel additional construction is healthy.  
**Erisman** – Agrees with Mr. Engelbourg about the wall. Asked the material of the curb.  
**Jordan** – Granite.  
**Erisman** – Doesn't think we should allow that within the 25-foot buffer.  
**Gasbarro** – Asked for a 2-week continuance to address the concerns.

Staff None

Motion Continued to January 22 by unanimous consent.

Vote N/A

11. \*Mark Abbott & Marena C. Hamre – 8 Hulbert Avenue (29.2.3-7.2) SE48-3272

Sitting Erisman, Golding, LaFleur, Engelbourg

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Paul Santos, Nantucket Surveyors  
Cloe Coggins, Nantucket Surveyors  
Mark Cutone, Mark Cutone Architecture

Public None

Discussion (5:44) **Santos** – This is to raise the existing dwelling to comply with current flood-zone regulations. The flood zone is elevation 9 with grade at elevation 4; first floor must be elevation 9 plus 1. Also, work will include construction of a shed and alteration of the existing shell driveway to include landscaping within land subject to coastal storm flowage and buffer to a coastal bank and vegetated wetland. The dwelling will be on a foundation with pass-through flood vents. No change to the grade. Structural changes to the dwelling is to add to the stairs to reach the elevated access stairs and addition of an outdoor shower at grade outside the 50-foot setback. This requires waivers for groundwater separation for the footings and foundation due to the wetland in this area. Not within NHESP jurisdiction. The shed is on a pier foundation. The only work within the 25- to 50-foot buffer is foundation work. First floor is currently at elevation 6.8; it will be at elevation 10.  
**Erisman** – Confirmed the current foundation is within the 2-foot separation from groundwater. Since it's going up, lighting toward the wetlands should be conditioned.

Staff Have everything needed to close.

Motion **Motion to Close.** (made by: Golding) (seconded by: Engelbourg)

Vote Carried unanimously

12. \*Jason Maroney – 29 Rhode Island Avenue (60.3.1-132) SE48-3271

- Sitting Erisman, Golding, LaFleur, Engelbourg
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Paul Santos, Nantucket Surveyors  
Cloe Coggins, Nantucket Surveyors
- Public None
- Discussion (5:51) **Santos** – This is for a 520 square-foot (SF) addition to a single-family dwelling within land subject to coastal storm flowage; work will include grading, landscaping, and utility expansion associated with the addition. Property is adjacent to but outside the 100-foot buffer to a coastal dune. We are filing a letter to FEMA regarding Map Revision in order to take the property out of the flood zone; it is shown in a velocity zone and the property is elevated above the flood zone; FEMA says there is evidence of a primary frontal dune, which we are contesting. If we get that letter, the house can have a full foundation; if we do not, it must be on piers, which is the current foundation. There is no proposed change in grade. Existing septic was upgraded to a 4-bedroom compliant I/A system. No change to the well; there is a water tank on the property. Outside NHESP jurisdiction.  
**Erisman** – If FEMA takes this out of the flood zone, it will be back in within 10 years or less. Because it is currently flood zone, it is currently being proposed on piers.
- Staff Have everything needed to close.
- Motion **Motion to Close.** (made by: Golding) (seconded by: LaFleur)
- Vote Carried unanimously

13. \*17 BR Rosaly Nominee Trust – 17 Baxter Road (60.3.1-132) SE48-3267

- Sitting Erisman, Golding, LaFleur, Engelbourg
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Brian Madden, LEC Environmental
- Public None
- Discussion (5:57) **Madden** – This is for establishment of a walking path connection; resource areas, a Coastal dune and land subject to coastal storm flowage, are not on the property. Due to the slope, some stairs are required; will abandon portions of the existing trail and replant with arrow wood. This is a water-dependent use.  
**Erisman** – Asked if the path would have public access.  
**Madden** – He does not believe so.  
**LaFleur** – We have no information on the stairs; usually we have drawings showing what the posts and deck are.  
**Golding** – Agrees they should be properly drawn out.  
**LaFleur** – The lack of drawings allows anything to be constructed.  
**Erisman** – We need to know how they will fit with the topography. She'd prefer straight stairs over a switchback through the buffer zone.  
**Madden** – This was initially for the walking path and the stairs fell into it. Requested a 2-week continuance.
- Staff He will draft a positive order pending the drawings.
- Motion Continued to January 22 by unanimous consent.
- Vote N/A

