CONSERVATION COMMISSION
SPECIAL MEETING

2 Bathing Beach Road
Nantucket, Massachusetts 02554
www.nantucket-ma.gov
Wednesday, June 21, 2016 4:00 P.M.
16 Broad Street, Town Conference Room

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

Called to order at 4:11 p.m.

Staff in attendance:	Jeff Carlson, Natural Resources Coordinator
Attending Members:	Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham
Absent Members:	Golding
Late Arrivals:	None
Earlier Departure:	None

Agenda adopted by unanimous consent
*Matter has not been heard

I. PUBLIC MEETING

A. Public Comment:

1. Peter Brace – Encouraged the commissioners to go look at the mansion on the west side of Pocomo Point, closest to the point, to see how close it is to the edge.
2. Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP – The issue was raised about conditions that are over looked after transfer of property; one problem is that the Registry of Deeds does not carry forward the Order of Conditions after the Certificate of Compliance is on record. That is an error; the Order of Conditions should always stay on a property so people know the background. Suggested ConCom come up with a way to do that; he'd be willing to help.

B. Orders of Condition

1. Pocomo Neighbours – 47,53,55,57,61,63 & 69 Pocomo Road (Multiple) SE48-2874

Sitting	Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham
Representative	Arthur D. Gasbarro, Nantucket Engineering & Survey
Staff	He has made revisions to the draft positive motion based upon commissioner comments. Condition 28 addresses keeping the coir logs in good repair while aiding the establishment of the vegetation after which the coir logs are prohibited.
Discussion	**Champoux** – He suggested that the coir logs be considered temporary in so far as the establishment of the plants; after that, it is important they not be allowed to be replaced because then it starts acting like a structure. We have to trigger what is a success or failure. Coastal Zone Management (CZM) and Environmental Protection Agency (EPA) are saying these are not a structure; however, a lasting structure is replaced every year. **Steinauer** – Doesn't agree with Department of Environmental Protection (DEP) on this; they permitted three tiers of geo-tubes in front of pre-1978 homes out at Sankaty, which in his opinion tacitly declares that is not a coastal engineering structure (CES). He has lost faith in their decisions. **Erisman** – CZM brochures reference yearly maintenance and repair which doesn't meet a bio-engineered structure. **Carlson** – Explained the function of Conditions 28, 29, 30 & 32 to protect against this becoming a permanent structure. Under Condition 32, "project materials" isn't encompassing enough in the respect of a failure criteria; asked for guidance. **Champoux** – Suggested changing it to read 33% of nourishment material. Assuming the plants get established, spreading nourishment on top of the could damage them. **Carlson** – It can be worded that all nourishment material is placed in front of vegetation. **Erisman** – Putting all nourishment in front changes the performance by putting more sand into the system than the bank. Asked how often the high water mark is evaluated. **Carlson** – The legal high water mark was recently adjusted; the evaluation is done every 19 years. **Erisman** – Given the public has access only below the mean high water mark, if this is migrating up to the edge of the bluff or beach drops, asked how that access is maintained. **Steinauer** – This is important wildlife habitat and we depend on that elevation of the beach; to protect our resources, we should require them to maintain a beach similar to what was there before the structure and compare it to neighboring un-armored beaches. **Bennett** – Asked if it is possible to get a benchmark from an adjacent property. **Carlson** – He believes so. Condition 34 states the bottom of the bank and high water mark being located outside the project area and that becomes the control spots doing that every 300 feet. To the east and west

there are some other structures like sand-drift fencing. He'll add wording requiring the mean high water mark be included on the plan.

Steinauer – There isn't a lot about sampling of the fauna on the beach prior to work starting.

Carlson – That's covered in Condition 31. They've submitted a protocol to do that: 3 invertebrate sites within the project area and two to the east and two to the west. It can be reworded that sampling comes from all the transect areas.

Steinauer – Noted that right after construction starts, a big decrease could be likely due to construction vehicles; after the area has been left alone, a slow recovery might become evident.

Carlson – Noted that no one aside from storm repairs has permission without a permit from the Town to be on the beach between April and September because this is prime Massachusetts Natural Heritage area for plovers.

Erisman – She doesn't believe this project can do justice to the undulating beach and the material it provides into the system.

Topham – Wonders if it's possible to monitor how fast material is introduced to the rest of the beach.

Gasbarro – Based upon erosion calculations from the Woods Hole Group, they are looking at 1000 cubic yards of sand per year, which comes to less than ½ cubic yard per linear foot of the structure.

Steinauer – Noted that no bank on the beach is "self sustaining."

Carlson – Condition 13 coupled with the others mentioned creates a failure criteria by defining when it starts acting like a CES.

Steinauer – Asked Mr. Gasbarro if he knows which lots have pre- and post-1978 structures.

Gasbarro – He didn't research that because this isn't considered a CES; numbers 61 and 63 are pre-1978.

Steinauer – Suggested splitting this and approving it under the state but denying it under the local bylaw, which is stricter. Under our bylaw, we could argue this is a CES.

Champoux – Believes there are sufficient safeguards now built into this.

LaFleur – Agrees. He'd like to see it succeed; feels it's one of the best he's seen.

Erisman – Gauging success of the structure is near impossible because 10 years from now there might not be any eel grass because fine sediments didn't get where they needed to go.

Carlson – Condition 23 addresses using bank-compatible material as opposed to beach-compatible sand. Discussion about where the bank-compatible material will come from as island pits provide from a different material source and monitoring the grain size onto the project.

Steinauer – Stated he spoke with colleagues on the Cape where rock revetments are common; they are much happier with projects like this as far as the beach holding up.

Erisman – Nantucket has unique shellfish and how they will be impacted by this is an unknown.

Steinauer – Wondered if it's possible to have an experimental project waiver.

Champoux – Asked if the Shimmo project is about one year along.

Carlson – The lower tubs and plantings have been in place about eight months; the final plantings on the upper portion went in 2 months ago.

Erisman – Asked if the other random stuff on the beach is conditioned to be removed and how would it be enforced.

Carlson – Removing it is covered in the overview. If the structure was not permitted, we can do an enforcement order; if it's a permitted structure not being kept in repair as required by the order of conditions, it can be enforced for removal or back into compliance.

Erisman – She'd like to see a condition that states if a structure is left in disrepair it must be removed.

Carlson – That is better handled through the enforcement process.

Motion **Motion to Issue as amended.** (made by: LaFleur) (seconded by: Bennett)

Vote Carried 4-2//Erisman & Steinauer opposed

C. Other Business

1. Approval of Minutes: None
2. Enforcement Actions: None
   a. Reports: None
3. Commissioners Comment: None
4. Administrator/Staff Reports: None

Motion to Adjourn: 5:06 p.m.

Submitted by:
Terry L. Norton