

**Coastal Resiliency Advisory Committee**  
**Tuesday, March 28, 2023**  
**Via Zoom**

\*Meetings are audio- and video-recorded

**Members present:** Mary Longacre, Sarah Bois, Peter Brace, Matt Fee, Ian Golding, Jen Karberg, Christy Kickham, Rachael Freeman, Joe Topham, Joanna Roche (joined at 10:09am), Gary Beller (joined at 11:13am),

**Members Absent:**

**Staff present:** Vincent Murphy,

**Others:** Jeff Carlson, Kimberly Rose, Greg Berman, Chuck Larson, Leslie Snell, D. Anne Atherton, Lars Soderberg, William Kinsella, Barbara B, Shelly McComb, Elizabeth, Pam Lohmann, Emily Molden, RJ Turcotte, Claire Martin, Jason Graziadei, Rick Atherton

YouTube Recording: <https://www.youtube.com/watch?v=4pEX8tSMHvY>

**1. Call to Order**

10:00 a.m.

**2. Meeting announcements**

Script for remotely conducting Open Meetings, read by the Chair

The meeting is being audio / visually recorded

**3. Discussion of potential policy changes at the Federal, State, and Local levels regarding Coastal Resilience. Invited guests include: Jeff Carlson, Director of Natural Resources Department; Leslie Snell, Deputy Director of the Planning Department; Charity Grace Mofson, Legislative Liaison to State Representative Dylan Fernandes; Kimberly Rose, Preservation Manager, The Craig Group; Chuck Larson, Special Projects Manager for the Town of Nantucket; Greg Berman, Coastal Processes Specialist for Cape Cod Cooperative Extension & Woods Hole Sea Grant.**

- Nantucket wetlands bylaw (Chapter 136) and zoning <https://ecode360.com/11471327>

- MGL Chapter 90, Wetlands Protection Act

- <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter90>

- US Army Corp of Engineers Policy. The new guidelines provide recommendations on the use of NNBF like wetlands, barrier islands and expanded floodplains to help decision-makers, project planners and practitioners develop strategies for flood risk reduction in both coastal and inland settings International Guidelines on Natural and Nature-Based Features (NNBF) for Flood Risk Management – Engineering With Nature (dren.mil)

- FEMA Flood Insurance (emphasizes rebuilding in disaster-affected areas.)

- Zoning
- And any other applicable regulations

Ms. Longacre reviewed the topic for the meeting, Discussion of potential policy changes at the Federal, State, and Local levels regarding Coastal Resilience, by reading the list of regulations included in the agenda and discussing the three main approaches to coastal resilience: protect, retreat, and prevent.

Ms. Longacre introduced Ms. Snell, Deputy Director of Planning for the Town of Nantucket, as a guest speaker and asked, “What can zoning accomplish through the lenses of protect, retreat and prevent?” Ms. Snell responded that zoning could protect areas by not making less restrictive regulations, retreat could be affected by reducing ground cover, and prevent accomplished by changing zoning so that new development is not possible. Ms. Longacre asked what zoning is in place now that impacts coastal resilience. Ms. Snell said that environmentally sensitive areas or those with severe erosion issues have been gradually re-zoned to LUG-3, which is the lowest density zoning district on Nantucket. She added that, although the Planning Board has not taken a strong position on this issue, they could consider rezoning the entire edge of the island to LUG-3. Ms. Snell continued by reminding the Committee that any zoning changes require a 2/3 vote at Town meeting and proposals are more likely to be adopted if they have Planning Board support. Ms. Longacre commented that there is a fourth component to coastal resilience planning and that is public education because public support is necessary for policy change.

Ms. Longacre introduced Jeff Carlson, Director of the Natural Resources Department for the Town of Nantucket and asked that he discuss Town policies that he is aware of that impact coastal resiliency and any changes that may be beneficial. Mr. Carlson indicated that he would focus on the local Wetlands Bylaw, which considers resource areas and within 100 feet of a resource area. He explained that the local Conservation Commission has realized there is a need to build flexibility and adaptation options from the CRP into the local Wetland Bylaw updates. The wetland regulations are based on protecting specific interests and therefore the Conservation Commission is proposing to have a specific interest called resiliency and a waiver to the regulations that accommodate resiliency. The CRP was very beneficial because it provided a source of consistent language to the Conservation Commission to incorporate into their bylaw updates. He added that this project has been started but there is still a lot left to do.