**III. PUBLIC MEETING**

**C. Requests for Determination of Applicability**

1. \*Gaito Family Trust – 92 Cliff Road (30-268)

- Sitting Erisman, Golding, LaFleur, Engelbourg
  - Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
  - Representative None
  - Public None
  - Discussion (6:04) None
  - Staff This is for installing a sewer line to connect to the line that runs up to Pilgrim Road and abandon the existing septic.  
We recommend a Negative 3 for work within the buffer zone and a Positive 2 confirming the resource area.
  - Motion **Motion to Approve as recommended.** (made by: Golding) (seconded by: LaFleur)
  - Vote Carried unanimously
2. \*Mid-Island Service Limited Partnership – 41 & 43 Sparks Avenue (55-267.4 & 267.3) (Cont. 01/22/2020)

**D. Minor Modifications**

1. Abrams Point Realty Trust – 30 Rabbit Run Road (28-6) SE48-3168

Sitting Erisman, Golding, LaFleur, Engelbourg  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Art Gasbarro, Nantucket Engineering & Survey  
 Public None  
 Discussion (6:00) **Gasbarro** – The modification is to drive four timber piles to support the permitted walkway; we believe that will be less disruptive since the current support is metal and goes into concrete.  
 Staff Recommend issue as a minor modification.  
 Motion **Motion to Issue the minor modification.** (made by: LaFleur) (seconded by: Engelbourg)  
 Vote Carried unanimously

2. 8 Bishops Rise, LLC – 8 Bishops Rise (40-32) SE48-3181

Sitting Erisman, Golding, LaFleur, Engelbourg  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Brian Madden, LEC Environmental  
 Public None  
 Discussion (6:08) **Madden** – This is for a revised well location outside the 50-foot buffer.  
 Staff Recommend issue as a minor modification.  
 Motion **Motion to Issue the minor modification.** (made by: Engelbourg) (seconded by: LaFleur)  
 Vote Carried unanimously

**E. Certificates of Compliance**

1. Rock Gonnella, Trustee of the North Nominee Trust–73 Easton Street (42.4.1-109) SE48-2994 (**Cont. 01/22/2020**)
2. Madaket Wheelhouse, LLC – 13 Massachusetts Avenue (60-75) SE48-2893 (**Cont. 01/22/2020**)
3. John J. Moller – 10 Monomoy Creek Road (54-54.2) SE48-2797
4. John J. Moller – 10 Monomoy Creek Road (54-54.2) SE48-2801
5. Monomoy Creek Nominee Trust – 12 Monomoy Creek Road (54-54.1) SE48-2665

Sitting Erisman, Golding, LaFleur, Engelbourg  
 Staff We can address SE48-2797, SE48-2801, and SE48-2665 together.  
 Our current recommendation is to hold these open until we get the NOI for restoration work against the violation issued onto the properties. At that time, these can be issued with monitoring and on-going restoration.  
 Discussion (6:10) **Madden** – Reviewed the projects for which the orders were issued.  
**Erisman** – She noticed dead cedar on 10 Monomoy Creek Road; asked if they will be replaced or something different planted.  
**Madden** – If they are replaced with cedar, there will be the same situation; believes they will be allowed to die and the area naturally fill in.  
**Erisman** – The contract landscape should monitor the regrowth. Asked how many growing seasons ago the planting was finished.  
**Madden** – Spring 2017, 3 growing seasons. He submitted monitoring reports.  
**Erisman** – It’s okay to have some snags but they have to be left there. We need to have on-going monitoring conditions.  
**Engelbourg** – The issue becomes if more cedar die.  
**Madden** – The cedar on flatter areas are doing well; it’s the cedar on slopes. on 12 Monomoy Creek, we’re looking to put permanent markers beyond the pool to delineate the meadow restoration area from the lawn.  
**Erisman** – She’s concerned about how established the meadow restoration area is.  
**Engelbourg** – Asked if there is oversight when the meadow gets mowed.  
**Madden** – It was conditioned as an on-going historic use. We can incorporate that as an on-going condition.  
**Golding** – Asked what the historic use was.  
**Madden** – At the time of the filing, there was a small dwelling on the site; historic photos back to the 1960s showed mowing.  
**Erisman** – She feels uncomfortable issuing these with what we saw on the Site Visit on Monday.  
 Consensus agrees with Ms. Erisman.  
 Motion Continued to January 22 by unanimous consent.  
 Vote N/A

