



CONSERVATION COMMISSION SPECIAL MEETING

131 Pleasant Street
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Thursday, January 12, 2023

Remote Participation Via ZOOM – 5:00 p.m.

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

Called to order at 5:01 p.m. by Ms. Erisman

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

Attending Members: Erisman, Golding, Engelbourg, Beale, Williams, Misurelli, and Plandowski

I. PUBLIC MEETING

- A. Announcements**
- B. Public Comment – None**

II. PUBLIC HEARING

A. Notice of Intent

- 1. *Sconset Beach Preservation Fund – 41-119 Baxter Road (49&48-various) Area SE48-3598

Sitting	Erisman, Golding, Engelbourg, Beale, Williams, Misurelli, Plandowski
Recused	None
Documentation	None
SBPF Rep	None
Town Rep	None
Public	None
Discussion	Erisman – Received correspondence requesting a withdrawal.
Motion	Motion to Approve the withdrawal. (made by: Plandowski) (seconded by:)
Vote	Carried 7-0//Beale, Engelbourg, Erisman, Golding, Misurelli, Plandowski, and Williams

III. PUBLIC MEETING

A. Discussion of Extension Request

- 1. SE48-2824 Geotube Removal Enforcement Order

Sitting	Erisman, Golding, Engelbourg, Beale, Williams, Misurelli, Plandowski
SBPF Rep	Merideth Moldenhauer, 71 Baxter Road Mark Haley, Haley & Aldrich Dwight Dunk, PhD, Epsilon Associates, Inc.
Town Rep	None
Public	None
Discussion	Erisman – We received information from SBPF on Monday. Moldenhauer – Delay has consequences so the NOI for the extension is withdrawn. This is to discuss the existing geo-tubes. We’ve asked the removal deadline be held back or postponed. Mark Haley was hired to develop the removal plan. We are asking how to proceed on the removal – file an NOI or use the Enforcement Order (EO). Haley – Reviewed the 2013 as-built plans. Referenced a letter sent to Commissioners asking if it requires an NOI or work can be done under an amendment. Recommends looking at the existing structure between Town property and private properties at the top of the bluff; once the tubes are removed and the top of bluff is within 25’ of the road, the Town must look at removing utilities and the road. They would need a staging area at the Beach Club for access to get down to the tubes. He took into account safety of the properties at the top and safety of the workers – Option 1, the tube will remain in place until it’s exposed at which point it will be removed; Option 2 would excavate around the site with a backhoe then cut the fabric and remove it off the beach one tier at a time; Option 3 work is similar to 2 but would do sections in 40’ widths perpendicular to the slope. With an NOI, removal would be 3 months or so until work can begin. An Amended Order would take 1 to 2 months until work can begin. If houses need to be removed, the start of actual removal work would be pushed 9 months out. Golding – Asked if any consideration was given to removing the top-2 tiers then applying to keep the remaining bottom 2 with sand on top. Haley – He didn’t evaluate that option. It might be a good solution. We looked at leaving the lowest tier in place because it’s the most difficult to remove. Plandowski – This is a dangerous job; removing those sandbags could be a potential problem. Haley – That was the reason for Option 3; it doesn’t put any workers in front of a possible sand slide. We would develop a monitoring program for stability of the bank itself. Erisman – We will get an independent review of the Options.

Engelbourg – The EO is sufficient for the removal; all we need is an engineering plan showing removal done in a safe way. In terms of the Options, he doesn't think Option 1 is precise; once the textile is cut, the sand could slide out in a way that changes the beach topography. He'd prefer Option 3 but there's a possibility of a combination of Options. Regarding the assessment of the structure, it's well documented that there are only 2 structures within the project layout that are within 25' of the top of bluff. We might benefit from analysis of vulnerability of those 2 structures. Any demolition or relocation of the structures would require a NOI.

Misurelli – Regarding the need for a new NOI, he'll defer to advice from Staff. This has been in place 9 years, and he'd like more information on the options and how to go forward.

Erisman – When this array went in, engineers said that the tubes weren't stabilizing the top of the bluff, just preventing further erosion; those property owners should have already been assessing the stability of their homes.