Ms. Bois stated that Mr. Carlson’s comments regarding the benefits of the CRP are helpful, but also acknowledges that some of the language and ideas in the CRP are not fully developed. She asked where the Conservation Commission was in the review of their regulations and whether the Conservation Commission was planning to reach out to CRAC for advice on how to further develop concepts that are not clear in the CRP.

Mr. Carlson responded that the Conservation Commission finished the draft updates, and these are being reviewed by Town Council. Once Town Council has reviewed the updates, there will

be follow-up public hearings during which specific areas related to resiliency can be assessed for whether additional information is needed.

Mr. Brace asked whether the Conservation Commission has considered having the jurisdictional boundaries move with erosion? Mr. Carlson responded that the state Wetlands Protection Act resource area buffer zones migrate with the resource areas and that the zones that migrate the most on the coast are salt marsh and coastal dune. He discussed a need at the state level to address issues with legacy structures that are within buffer zones due to migration of coastal resource areas. Discussions are ongoing at the local and state level to determine how to provide consistency and manage these issues from a regulatory standpoint.

Ms. Longacre asked Mr. Murphy whether he had anything to add to this discussion regarding policy changes that are recommended in the CRP. Mr. Murphy responded by stating that the CRAC has expressed interest in incorporating Sea Level Rise into the local and state wetland regulations. In addition, understanding the future location of floodplains and having the Conservation Commission participate in retreat and relocation planning would be useful.

Ms. Longacre introduced Mr. Larson, Special Projects Manager for the Town of Nantucket. Mr. Larson began by stating that we should be talking about guidelines such as basic design thresholds for infrastructure and homes before discussing regulations. In addition, Mr. Larson sees a need to quantify future high tide flooding to allow for public education and action in high priority areas. He emphasized that while it is important to focus on policy and regulation, we need guidance and advice for people.

Mr. Brace asked whether the HDC should be at the CRAC meeting and whether Nantucket should be considering amendments to building with Nantucket in Mind. Ms. Longacre responded that Holly Backus, Preservation Planner for the Town of Nantucket, completed the Nantucket Resilience Toolkit (as a component of the Town's Municipal Vulnerability Planning) that examines adaptations for historic structures.

Mr. Golding asked Mr. Fee and Mr. Carlson whether there had been any response to the Conservation Commission letter or the CRAC letter that was sent to DEP regarding enforcement of Chapter 91 public access issues pertaining to bulkheads. Mr. Carlson responded that nothing had been received as did Mr. Murphy and Mr. Fee.

Ms. Bois noted that she would like to hear from the regulators on the call today what the CRAC could do to be helpful. Would a set of recommendations or guidelines be useful? She added that as a non-regulatory committee, CRAC can contribute to things like guidelines.

Mr. Fee commented that what he thinks is missing is understanding what and where is in trouble and that a consensus building exercise could be useful to determine what we want to discourage and where we want to put our effort to educate the public and generate understanding.

Ms. Longacre asked Ms. Snell to explain the process for creating a new zoning bylaw. Ms. Snell responded that this is a difficult question to answer without knowing what is being proposed. She then generally explained that you can create a new section of the bylaw that addresses aspects of coastal resiliency, you can develop overlay districts that would be more restrictive, and you can

create new districts, but ultimately all these options would need to be reviewed by the Planning Board and require a 2/3 majority vote at Town Meeting. She also added that regulatory changes cannot make a property unbuildable because that is considered a taking.

Ms. Roche agreed with Ms. Bois's comments and would like to understand where CRAC can have the most impact. She continued by stating that she feels CRAC needs to have a list of goals and an order of operations pertaining to how to accomplish these goals.

Ms. Longacre asked whether there was anyone who wanted to respond to this question but also noted that the depth of this question may require consideration and therefore could be a future meeting topic.

Mr. Murphy stated that there is extensive waterfront development in Brant Point and this is an example of a location where we could have done area development through zoning if we had zoning specifically for waterfront or nearshore locations. For example, we could require the installation of one long bulkhead when property owners are doing personal renovations, which would benefit both the homeowner and the Brant Point area. Ms. Longacre asked Mr. Topham (Planning Board representative for CRAC) whether projects like those occurring in Brant Point can be considered by the Planning Board on a neighborhood level. Mr. Topham said that it really depends on the application. He continued by adding that if neighbors come in with a joint application, then the Planning Board can review the project as such so it is important to encourage areas to collaborate and submit a cohesive plan. Mr. Topham provided an example from Pocomo that was heard at the Conservation Commission where homeowners came together to submit a joint Notice of Intent for a bank stabilization project.