6. Alice Rochat – 100 Low Beach Road (75-27) SE48-1818 (**Cont. 01/22/2020**)

**F. Orders of Condition**

1. 262 Polpis Road N.T – 262 Polpis Road (25-1) SE48-3257

Sitting Erisman, Golding, LaFleur, Engelbourg  
 Documentation Draft Order of Conditions  
 Staff He will add a to Condition 19 that the saplings be retaining.  
 Discussion (6:22) **Golding** – We want the existing saplings to be retained.  
 Motion Motion to Approve as amended. (made by: Golding) (seconded by: LaFleur)  
 Vote Carried unanimously

2. Bonnie L. Sacerdote, Trustee – 19 Kimball Avenue (30-29) SE48-3260
  - Sitting Erisman, Golding, LaFleur, Engelbourg
  - Documentation Draft Order of Conditions
  - Staff The order is the same as for the two abutting properties except for the inclusion of the MNH letter.
  - Discussion (6:25) **Erisman** – She thinks it’s funny they don’t think crows will land of the posts.  
**Engelbourg** – He’d prefer the crows over other birds.  
**Golding** – Asked what happens if the high tide moves up into the fencing; asked if that needs to be qualified or come before us when it becomes an issue.  
**Carlson** – That would come before us at that time; there are other high-tide issues that would come up requiring a more substantive structure.  
**Engelbourg** – At this time, the sand is accreting; we might have to watch for sand overtopping the fence.
  - Motion **Motion to Approve as drafted.** (made by: Golding) (seconded by: LaFleur)
  - Vote Carried unanimously
3. Patrick S. Keating – 49 Red Barn Road (63-15) SE48-3262
  - Sitting Erisman, Golding, LaFleur, Engelbourg
  - Documentation Draft Order of Conditions
  - Staff This seemed pretty straight forward.
  - Discussion (6:27) None
  - Motion **Motion to Approve as drafted.** (made by: LaFleur) (seconded by: Engelbourg)
  - Vote Carried unanimously
4. John J. Moller – 10 Monomoy Creek Road (54-54.2) SE48-3258
  - Sitting Erisman, Golding, LaFleur, Engelbourg
  - Documentation Draft Order of Conditions
  - Staff Will add Condition 27 addressing the contract for landscaping.  
 Will add Condition 28 requiring all red cedar and they be a minimum of 6 feet tall.  
 Condition 23 addresses the need to have the board sign off on a partial.  
 Will add Condition 29 addressing stabilization of soil.
  - Discussion (6:28) **Erisman** – We want to add the condition for a landscaper contract to be on file in the office.  
**Engelbourg** – Asked if we should call out the species; there’s a shrub mix we talked about.  
**Golding** – Asked if an actual planting plan should be included in the file.
  - Motion **Motion to Approve as amended.** (made by: Engelbourg) (seconded by: Golding)
  - Vote Carried unanimously
5. Monomoy Creek Road Nominee Trust – 12 Monomoy Creek Road (54-54.1) SE48-3259
  - Sitting Erisman, Golding, LaFleur, Engelbourg
  - Documentation Draft Order of Conditions
  - Staff This is the same as for SE480-3258; he will add the same conditions.
  - Discussion (6:00) None
  - Motion **Motion to Approve as amended with the addition of the same conditions as for SE48-3258.** (made by: Golding) (seconded by: Engelbourg)
  - Vote Carried unanimously
6. Greg R. Edell – 25 High Brush Path (56-379) SE48-3266
  - Sitting Erisman, Golding, LaFleur, Engelbourg
  - Documentation Draft Order of Conditions
  - Staff We will add the formalization of not granting the waiver and that the pool be required to meet the 2-foot separation from groundwater.
  - Discussion (6:35) **Golding** – Asked that we formalize that the waiver is not granted.
  - Motion **Motion to Approve as amended.** (made by: Golding) (seconded by: LaFleur)
  - Vote Carried unanimously
7. Robert Goldrich – 41 Crooked Lane (41-202) SE48-3265
  - Sitting Erisman, Golding, LaFleur, Engelbourg
  - Documentation Draft Order of Conditions
  - Staff He will add that prior to start of work the applicant will provided the approved sewer connection permit.
  - Discussion (6:37) None
  - Motion **Motion to Approve as amended.** (made by: Engelbourg) (seconded by: LaFleur)
  - Vote Carried unanimously
8. 2 South Beach, LLC – 2 South Beach Street (42.2.4-60) SE48-3270
  - Sitting Erisman, Golding, LaFleur, Engelbourg
  - Documentation Draft Order of Conditions
  - Staff None
  - Discussion (6:38) None
  - Motion **Motion to Approve as drafted.** (made by: LaFleur) (seconded by: Golding)
  - Vote Carried unanimously

