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CONSERVATION COMMISSION

PUBLIC MEETING

131 Pleasant Street
Nantucket, Massachusetts 02554
www.nantucket-ma.gov
Thursday, April 7, 2022 – 5:00 p.m.

This meeting was held via remote participation using ZOOM and YouTube.

Commissioners: Ashley Erisman (Chair), Ian Golding (Vice Chair), David LaFleur, Seth Engelbourg, Maureen Phillips, Mark Beale, and Linda Williams

Called to order at 5:00 p.m. by Ms. Erisman

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

Attending Members: Erisman, Golding, Engelbourg, Phillips, Beale

Absent Members: LaFleur, Williams

*Matter has not been heard

I. PUBLIC MEETING

A. Announcements

B. Public Comment – None

II. PUBLIC HEARING

A. Notice of Intent

1. Linda Loring Nature Foundation – 90,110,124,130&136 Eel Point Road (39;32;33;38 - &2;33;18;4,3,6, & 41) SE48-3500 **(Cont. 4/28/2022)**
2. 13 Commercial Street, LLC – 13 Commercial Wharf (42.2,4-10) SE48-3501 **(Cont. 4/28/2022)**
3. 9B Crow’s Nest, LLC – 9B Crow’s Nest Way (12-20,2) SE48-3508

Sitting Erisman, Golding, Engelbourg, Phillips, Beale

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

Representative Brian Madden, LEC Environmental

Public None

Discussion (5:03) **Madden** – Reviewed the project. The total reduction is 243.5 square feet (sf) of structure on site. Provided draft architectural drawings as requested; nothing has been submitted to the Historic District Commission (HDC). Have received Massachusetts Natural Heritage (MNH) determination letter.

Phillips – Asked if the recalculation reflected on the plans (yes).

Staff recomm. Have everything needed to close.

Motion **Motion to Close.** (made by: Beale) (seconded)

Roll-call vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye

4. Brant Point Club, LLC – 6,8 North Beach Street/ 4 Dolphin Court (42.1.4-65;65.1;65.2) SE48- 3518 **(Cont. 4/28/2022)**
5. Nantucket Conservation Foundation Inc – Gibbs Pond (51-1) SE8-3519

Sitting Erisman, Golding, Engelbourg, Phillips, Beale

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

Representative John Shuster, SWCA

Karen Beattie, Nantucket Conservation Foundation (NCF)

Public None

Discussion (5:07) **Shuster** – Reviewed the project – alum algacide treatment. Produced estimates to contextualize the alum treatment to dredging – Alum \$38,000 per year; dredging \$6.8m to \$9m. Dredging can be disruptive to aquatic life and flora in the pond. Dredging requires a lot of permitting that would delay treatment of the pond.

Beale – Appreciates having the costs as part of the record.

Engelbourg – Appreciates having the financials, but the issue of finances isn’t relative to ConCom. In the long run, dredging is probably a better ecological treatment. As the Wetlands Act and local regulations are written, Alum meets those. The 2 resource areas considered are land under water and bordering land subject of flooding; he thinks the inland bank should also be listed as a resource area. We would want the ramp, used for equipment and launching the boat, to be well stabilized with sedimentation barriers. He appreciates the sediment testing will be done prior treatment, but he doesn’t think the suite of characteristics is robust enough; should also look at other organics and other contaminants.

Shuster – In terms of resource areas, we are in a FEMA flood plain so the land under the water extends beyond the pond. Regarding the bank, his understanding is that the vehicle to be used would be on stable ground with a pipe leading to a boat in the pond; there is an established boat ramp in place. Regarding the testing, more information is better; if we were pursuing dredging, we’d need to know everything going on.

Beattie – Regarding access to the pond, there are three locations to connect to the pond without disturbing vegetation.

Erisman – Appreciates the financials though we don't weigh it. She understands the need to do the alum treatment now for health and safety; however, feels they should provide the extra testing in the event dredging becomes necessary.