Ms. Freeman thanked everyone for their time and participation in the discussion regarding how policies are made and adapted. She then referenced an earlier comment made by Mr. Golding regarding the challenges of working with DEP.

Mr. Fee followed up on Mr. Topham's comments and agreed that coastal resiliency issues must be looked at from a neighborhood perspective. He commented that the Land Bank's Washington Street framework plan could be an example for how to demonstrate the impacts of sea level rise and climate change to individuals and how adapting could benefit them. He also requested that there be an opportunity to discuss Transfer of Development Rights.

Ms. Longacre asked whether the public had any comments. Ms. Atherton requested that Ms. Freeman expand on the permitting challenges she described with DEP? Ms. Longacre suggested that question be addressed when the discussion of DEP policies began, which would be happening shortly.

Mr. Topham stated the Land Council's attorney was asked for a recommendation regarding what else could be used instead of geotubes. He said a breakwater wall would be the right answer but that it would never be granted a Chapter 91 License through DEP. He then considered whether local government support would encourage DEP to approve projects.

Mr. Carlson reminded everyone that locally, we can make stronger regulations but cannot relax state standards. He added that effectively making changes at the state level may require getting

Martha's Vineyard, the Cape and Nantucket to come together to ask for guidance and help from DEP.

Ms. Longacre suggested that Massachusetts could consider creating a pilot program that would allow municipalities to test new strategies for infrastructure protection to determine effectiveness and environmental benefit to determine whether they should be included as options in the regulations. She continued by adding that FEMA and Army Corps are considering nature-based solutions within their regulations and asked if Mr. Berman had any thoughts on this issue. Ms. Longacre added that she had heard DEP was reviewing and updating their regulations and is wondering whether anyone had additional information.

Mr. Berman clarified that Woods Hole Sea Grant is not a state agency but that they do work with many of the state agencies. He stated that he cannot speak to the status of DEP regulation updates and added that any efforts regarding regulation change at the state level would need to be a multi-agency approach. He asked whether Nantucket's bylaws have a waiver for projects that do not meet regulations but provide overwhelming environmental benefit. He added that this waiver exists in a limited way at the state level. He also mentioned that right now, living shorelines are harder to permit than rock revetments in Massachusetts and suggested that Barnstable, Dukes, and Nantucket counties need to join forces to have a stronger voice to facilitate change.

Mr. Carlson stated that it can get very frustrating navigating the state agencies that have competing interests. He described the challenges that the Natural Resources Department encountered with DMF when attempting to permit an oyster reef in Sesachacha Pond. Ms. Longacre asked that the Committee return to Ms. Atherton's question and that Ms. Freeman provide an example of a project that was challenging to permit with DEP. Ms. Freeman described the constraints on restoring a grass lawn to a stormwater wetland within a BVW when the existing stormwater pipes flow directly into the wetland.

Mr. Berman described his conversations with state agencies and emphasized that the Chesapeake region, where living shorelines were developed, requires that you provide a qualified rationale as to why you cannot install a living shoreline before being able to consider gray infrastructure. He also suggested that state agencies may fear loosening regulations.

Ms. Rose addressed Ms. Freeman's example and stated that a similar wetlands project was approved in Fort Lauderdale. She went on to describe that in 2011, Florida decided they were no longer going to plan in isolation but would create Adaptation Action Areas. This provided a more flexible optional framework for projects. In her work, she found that the Adaptation Access Areas were in the older, more historic areas. Adaptation Action Areas have four steps: 1) Building a steering committee to look at the proposed project area, 2) Setting principles and motivations for the project and identifying opportunities for community participation to generate support, 3) Performing a vulnerability assessment, examining adaptation strategies, and looking at capacity and prioritization of needs 4) Assessing implementation strategies. She emphasized the role of planning in acquiring funding and implementing projects. Ms. Rose recommended

collaborating regionally or nationally to fund projects and breaking down communication silos to generate understanding and support.

Ms. Karberg indicated that local permitting is very supportive of nature-based solutions but she has encountered roadblocks at the state level. She stated that the Nantucket Conservation Commission permitted the Nantucket Conservation Foundation's oyster castle project, but the state was reluctant to permit even a pilot project. Salt marsh thin layer deposition projects are being held up at a state level as well and are just beginning to be permitted in Massachusetts. Groups are working together to facilitate permitting pathways for pilot projects within the state of Massachusetts. As a committee, she noted that it may be interesting for CRAC to consider supporting these groups and lobbying for change at the state level.

