



# CONSERVATION COMMISSION SPECIAL MEETING

## Public Hearing

2 Bathing Beach Road  
Nantucket, Massachusetts 02554

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

Monday, September 17, 2018

4 Fairgrounds Road, Community Room – 4:00 p.m.

**Commissioners:** Andrew Bennett(Chair), Ashley Erisman(Vice Chair), Ernie Steinauer, David LaFleur,  
Ben Champoux, Ian Golding, Joe Topham

Called to order at 4:04 p.m.

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

Attending Members: Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham

Remote Participation: Per 940 CMR 29.10, Ian Golding is participating remotely due to distance.

Absent Members: None

Early Departure: Golding, 5:35 p.m.

Town Counsel: George Pucci, K&P Law

Agenda adopted by unanimous consent

\*Matter has not been heard

### **I. PUBLIC MEETING**

#### **A. Announcements**

#### **B. Public Comment –**

**D. Anne Atherton**, Nantucket Coastal Conservancy – Asked about the order of conditions for the current project. We would like to request a discussion be held at a future ConCom meeting; we want to go through whether or not the applicant is in compliance with the current order of conditions.

### **II. PUBLIC HEARING**

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

1. \*Sconset Beach Preservation Fund – 59-119 Baxter Road (49&48-various) Area SE48-3115

Sitting: Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham

Recused: None

Documentation: Supporting documents and plans. PowerPoint® presentation.

Applicant: Stephen Cohen, Cohen & Cohen LP

Representatives: Dwight Dunk, Epsilon Associates Inc.

Maria Hartnett, Epsilon Associates Inc.

Jamie Feeley, Construction Project Manager, Cottage and Castle Inc

Josh Posner, 77 Baxter Road, Chairman Sconset Beach Preservation Fund

Art Gasbarro, Nantucket Engineering & Survey

Glen Wood, Rubin & Rudman LLP

Public: Emily Molden, Nantucket Land Council (NCL)

Hugh Ruthven, III, Applied Coastal Research and Engineering

Maureen Phillips, Nantucket Coastal Conservancy

D. Anne Atherton, 48 Squam Road, Nantucket Coastal Conservancy

Bill Charlton, Baxter Road

Joyce Berruet, Nantucket Coastal Conservancy

Discussion: **Carlson** – Reviewed procedures: intent is to get the information about the project on the table. The commission will then go through Q&A with the applicant. Then it will be opened to the public: all comments directed to this project specifically and to the resource areas, use a microphone, give your name clearly, make comments through the chair; do not engage in a back-and-forth with the applicant.

**Bennett** – Written comments are highly appreciated; that ensures we have all the facts.

**Cohen** – The length of the project is substantially similar to the original project and is based upon erosion of the bluff. We'd like to come away from this hearing with feedback from the Board on issues to be addressed and questions that need to be answered.

**Dunk** – Reviewed the existing project: existing project is about 1000 feet; extension will go north about 895 feet and south about 1,978 feet. Bluff would be reconstructed with a sand template and revegetated; an updated sand mitigation and monitoring programs; will identify the same failure criteria. The bluff is steep and actively eroding with medium to coarse-grain beach sand. The goal is to protect private dwellings and public infrastructure; the beach will be protected to remain as a public recreation area. The focus is to protect resource areas of interest to the Act: land under the ocean, coastal beach, coastal bank, coastal dune, and land subject to coastal storm flowage. Southerly coastal dune has migrated; work will not include a coastal dune in that area. Massachusetts Natural Heritage (MNH) has estimated the priority habitat: the vast majority of the

area is outside the habitat for piping plovers and least terns; there has been no observed nesting in this area in recent history. Standard calculation rate has been calculated at 12.00 cubic yards/linear feet per year (CFY); mitigation volume lost off the bluff is 7.7 CFY. The vast majority of the southern parcels are pre-1978 homes. Along the northern portion there are pre-1978 homes and some empty lots; reiterated the intent to protect the road and utilities in the road.