Haley – Once the tubes are removed, the double-washed sand on the bank above them will be highly erodible, and the bluff will go back to being a more vertical slope.

Carlson – Our staff recommendation would be to proceed through the EO and not go through the NOI process. We can still have a 3rd-party review of the Options; we don't have a timeframe of how long that would take.

Beale – At yesterday's Select Board meeting, Town Counsel George Pucci said they don't need to apply for an NOI if ConCom waives it. Asked if there would be a benefit in keeping the drainage at the top of the bank to keep water from running down the bluff.

Haley – In his report, he looked into bringing drainage back to the west across Baxter Road. There is no reason to just take it away.

Plandowski – We should be reasonable on the amount of time it will take to remove the array for safety reasons.

Erisman – She has some concerns about SBPF walking away from this when Option 1 could take years.

Golding – Asked if the Town would have to come forward with an NOI to modify the design or if ConCom can order the modification under the EO.

Carlson – He would want to double check that. The EO is specific for removal as it exists; modification would have to go through the normal permitting process.

Golding – One wouldn't want to jeopardize the purpose of the Escrow; we still have the issue of the deficit of 60,000 cubic yards of sand, which could be wrapped into the modification.

Carlson – A Staff recommendation would be to meet with the Select Board to find a common goal for the area.

Erisman – A joint meeting with the Select Board would be a good idea.

Williams – She agrees that we need to be very careful about how long it will take. She's interested in the idea of modification. Even if Option 1 takes more than 9 months, she's for it.

Erisman – In Option 1, it said 9 months with a possibility of up to a year.

Haley – How long Option 1 takes depends on the storms, especially for the 4th tier.

Engelbourg – It's important to make sure we're working within the bounds of what's what. The EO is for removal and supported by Superior Court. If we want to modify that order, we have to be careful not to undermine the EO's legitimacy. As he understands it, the Order of Conditions is still active so any modification can be submitted under it. There are alternative pathways for this without jeopardizing the EO.

Dunk – His comments echo Mr. Haley and Mr. Engelbourg. The height of the design was based upon models of wave action. A modification would have to be designed to protect the toe of the bluff at a lower elevation to prevent overtopping.

Golding – He disagrees that 2 tiers would be overtopped all the time. He has photographic evidence after every major storm showing the water almost never got up to the 3rd tier. We've seen the end scour resulting from the lack of sand going into the littoral system.

Misurelli – Asked if we need to make a motion to extend the removal and have meetings with the Select Board.

Erisman – Yes; we should ask Staff to send these Options to Gregg Berman for his review. No one's ready to adopt the plans tonight so that would require a motion to continue.

Carlson – Suggested extending this to a regular meeting date; at that point, we could make a date for a Special Meeting. The next regular meeting is January 19th; we can't get information back in time for that. We have regular meetings on February 2nd and February 16th; the 16th is the best.

Erisman – She would prefer February 2nd, though she wants to ensure everything is in place for us.

Engelbourg – When we send things to Mr. Berman, it's a 3-week turnaround. We can use whatever 3rd-party reviewer we wish; he would direct Staff to consider an alternative 3rd party for this.

Carlson – The later date would allow more time for the 3rd-party review.

Haley – He's sure SBPF would have no concerns with Mr. Haley consulting with ConCom's reviewer, if ConCom is amenable.

Moldenhauer – Confirmed ConCom is not looking for any further information at this time.

Erisman – We don't need anything beyond Mr. Haley being available to work with our 3rd-party reviewer.

Engelbourg – Asked if on February 16th we could continue the removal to a later date.

Williams – Asked about continuing the removal to February 28th or March 9th in case weather becomes an issue and ConCom can't meet.

Carlson – You could continue the removal order to whatever date you prefer.

Motion **Motion to Extend removal discussion until February 16th and extend the removal order to March 9th.**
 (made by: Williams) (seconded)

Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, Misurelli, Plandowski, and Williams

B. Adjournment:

Motion **Motion to Adjourn at 6:06 pm.** (made by: Plandowski) (seconded)

Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, Misurelli, PLandowski, and Williams

Submitted by:
Terry L. Norton