Mr. Kickham commented that it will be interesting to see how DEP evolves with respect to coastal resiliency but he still sees funding as the biggest issue. He emphasized the need for communities to lobby the state and federal government. He acknowledged that Mr. Turbitt, the Director of Finance for the Town of Nantucket, was discouraged when he saw the coastal resiliency project list but that the Capital Committee needs to continue pushing the coastal resiliency funding agenda.

Ms. Longacre asked Ms. Martin if she had comments on state regulations even though Envision Resilience on Nantucket did not require participants to consider permitting. Ms. Martin stated that Envision Resilience Challenge was primarily seeking to engage the community on Nantucket. In addition, she noted that it would be interesting to think that while outside of the box, innovative designs may not always meet policy requirements, they may be able to foster change at a policy/regulation level.

Ms. Longacre asked if there were any other questions or comments from the public. Seeing none, she asked the committee to consider the concept of loss as a form of retreat as it was discussed at the Keeping History Above Water from Trinidad and Tobago. Mr. Brace asked Ms. Longacre to clarify what loss means. In response, Ms. Longacre provided an example of houses that were lost in a storm at Codfish Park and not rebuilt.

Mr. Berman asked whether Nantucket had considered designating Districts of Critical Planning Concern (DCPC). This planning tool has been explored by the Vineyard and Barnstable County and is a broad tool that can be used for coastal resiliency purposes by designating areas that will be undeveloped or not re-built if destroyed in a storm event.

Ms. Longacre noted that this could segway into Mr. Fee's question from earlier regarding Transfer of Development Rights (TDR) and asked whether anyone on the call had experience implementing TDRs. Mr. Fee suggested that TDRs could provide a mechanism to encourage people to move away from the coastline. Specifically, he asked whether it would be possible to implement TDRs by creating receiving areas on high ground. Mr. Berman expressed that TDR's in coastal areas can be very challenging because the cost differential between inland and coastal areas is so extreme. Mr. Fee suggested that TDRs could be used in locations where moving is necessary and not optional. He provided an example where the property could be donated for a

tax deduction before having to leave in an effort to encourage people to make a choice to move because it benefits them.

In addition, Mr. Fee raised concerns about the legal requirement that Towns maintain roads to provide access to houses and asked if anyone knew how this could be addressed. Mr. Berman responded that, a few years ago, there was a scientist in Rhode Island who gave a talk about municipal liability pertaining to climate change and specifically examined the issue surrounding roads and access. That scientist is now at EOEEA in Massachusetts so there may be an opportunity to connect. Mr. Kickham mentioned that a lot of the roads support infrastructure and that gives the Town management over that.

Ms. Longacre asked whether Mr. Fee or Mr. Carlson had any additional information about Mr. Fernandes's bid to change the regulation of the intertidal zone. Mr. Carlson indicated that Mr. Fernandes is considering adding recreating to the allowable uses within the intertidal.

Ms. Longacre asked whether anyone has information about federal regulations regarding coastal resiliency measures?

Mr. Berman asked whether the Town was undergoing a zoning update as FEMA determined that floodplain bylaws in Towns throughout Massachusetts did not meet standards. Woods Hole Sea Grant has recommendations for higher standards that could assist with coastal resiliency issues and could be included in the zoning update. He also added that Land Subject to Coastal Storm Flowage is being worked on at the federal level as well.

Ms. Rose stated that it is important to check federal regulations to make sure that the Town complies, as well as making sure that plans within the Town do not contradict each other. With Nantucket being a National Historic Landmark, she noted that Section 106 was very important in the development of the CRP. Ms. Rose added that although Section 106 can be challenging, it may also be the motivation to solve the puzzle in a novel and creative way.

Ms. Longacre will share Keeping History Above Water from Trinidad and Tobago is online, she will share it.

## **6. Approval of Minutes**

Motion made by Mr. Beller, seconded by Mr. Fee. Minutes were approved with edits for January 10<sup>th</sup> and 24<sup>th</sup>. Ms. Roche did not vote on January 10<sup>th</sup> or January 24<sup>th</sup> minutes, Mr. Kickham abstained from voting on the minutes of January 24<sup>th</sup>.

## **11. Discussion of upcoming meeting dates**

Ms. Longacre discussed upcoming meeting dates and topics. The next meeting will be April 25<sup>th</sup>.

## **12. Meeting adjourned at 11:47 am**