Engelbourg – He's concerned alum treatments will be proposed for all ponds without looking at the causes of phosphorous and nitrogen; Gibbs is unique in that there is no longer on-going input. Asked if we have the ability to condition this as a pilot program requiring a certain level of success and should that not be met, other alternatives must be considered.

Golding – He agrees with Mr. Engelbourg about having an analysis of sediments including heavy metals and to see if any DDT is left; that could be used going forward in examining this project. Agrees if success isn't met, other alternatives must be considered.

Beattie – She was involved in the Capaum Pond permitting; we were given permission to use alum up to a limit; the 1st treatment was well below what we were allowed to use. We saw a reduction in toxic algae bloom and algae but phosphorous remained. We knew with that project it would be more than one year to rectify the situation. She doesn't think we could get the permitting necessary to open the pond to the ocean.

Engelbourg – Any proposed project for alum treatment should be considered multi-year. We need to know what constitutes a success. If this project goes into extension without any noticeable success and we will need to try something else.

Beale – Asked what would constitute success.

Shuster – We covered that question at the last hearing; 10% improvement for a pond this size would be considered a success. This is a cautious approach and sets us up to see what incremental success is possible with this approach. He doesn't think additional testing should be conditioned under this Order of Conditions in the event this project requires an extension. We want to focus on what can and should be done this year to meet the standards.

Beattie – We are supportive of any testing that will inform the treatment in this permitting. Dredging is completely outside the financial realm of possibility for NCF. If additional technology comes available that is fiscally feasible, we will consider it.

Golding – 10% doesn't sound like a sufficient reduction; he thought they were going to address it in its entirety.

Shuster – We don't want a toxic cascade; an incremental improvement in the water column could have a benefit. We are limited in how much product we can bring to the Island and apply at one time. Feels this proposal is modest regarding what we want to accomplish. These applications are for projects that will be over 3 years with the possibility of 3 years of extensions. We've left flexibility into following testing, the discretion of the licensed applicator, and pertinent government agencies.

Golding – Referring to wanting to keep analysis focused on phosphorous, it's known a lot of DDT was used; this is an opportunity to know if that is still an issue.

Phillips – We are looking at this pond as a unique environment and this isn't a situation where the applicant can state exactly what constitutes a success. This is an on-going organic process, and she wants to be sure that the annual report will be useful regarding the amount of alum being used. Given concerns about public health and safety, it makes sense to do this as a modest project with detailed annual reporting.

Engelbourg – We routinely ask for robust chemical-biological testing. We've also asked for evaluation criteria; he understands we're looking at incremental change, but we need some evaluation criteria to help gauge the future of this pond.

Golding – In the early 1960s, he used to swim in Gibbs Pond; by 1990, we couldn't get into the water because it was so acidic. Feels there's an obligation to bring water quality back to its original state.

Erisman – Most of our outstanding questions regard pre-testing before treatment begins.

Beattie – We'd have to look at pre-testing of sediments from a fiscal stance; some of those tests are extremely expensive.

Shuster – Pre-dredging test would be about 2/3rd of the cost of 1 year of alum treatment. Testing will be done to inform the alum treatments.

Beale – He thinks the pre-testing is unnecessary at this time; they will be testing as treatment progresses.

Golding – He feels it essential to test the sediment before the alum is applied so we have a baseline going forward. He would like this continued while they consider that.

Engelbourg – It's important to remember that if we issue an Order of Conditions and the applicant has issues with that, they can come back with a request to amend the Order of Conditions.

Shuster – The contractor would do the alum treatment mid-spring; the sediment testing would happen immediately in advance of that treatment giving us a baseline. The dosing is based upon the copious water column analysis; we don't have deep-water sediment samples.

Golding – The application narrative is rather vague regarding the pre-testing; there is no breakdown of what the organics are. He wants it filled out with exactly what they are testing for.

Shuster – We have the data we need to be confident in what we need to treat the water column. The NCF has already been doing thorough testing, which has provided us date.

Have everything needed to close.