**Hartnett** – Four tiers of geo-textile tubes of the same size as the existing project. Each end will have returns similar to the existing project. We will be providing an updated set of plans based upon the May 2018 survey. We are proposing sand backfill behind the tubes to recreate the 2017 stable slope. Project is designed to provide protection from the 100-year storm; reviewed the models for the 100-year-storm wave run up. Other components include: vegetation with American beachgrass and native woody plants; between 109 & 115 Baxter Road has swallow nests so the upper bank won't be vegetated. Presented the construction overview, which is similar to construction of the existing project; the stockpiled sand might extend beyond the high tide line so have filed an Army Corps of Engineers (ACE) application to do that. Reviewed the alternatives that have been implemented at the current project and work and those that the alternative analysis indicated won't work. We have been able to mitigate impact and are pleased with the performance of the existing geo-tube project. Construction will cause impact to the coastal beach, coastal bank and land subject to coastal storm flowage; but those will be repaired upon completions. Reviewed proposed monitoring and mitigation based upon the five years of information gathered from the existing project. Will be asking that underwater video monitoring to be changed to once every two years. Propose that the drainage system monitoring be taken over by the Department of Public Works. Reviewed sand mitigation, 22 CFY, but using a "refill" approach. We have found the sand template has been contributing more sand than the unprotected bluff, 16.5 from the template versus 8.1 from the bluff. The failure criteria proposed is the same as for the existing project. Explained how the proposed project stands up against the State and Nantucket Performance Standards and bylaws. We have requested a waiver for structures that don't meet the pre-1978 structure not significantly improved. Regarding the current project, we have not seen any adverse impacts; the bluff is stabilized, gone through the independent review process. It would be beneficial to have a framework for future meetings; the second meeting include: their coastal engineer, Robert Kennedy, to attend to answer questions, sediment transport, and alternatives.

**Erisman** – Her first question, this is to protect the beach but there is no mitigation for the actual beach loss where the tubes take up beach.

**Hartnett** – Due to the erosion, the beach is moving landward and thus into private property; if nothing is done, it will become private property.

**Erisman** – Asked where the current bluff walk ends.

**Hartnett** – It ends at 67 Baxter Road; we would be able to maintain it up to 67 Baxter Road.

**Erisman** – Asked what parts of Baxter Road are under imminent threat.

**Hartnett** – We can provide updated distances from the top of the bluff to Baxter Road.

**Erisman** – Asked how recent is recent history, regarding no nesting.

**Hartnett** – The surveys have indicated no nesting for at least 10 years.

**Erisman** – Would also like to see the source for the information.

**Hartnett** – Mr. Kennedy could provide that.

**Erisman** – She's concerned about reducing the underwater surveys from twice a year to once every three years.

**Hartnett** – The concern was that cobble habitat would be covered; the volume of sand they have been providing has not done that, and we don't expect this project to make a difference.

**Bennett** – He'd like to hear more of the argument for the waiver for the post-1978 and substantially improved houses. He wants to see more justification for the four-tube concept. Asked about intentions for the lots where there is protrusion.

**Hartnett** – Mr. Kennedy could answer that better.

**LaFleur** – He's curious about the evidence supporting the increased depth.

**Hartnett** – It was based upon modeling.

**Topham** – There had been issues with getting the existing recovered in a timely manner; he's concerned about that with the extended project.

**Feeley** – They have a new machine for exclusive use for this project; that should help. Most of the delay was due to run off and access to the beach.

**Champoux** – The calculation of the sand; after the template is washed away, asked if there is a factor about the sand not being contributed during an active storm.

**Hartnett** – During small storms, the template contributes where the bluff does not; that provides a buffer during a large storm.

**Champoux** – This project will always be more seaward than the bluff next to it. The unprotected bluff will reach an angle of repose so this would have to continue to contribute where a natural bluff would not.

**Hartnett** – Overall, we contribute more than a natural bluff; looking at the big picture, this is working as designed. By over contributing during smaller events, the shore line is where we expect it to be.

**Golding** – He couldn't see the presentation; he's reserving his questions until he sees the PDF. After the first major storm, it was evident that a lot of sand had not been contributed during the storm; he'd like to discuss that at the next meeting.

**Erisman** – She wants a detailed protocol for recovering the tubes; there were at least for instances this past year the front of the template was uncovered.

**Steinauer** – We will need to see significant engineering data to ensure the sand coming off the template is equivalent to sand coming off a bluff during a storm. In his opinion, the model was not realistic enough.