9. Mark Abbott & Marea C. Hamre – 8 Hulbert Avenue (29.2.3-7.2) SE48-3272  
 Sitting Erisman, Golding, LaFleur, Engelbourg  
 Documentation Draft Order of Conditions  
 Staff Noted a correction to be made under permit overview.  
 Condition 19 will address all exterior lighting  
 Discussion (6:39) **Erisman** – She wants the lighting to be directed away from the wetland.  
 Motion **Motion to Approve as amended.** (made by: Engelbourg) (seconded by: LaFleur)  
 Vote Carried unanimously
10. Jason Maroney – 29 Rhode Island Avenue (60.3.1-132) SE48-3271  
 Sitting Erisman, Golding, LaFleur, Engelbourg  
 Documentation Draft Order of Conditions  
 Staff This is for the addition that might or might not be in the flood zone.  
 Discussion (6:41) None  
 Motion **Motion to Approve as drafted.** (made by: Golding) (seconded by: Engelbourg)  
 Vote Carried unanimously

**G. Other Business**

1. Approval of Minutes: 12/16/2019 (SBPF) & 12/18/2019 – **Motion to Approve.** (made by: Golding) (seconded by: LaFleur) Carried unanimously
2. Monitoring Report:
  - a. Thompson, 14 Fargo Way SE48-2645
  - b. 17 Eat Fire Spring Road, LLC – 17 Eat Fire Spring Road SE48-3024
3. Enforcement Actions
  - a. SBPF SE48-2824 Nourishment Material, Sand Sampling Protocol

- Sitting Erisman, Golding, LaFleur, Engelbourg  
 Representative Dwight Dunk, Epsilon Associates Inc.  
 Jamie Feeley, Cottage & Castle  
 Public R.J. Turcotte, Nantucket Land Council  
 D. Anne Atherton, Nantucket Coastal Conservancy
- Discussion (6:43) **Erisman** – Our discussion last time centered around adding additional tests, which the representative agreed to. Confirmed the collected material is being stored. Looking at the work log, the same photo was submitted for December 21<sup>st</sup> and December 24<sup>th</sup> with different estimated volume of materials; asked if that was in error.  
**Feeley** – He will look into it; whoever took the photo will have it in their phone and he will get it.  
**Golding** – Asked about the status of the chemical and biological testing.  
**Dunk** – Today OHI completed all the sand sampling to include the analytes requested. They are collecting the street samples and not compositing the samples. Testing is for all sand placed on the template in the fall. We have the drone survey from September, so we know the material that’s been placed. Per the protocol, the sample is based upon 1 sample per 1,000 cubic yards of material which is visually native sand and 1 sample per 5,000 cubic yards of material for sand darker in color; that totals 16 samples with 8 in the intertidal zone. On-site testing is for volatile material, which is screened; one sample had the lowest detection with the PID and will be tested again to rule out a false positive. Should have raw results next week.  
**Carlson** - Visited the site on Monday and saw active sampling.  
**Erisman** – Asked if the February 12 date for test results is still valid.  
**Dunk** – He believes so; that would be the 5-day turnaround from the last date of receipt of samples. If we get something sooner, we will get it to the commission through Mr. Carlson.  
**Engelbourg** – We talked about the lab retaining the material.  
**Dunk** – It is standard that they retain samples for a period of time.  
**Engelbourg** – We also talked about initiating a 3<sup>rd</sup>-party independent reviewer.  
**Carlson** – That is with all reports. We sent our consultant the protocol and they can provide the additional review. Any reports we collect we also send off to Massachusetts Department of Environmental Protection (DEP).  
**Dunk** – There was also discussion about what to do with the material on template and protocol of pushing it off the template and shaving any mandate material as it comes down the template if it is determined free of contamination; wants to know if that is still acceptable.  
**Erisman** – She’s uncomfortable with pushing 10,000 cubic yards over at this point until we have the full chemical analysis is back.  
**Engelbourg** – Agrees it’s best to see the analysis of the sediment first.  
**Dunk** – There are exposed tubes and we’ve confirmed with the office material won’t be pushed down until the analysis is done per the Order of Conditions; that’s why we are trying to move the sampling and testing faster.  
**Golding** – Asked the difference between the raw data and finished data.  
**Dunk** – Raw data comes from each round of sampling, which need to be pulled together into consolidated tables, so you can see all the data; it is then compared to different standards for exceedances or allowable limits as well as do statistics between concentrations.  
**Erisman** – Asked if there are estimates of the length of tubes or percent of the structure which is uncovered at this time.