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

Carried 5-0//Beale, Engelbourg, Erisman, Golding, Phillips-aye

Staff recomm.
Motion
Roll-call vote

6. *Park City Wind, LLC – New England Wind Connector (N/A) SE48-3524
- Sitting Erisman, Golding, Engelbourg, Phillips, Beale
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Holly Carlson Johnston, Epsilon Associates
Pat Johnson, External Affairs Manager Avangrid Renewables
Chris Long
- Public Veronica Bonnet, Nantucket Residents Against Turbine
Peter Kaizer, waterman
Corey Gammill, fisherman
- Discussion (5:55) **Johnson** – This is an 800 megawatts (mw) off-shore wind project that will reduce carbon emissions and reduce the need to run fossil-fuel plants; it will be critical to meet climate goals under new State law.
- Johnson** – We are talking about a 3-mile stretch of 2 off-shore cables. Explained the process of State and Federal review of the project. A surveyed corridor has been defined to minimize impact and support successful cable burial. According to the Massachusetts Ocean Management Plan, the linear infrastructure should be co-located within common corridors to minimize the impact of future development. The Off-shore Export Cable Corridor (OECC) is just over 1100 meters with the cable only about 2 meters wide. At it's closest the OECC is about 2.7 miles south of Muskeget. Duration of installation is about 3-4 days per cable within Nantucket waters. Cable protection could include concrete blocks, rocks, or gambion bags.
- Phillips** – On the widening of the OECC, she understands it provides more flexibility, however, once this cable installed and Vineyard Winds cable are installed, asked how that will be managed and what are the rules for future cables. Looking at the other applicants who would come through, the cumulative effect is concerning.
- Johnson** – This is the same as for Vineyard Wind, just widened to the west and a bit to the east; we want all activities within the surveyed area. There is communication between the two project teams. Because the cables are buried, there would be no cumulative impact. Only where cable projection is necessary would there be any cumulative impact.
- Phillips** – There are a lot of unknowns and a lot of this is shallow water; that makes her more concerned about the need for cable protection. Asked if the shallowness will be a concern within ConCom's jurisdiction.
- Johnson** – Cable protection isn't associated with water depth but the seabed sediments. The engineers try to avoid shallow areas.
- Engelbourg** – All these projects are undergoing their own processes; asked if it here is a way to consolidate the installation of the cables to minimize the repeated impacts to the sea floor.
- Johnson** – There are technical problems with having a single trunk line. Explained those difficulties. Another challenge is the legal aspect of transmission under separate ownership.
- Johnson** – Explained situations he has run into as to why all cables will be applied for separately.
- Engelbourg** – He has concerns that the 5' to 8' burial depth is adequate. Deep Water Wind achieved 4' to 6' depth and their cable came uncovered. Should aim for deeper burial. Also, he has concerns about the jet-plow technique to be used to bury the cables. The cable protection will have a permanent impact to the seafloor and marine life and navigation; feels we should try every technique before relying on cable protection
- Johnson** – Explained how the target cable-burial depth is calculated. We have other specialty installation techniques we can use. We are trying to minimize the use of cable protection, but we have to include it should burial not be possible; we realize it will have a permanent impact.
- Engelbourg** – Though it states the project will avoid critical areas of North Atlantic Right Whales, the cable is being laid in areas where North Atlantic Right Whales have been seen. We need to see better impact studies.
- Johnson** – We will avoid the core habitat; in 2019 the proponent was part of a suite of protections for the North Atlantic Right Whale; the proponent anticipates those same protections will be in place for this project.
- Golding** – There have been problems with the Block Island cable being exposed. Referenced the Institute for Energy Research dated May 18, 2021. It would seem it will be inevitable this will have the same issues. Asked why they aren't going with that form of burying in the first place.
- Johnson** – The Block Island cables came unburied at the landfall site, which is an actively eroding area; Barnstable landfall site has been accreting for decades. The BI cables came exposed because Jet-plow was used to install through the near-shore and across the beach resulting in insufficient cable burial. Explained scientific reviews regarding impact on sea life. Explained how magnetic fields are measured and that these cables would be 84 miligauss at the seabed above the cable and it drops significantly as you move away.
- Long** – Our report addresses magnetic impact. It's important to note that magnetic streams drop off rapidly as you move away from the conductors both vertically and laterally. We're talking about 60hz AC magnetic fields, which are very different from static magnetic fields such as the earth geo-magnetic fields. Body of evidence indicates marine life won't detect 60hz AC magnetic fields.
- Golding** – He's curious if the same is true with High-Voltage Direct Current; asked if they would consider using that.
- Long** – With respect to impact to marine life, there are magneto sensitive species relying on magnetic fields for navigation. DC would be associated with static magnetic fields; however, DC cables drop off dramatically as well.
- Johnson** – DC cables are usually used for much longer lines than this and are more expensive and require more infrastructure at the ends.