**Bennett** – There were concerns about the construction of the current returns.

**Cohen** – Will be filing to change the current returns on the northern end.

**Champoux** – The walkable beach in front of the project is one of the criteria and will continue to be.

**Bennett** – He's had complaints about the access.

**Hartnett** – We have ramps in place so people can walk on the template and propose to maintain that. We are open to discussing changing the angle of the access ramps.

**Molden** – Asked the commission to take time to review the Order of C of the current project to establish whether or not that is in compliance. An item of most concern is project compliance to protect the interests of the bank and waiver request based on no adverse impact. Also concerned about the protocols in place and how they were enacted regarding keeping the tubes covered; we don't know how much sediment would have been taken if it had been available and by how much it is under-nourished. Also concerned about the reduction in proposed nourishment.

**Ruthven** – He was hoping to see was a more adaptive mitigation strategy to prevent exposed tubes. The template was bare the entire month of March 2018. Thinks we should look at short-term erosion rates; when the original project was started, the southern part was not eroding at the rate it is now. He's still concerned about the lack of adaptive management; adaptive management in a year like last year's series of storms would have starved the system. He will provide detailed comments in writing.

**Phillips** – Regarding the adaptive mitigation program, referred to the Woods Hole Group report and comments submitted for the annual review addressing the adaptive program and that the 22 CFY should be maintained.

**Atherton** – There are three areas she'd like to see more information: how the public beach will be maintained, the criteria on what constitutes an emergency, and what is the threat to public infrastructure.

**Hartnett** – There has been a lot of comments about the sand mitigation; looking at the average annual numbers, even with significant storms, the contribution from the template exceeded that from the unprotected bluff.

**Steinauer** – A lot of numbers were thrown at us today. Going forward, he'd like to see the technical information written down so it can be reviewed.

**Carlson** – Asked about the opinion of scheduling specific topics for each future meeting.

**Steinauer** – Sometimes, people bring in expert testimony; if someone brings that person in, we hear them through so they don't have to keep coming back.

**Carlson** – Reviewed future dates, all Mondays at 4 p.m.: October 1 & 22, November 5 & 19, December 3.

**Cohen** – If people think there are non-compliance issues, asked that those be identified to Staff so those can be addressed.

**Carlson** – Asked that comments be submitted in writing by the Thursday before the next meeting.

**Atherton** – Another topic for future discussion is the alternative analysis.

**Charlton** – If ComCom doesn't permit this project, Baxter Road will be lost.

**Berruet** – Asked when the presentation photo of the bluff was taken, if it was within the last quarter.

**Hartnett** – It was taken in the last week.

**Berruet** – There seem to be areas where the erosion starts at the top. Asked if there is a plan to mitigate that type of erosion

**Cohen** – We mitigate erosion from the toe and and the bank and plants to deal with wind and rain runoff and stormwater overflow; it's all in the NOI.

Next hearing

Motion

Voice Vote

October 1, 2018: coastal engineering review, sediment transport, and current order of conditions review

**Motion to Continue to October 1.** (made by: Champoux) (seconded by: Topham)

Carried 7-0: Golding – aye; Champoux – aye; Topham – aye; LaFleur – aye; Bennett – aye; Erisman – aye; Steinauer – aye.

**A. Other Business**

1. Approval of Minutes: none
2. Monitoring Report: none
3. Enforcement Actions:
  - a. 36 Liberty Street

Sitting Bennett, Erisman, Steinauer, Champoux, LaFleur, Topham

Staff We had a report the pond was drained; it was being drained into the adjacent wetland. We too pictures. There are things afoot in the resource area and discharge into another resource area. At a minimum, we need a delineation of what's going on; it looks like a significant amount of earth disturbance where the pond was. We need the owner to appear before the commission. Asked for issuance of an enforcement order.

Discussion (5:34) None

Motion **Motion to Issue the Enforcement Order.** (made by: LaFleur) (seconded by: Champoux)

Vote Carried unanimously

4. Reports:
  - a. None
5. Commissioners Comment
  - a. None
6. Administrator/Staff Reports
  - a. None

Adjourned at 5:38 p.m. by unanimous consent.

Submitted by:  
Terry L. Norton

PROPOSED