**Feeley** – It looks like about 50% of face of the 2<sup>nd</sup> tube and some patches of the 3<sup>rd</sup> tube.

**Engelbourg** – He'd like to get photos and/or footage of that once a week.

**Erisman** – Regarding the protocol for pushing material over, asked for details on how that will be done.

**Feeley** – Explained the idea is to skim, less than 1 foot, a little off the top so that the thin layer of material can easily be identified. That would take at least one week, possible two.

**Golding** – We could ask for a video of them doing the skimming work; he hopes they'll do a good job.

**LaFleur** – He's going to go out there and watch the process.

**Erisman** – Opened the discussion to the public at 7:02 p.m. Asked that no one repeat information already in the record.

**Turcotte** – After the ConCom hired a 3<sup>rd</sup>-party reviewer, he doesn't understand why the protocol recommended by OHI is being contradicted by Epsilon. If OHI thought it relevant to test for Ph, phosphorous, phosphate, and nitrogen, he doesn't see why that isn't being tested for.

**Engelbourg** – OHI has gone forward with those tests; Mr. Dunk submitted a letter why he thought those tests weren't necessary.

**Erisman** – Everything we voted on is being tested for.

**Turcotte** – If we want a complete understanding all sediment sources, samples should be taken to isolate where the contaminated material is coming from. Considering how long the material has been on the beach, there could have been runoff that skews the lab results.

**Carlson** – If the tests show contamination outside normal parameters, it would be the SBPF's best interest to trace that back to the source location. The question now is should this be carried on to the next agenda or have a special meeting on the 15<sup>th</sup>.

**Erisman** – We need to keep track of what's happening.

**Engelbourg** – Asked if PCB comments are included.

**Dunk** – PCBs are an oily substance collocated with silts and clays, not sand particles and testing isn't warranted. For Nantucket, PCBs would come from something like a blown transformer; all those have been changed out to other dialectics.

**Engelbourg** – If testing indicates other contaminates, we can address that at that time.

**Atherton** – Wants to refer back to a letter dated December 3, 2019, which references reporting requirements under Special Condition 28. You found the applicant was in failure for Condition 27 in submitting quarterly reports; at that time, they acknowledged being in arrears for underwater video monitoring. We feel in terms in the record be complete, the board must find they are in violation of Special Condition 28. Also, in our letter we included the wording of both conditions. The underwater video reports are bi-annual by different contractor.

**Erisman** – The letter is on page 160 of the packet. They did fully admit to not having those monitoring reports.

**Carlson** – That a discussion about monitoring will be included on the January 28 agenda.

4. Reports:
    - a. None
  5. Commissioners Comment
    - a. Comment 1
    - b. Comment 2
  6. Administrator/Staff Reports
    - a. The Select Board has appointed Marshall Beale to the commission.
    - b. We were contacted by property owner at 29 Sheep Pond Road; this is a property where they have been moving the house back from the bluff. Today they requested an emergency NOI to remove the structure from the site; the corner of the house is less than 10 feet from the eroding bluff; that was issued out. Asked for a motion to ratify the emergency NOI
- Motion to Ratify the Emergency NOI.** (made by: Golding) (seconded by: LaFleur) Carried unanimously

Adjourned at 7:20 p.m. by unanimous consent.

Submitted by:  
Terry L. Norton