Erisman – She’s worried about the cumulative impact of multiple cables going through this area; we had a finding regarding that being problematic with the Vineyard Wind project. Asked how many cables could go into this OECC.

Johnson – 3 more.

Erisman – She’s worried that at the Federal and State level they haven’t thought about upgrades to infrastructure; feels like we are a guinea pig for all these cables in one area. Also, there are issues with the rolling impact over a decade and impact to marine habitat and impact to people whose economy relies on marine life.

Johnson – Based upon what she’s seeing with State and Federal level, we need to act sooner rather than later to effect global climate change. We are moving on this now because the benefits are massive. It’s a tremendous resource and is already impacting southern Massachusetts grid.

Engelbourg – The EMS studies talk about fish and shellfish; asked if marine mammals and seabirds have been considered.

Long – Yes. Explained studies done regarding marine mammals and birds.

Engelbourg – He’d like to have those studies provided to the commission. In areas where cable protection might be needed, asked if horizontal directional drilling could be used to get to deeper depths.

Johnson – She doesn’t know of any cables buried using that method.

Golding – In the report he referenced, it mentioned that turtles are mostly on the surface and very rarely on the bottom.

Bonnet – Wants to confirm their letters have been received (yes). There was discussion about the infrastructure, asked if that translates to the need for baseline power and if the net of greenhouse gas analysis includes that.

Johnson – Yes it accounts for baseload emissions. A benefit of these projects is grid liability; we’ve had a lot of power-plant retirements; these projects reinforce those losses.

Bonnet – Asked if there is a diagram showing all cables going through the channel; it shows Park Wind but not Vineyard Wind and the next projects. Feels this board needs to know how many cables will come through the channel and feels the area isn’t sufficiently wide as they are expecting.

Kaizer – He has a vested interest in the underwater environment. With Vineyard Wind, he and other watermen were approached to see if it would be okay to run 2 or 3 miles through Nantucket municipal waters using the Jet-plow. At face value it would not, unless you are willing to mitigate the destruction incurred to the bottom; they were willing to do that. When this goes through, if the habitat will be ruined, there is money to replace it with artificial reefs and such. There is less habitat happening and we need to protect it and/or use the money to help the filter feeders who eat algae. When it comes to running the cable, these boats carrying the cable reels are big; we need more information. Asked when the work will be done.

Johnson – There will be a single run of cable through landfall site through the waters; the cable reel is long. Time of year restrictions will be finalized through State and Federal End Reviews; the work will be done so as not to impact shrimp fisheries.

Kaizer – He’d like to see areas of protected cables marked on charts, so draggers know where they are. Feels that once a year, a bathymetric study should be done to see how much sand has moved; the cables could easily become exposed. He feels the people of Nantucket were cheated the 1st time around because the money wasn’t put to repairing habitat damaged by the work.

Erisman – Mr. Carlson can look into off-site habitat mitigation.

Johnson – He and Mr. Kaizer spent time going through artificial reef points. We have a prior agreement with the Town that allocates \$3m to Nantucket Community Foundation; the Town would decide how to use it.

Golding – Asked if there is any thought of photo monitoring to allay concerns about recovery of the bottom.

Johnson – During construction geo-physical surveys will be done; we are creating a monitoring plan; the framework was submitted to Massachusetts Environmental Protection Agency and will be memorialized in the final water quality report by the Department for Environmental Protection (DEP). We believe recolonization will be facilitated by the narrow width of the area. The geo-physical surveys might include a video component; the finalized plan will have a video component in conjunction with the benthic habitat monitoring plan.

Kaizer – Local coastal municipalities have the authority on what happens within 3 miles; asked if that’s why they are coming to Nantucket. With Vineyard Wind, Edgartown said no.

Johnson – This is the reason we’re here; Nantucket and ConCom have jurisdiction over these matters. Town Counsel could answer some of those questions.

Engelbourg – Regarding off-shore mitigation, it seems under our local regulations and the Wetland Protection Act, that isn’t something that could be considered. He agrees that having annual photo or video monitoring is a good idea. Also, a marine seismic reflection would also help. Asked if there’s a way to have integrated monitoring system built into the cable itself to provide depth information.

Johnson – The post-construction surveys would show burial depth.

Johnson – We can ask the cable manufacturer about built-in GPS monitoring.

Phillips – Currently, we don’t have the ability to do off-site mitigation. She’s on the Town Wind-Turbine Workgroup; they have worked on negotiation mitigation because Nantucket is a National Historic Site and for coastal resiliency projects. She doesn’t recall getting mitigation for the marine environment. For meaningful mitigation, we need to make the Town aware that the marine environment needs to be included in those mitigation considerations.

Beale – He has fished that area for many years; it’s a dynamic area where sandbars change after every storm. The area chosen is not in the deepest area and actually quite shallow. Your charts won’t be accurate.

Gammill – About mitigation, we need it because of the destruction to the natural resource; he thinks it’s silly for the Town to debate where the money goes when the main destruction is to the ocean floor and every dollar should go back to rebuilding marine habitat.

Bonnet – People need to understand the mitigation money is for the whole project, and that the South Shore view shed will be impacted by the turbines. The issue of mitigation is broader than just the channel.

Golding – He loves the use of wind turbines because there is an existential threat. Asked if the Order of Conditions can direct some of the funds.

Beale – We’re talking about money when we need to focus on the application.

Erisman – Asked that this be continued: questions we want answered, request for studies, contact cable manufacture about monitoring techniques, need to address underwater photo monitoring, and a diagram of all approved and proposed cables. She’d also like more time to review the packet.

Johnson – He thinks everything requested doesn’t necessitate a continuance and they are ready to close. Agreed to a continuance.

Staff recomm. The administration of the funds has a set path; if ConCom wants to participate, you could. There are impacts involved.

Motion Continued to 4/28/2022

Roll-call vote N/A

7. Kane – 12 Pond Road (56-295) SE48-3473 (**Cont. 4/28/2022**)

8. Meyer – 307 Polpis Road (25-39) SE48-3517 (**Cont. 4/28/2022**)

9. *Nantucket Land Council – Hummock Pond (N/A) SE48-3530

Sitting Erisman, Golding, Engelbourg, Phillips, Beale

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

Representative Emily Molden, Executive Director Nantucket Land Council (NLC)

Thais Fournier, Biologist Natural Resources

Ken Wagner

Public Peter Kaizer, waterman

Discussion (7:36) **Molden** – This is a phosphorous activation treatment on Hummock Pond. We have been collecting data on Hummock Pond and Head of Hummock Pond since 2009. Looking to use a low-dose alum treatment to reduce the phosphorous in 60% of Head of Hummock Pond and 30% of The Narrows. Our goal is to eliminate blooms for 1 to 2 years. We are also proposing monitoring work before and following the treatment. Received no take from MNH. Requested a waiver for time-of-year restriction from the Town.

Wagner – Based upon our testing of sediment, the dose necessary would be 25-50 grams per square meter. We are proposing up to 5 milligrams per liter, which is about 10 grams per square meter. Maximum benefit comes from activating the water column and the surface.

Engelbourg – Appreciates the alternative analysis and the on-going robust monitoring plan. The Order of Conditions should have come applicable success criteria. The more data on the pond the better.

Molden – The Division of Marine Fisheries requested inclusion of their standard monitoring. It would be great to get information on the portions of the ponds where the phosphorous is. We are proposing just one treatment at this time; we would come back for a second treatment.

Erisman – We would want similar information as we are asking for the Gibbs Pond proposal.

Kaizer – When the blue-green algae first showed up, the perch were voraciously hunting arrow worms, which feed on blue-green algae. He wants assurance that the treatment will not harm the arrow worm.

Wagner – We’re using Poly-aluminum chloride with aluminum as the active ingredient; however, we aren’t putting enough in to create a problem.

Staff recomm. Have everything needed to close.

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

Roll-call vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye

10. *7 Laurretta Lane, LLC – 7 Laurretta Lane (14-53) SE48-3528

Sitting Erisman, Golding, Engelbourg, Phillips, Beale

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

Representative Mark Rits, Site Design Engineering

Public None

Discussion (7:58) **Rits** – For redevelopment of a developed site. We will have to come back with a revised grading plan. The pool will be outside ConCom jurisdiction and will be at elevation 8, which is above the flood zone. House and garage will be outside the 50’ buffer.

Engelbourg – He’s struggling to imagine how the pool can be above the flood elevation without fill; we don’t want fill within the flood zone. The location of the proposed septic is within the 100’ buffer; asked if they could be moved outside the 100’ buffer but remain in the driveway.

Rits – The septic is subject to separate NOI and modification request.

Golding – He finds the plan hard to read; asked for a less busy plan that might be easier to read.

Rits – He can do two plans – one existing and one proposed.

Engelbourg – Asked for a topographical cross section with more details on the pool.

Erisman – The pool will displace where flood water would potentially go.
Rits – Asked for a continuance.

Staff recomm. When they provide the topographical detail, they can show plans relative to the pool
 Motion Continued to 4/28/2022
 Roll-call vote N/A

11. *ARB Way, LLC – 9 Arbour Way (29-137) SE48-3526
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative David M. Haines, Haines Hydrogeologic Consulting
 Public None
 Discussion (8:08) **Haines** – This is to place a shed on an existing lawn next to the putting green; it will be within LSCSF and outside the buffer to a wetland. It will be at grade with helical piers. No dewatering is proposed.

Staff recomm. Have everything needed to close.
 Motion **Motion to Close.** (made by: Phillips) (seconded)
 Roll-call vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye

12. *Hurley – 11 Hulbert Avenue (29-2.3.2) SE48-3527
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Don Bracken, Bracken Engineering
 Public None
 Discussion (8:11) **Bracken** – This is for renovation and raising of the existing house circa 1920; no change in footprint. Also installing new sewer and water lines. Resource area is a coastal zone and Flood Zone elevation 9.
Golding – Asked how many square feet is being added; that could cause an issue with its statutory protection. Provision of that information should be part of the Order of Conditions.
Engelbourg – We need to know what its future statutory protection will be so it can be written into the Order of Conditions.

Staff recomm. He can get those numbers, and ConCom can approve the Order of Conditions at the next meeting.
 Have everything needed to close.
 Motion **Motion to Close.** (made by: Golding) (seconded)
 Roll-call vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye

13. Ziesing – 6 Westco Place (4243-49) SE48- **(Withdrawn)**
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative None
 Public None
 Discussion (8:17) None
 Staff recomm. None
 Motion **Motion to Accept the withdrawal.** (made by: Engelbourg) (seconded)
 Roll-call vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye

B. Amended Order of Conditions

1. Philips, Trustee – 19 East Tristram Avenue (31-4.1) SE48-3304 **(Cont. 4/28/2022)**
 2. Hurd, Cahill & Boyd Tracy – 10 Brant Point Road (29-148) SE48-3056
 Representative Don Bracken, Bracken Engineering
 Staff recomm. Recommend issuing
 Discussion (8:18) **Bracken** – This is to convert an existing garage to a secondary dwelling; no change in footprint; will need new sewer and water lines. Added the concrete apron because it was added when they poured the garage floor.
Engelbourg – Land subject to coastal storm flowage Performance Standard 1 prohibits restricting any movement of water; the apron went from being a permeable area to an impervious one. We need some type of drain that turns it back into permeable.

Motion **Motion to Issue with condition regarding drainage.** (made by: Golding) (seconded)
 Roll-call vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye

III. PUBLIC MEETING

C. Requests for Determination of Applicability

1. Lehman Dynasty Trust – 18 Washing Pond Road (29-148)
 Representative Mark Rits, Site Design Engineering
 Staff recomm. None
 Discussion (8:23) **Rits** – We are getting an NOI for this at the next meeting. The project is to replace one of 2 groins destroyed in the late January storm. It will be rebuilt same location same size; it has a Chapter 91 license. Asked for any feedback or concerns that can be applied to the NOI.
Erisman – Feels that since this is coming as an NOI, we probably shouldn't have opened it.
Rits – Asked for a withdrawal without prejudice.

Motion **Motion to Accept the withdrawal without prejudice.** (made by: Beale) (seconded)
 Roll-call vote Carried 5-0// Beale, Engelbourg, Erisman, Golding, and Phillips-aye

D. Minor Modifications

1. None

E. Certificates of Compliance

1. 21 Lincoln Avenue Nominee Trust – 21 Lincoln Avenue (30-43) SE48-2541

Representative None
 Staff recomm. For renovation, all work completed, and the site is stabilized. Recommend issuance.
 Discussion (8:28) None
 Motion **Motion to Issue.** (made by: Phillips) (seconded)
 Roll-call vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye

2. Donohue – 26 Gosnold Road (30-89) SE48-2584

Representative None
 Staff recomm. The site is in compliance and recommend issuance with no on-going conditions.
 Discussion (8:29) None
 Motion **Motion to Issue.** (made by: Engelbourg) (seconded)
 Roll-call vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye

3. O'Mara – 240 Polpis Road (26-23) SE48-2451 **Reissue**

Sitting Erisman, Golding, Engelbourg, Phillips, Beale
 Representative None
 Staff recomm. The original certificate was lost.
 Discussion (8:31) None
 Motion **Motion to Reissue.** (made by: Beale) (seconded)
 Roll-call vote Carried 5-0// Beale, Engelbourg, Erisman, Golding, and Phillips-aye

F. Orders of Condition

1. Island Orange Group – 129 Orange Street (55-147) SE48-3507

Sitting Erisman, Golding, Engelbourg, Phillips, Beale
 Documentation Draft Order of Conditions
 Staff Noted a typographical error. Reviewed included conditions. He'll add to Conditions 22 about the lighting
 Discussion (8:32) **Engelbourg** – As to the lighting, we should amend that to include that lighting be installed in accordance with the Town lighting bylaw.
 Motion **Motion to Approve as amended.** (made by: Golding) (seconded)
 Roll-call vote Carried 3-0//Engelbourg, Erisman, and Phillips-aye; Beale & Golding abstain

2. 9B Crow's Nest, LLC – 9B Crow's Nest Way (12-20.2) SE48-3508

Sitting Erisman, Golding, Engelbourg, Phillips, Beale
 Documentation Draft Order of Conditions
 Staff Included normal conditions.
 Discussion (8:36) None
 Motion **Motion to Approve as drafted.** (made by: Beale) (seconded)
 Roll-call vote Carried 5-0// Beale, Engelbourg, Erisman, Golding, and Phillips-aye

3. Nantucket Conservation Foundation Inc. – Gibbs Pond (51-1) SE8-3519

4. Nantucket Land Council – Hummock Pond (N/A) SE48-3530

Sitting Erisman, Golding, Engelbourg, Phillips, Beale
 Documentation Draft Order of Conditions
 Staff Both of these will have similar Order of Conditions; there interest in documentation and testing requirements and monitoring.
 Discussion (8:38) **Engelbourg** – Would like to include criteria to ensure both projects are performing to some level of success. We could require that pre-existing boat launches be used, or they stabilize any new created launch site.
 Motion Continued to 4/28
 Roll-call vote N/A

5. ARB Way, LLC – 9 Arbour Way (29-137) SE48-3526

Sitting Erisman, Golding, Engelbourg, Phillips, Beale
 Documentation Draft Order of Conditions
 Staff Standard conditions applied.
 Discussion (8:41) None
 Motion **Motion to Issue as drafted.** (made by: Phillips) (seconded)
 Roll-call vote Carried 5-0// Beale, Engelbourg, Erisman, Golding, and Phillips-aye

6. Hurley – 11 Hulbert Avenue (29-2.3.2) SE48-3527

Sitting Erisman, Golding, Engelbourg, Phillips, Beale
 Documentation Draft Order of Conditions
 Staff He'll look into the whether or not the improvements are constituted as substantial; he can include that as a Finding.
 Discussion (8:41) **Golding** – It should still delineate the percentage of the square footage whether or not it's substantial.
 Motion Continued to 4/28
 Roll-call vote N/A

G. Extension Request

- 1. None

H. Other Business

- 1. Approval of Minutes:
 - a. 3/24/2022

Motion **Motion to Approve as drafted.** (made by: Phillips) (seconded)
Roll-call vote Carried 3-0//Beale, Erisman, and Phillips-aye; Engelbourg and Golding abstained

- b. 3/22/2021 (SBPF)
Engel – Page 3 top line regarding “lidar and prophesy” should be “photogrammetry”

Motion **Motion to Approve as amended.** (made by: Beale) (seconded)
Roll-call vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye
c. 6/30/2021 (SBPF)

Motion **Motion to Approve as drafted.** (made by: Golding) (seconded)
Roll-call vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye

- 2. Monitoring reports: None
- 3. Enforcement updates: None

- 4. Reports:
 - a. CRAC, Golding

- 5. Commissioners Comment
 - a. Erisman – We are going to need an Executive Session about the Lily Street appeal.
Carlson – He’ll send out the preliminary injunction tomorrow; he’ll set up the Executive Session once the preliminary work is done.
 - b. Phillips – The proposed swimming pool at 9 Maine Avenue, the old Eel Skin Inn, is being discussed by the Select Board, who want to overrule or decide for the HDC. Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP opined that it isn’t within ConCom jurisdiction. It seems odd that we haven’t seen anything on it.
Golding – He doesn’t see how it’s not in ConCom jurisdiction; it’s pretty much right on the water.
Carlson – We have not gotten anything on this. He’ll look into it.
 - c. Engelbourg – There’s a highly pathogenic avian influenza circulating along the east coast and detected in Massachusetts. Asked if a directive could be issued reminding project managers of coastal projects not to touch or move seabirds and to contact appropriate people. HPIA has a public statement that can be released.

- 6. Administrator/Staff Reports
 - a. Before we update our regulations, we have to adopt our current regulations in the new format. Then we change the regulations using the new format. He’ll schedule the readoption vote in the 1st meeting in May. He’s started compiling our old discussion into the new format.
 - b. We need to discuss Gov. Baker’s orders for hybrid meetings or in-person meetings starting July 15th.

I. Executive Session

Motion **Motion to go into Executive Session Pursuant to MGL C. 30A § 21(A) for Purpose 3: To Discuss Strategy with Respect to Litigation with Regard to Siasconset Beach Preservation Fund (SBPF) Geotextile Tube Project Removal Order (SBPF v Nantucket Conservation Commission), where an Open Meeting May have a Detrimental Effect on the Litigation Position of the Conservation Commission. And, to Discuss Strategy related to the proposed Memorandum of Understanding between the Town of Nantucket Select Board and Siasconset Beach Preservation Fund with Respect to Litigation with the Siasconset Beach Preservation Fund (SBPF) Geotextile Tube Project Removal Order (SBPF v Nantucket Conservation Commission), where an Open Meeting May have a Detrimental Effect on the Litigation Position of the Conservation Commission at 9:00 pm. with no intent to return to open session.** (made by: Golding) (seconded)
Roll-call Vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye

Submitted by:
Terry L. Norton