



CONSERVATION COMMISSION

PUBLIC MEETING

2 Bathing Beach Road
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Wednesday, March 4, 2020

4 Fairgrounds Road, Training Room – 5:00 p.m.

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

Called to order at 5:00 p.m.

Staff in attendance: Jeff Carlson, Natural Resources Director; Joanne Dodd, Natural Resources Coordinator

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

Remote Participation: Topham & Phillips - Per 940 CMR 29.10, participating remotely due to distance.

Agenda adopted by unanimous consent

*Matter has not been heard

I. PUBLIC MEETING

A. Announcements

B. Public Comment – None

II. PUBLIC HEARING

A. Notice of Intent

1. Chuckrow Nominee Trust – 25 Quaise Road (26-12) SE48-3241 (**Cont. 03/18/2020**)
2. Nantucket Point of View, LLC – 9 Lincoln Avenue (30-137) SE48-3278 (**Cont. 03/18/2020**)
3. Ten Easy Street Nominee Trust – 10 Easy Street (42.3.1-78) SE48-3284

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale

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

Representative Paul Santos, Nantucket Surveyors

Public None

Discussion (5:01) **Santos** – This was continued for a Department of Environmental Protection (DEP) number; site not subject to Massachusetts natural Heritage (MNH).

Staff Have everything needed to close.

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

Voice Vote Carried unanimously: Phillips, aye; Topham, aye; Golding, aye; Erisman, aye; LaFleur, aye; Engelbourg, aye; Beale, aye

4. Escapehatch, LLC – 20 Western Avenue (87-74) SE48-3282

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale

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

Representative Art Gasbarro, Nantucket Engineering & Survey

Public None

Discussion (5:03) **Gasbarro** – This was continued for MNH sign off; received a letter requiring a conditioned approval. There was discussion of a pre-construction meeting. Amenable to both.

Staff Have everything needed to close.

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

Voice Vote Carried unanimously: Phillips, aye; Topham, aye; Golding, aye; Erisman, aye; LaFleur, aye; Engelbourg, aye; Beale, aye

5. *Harborfront Realty Trust – Village Way (14-2) SE48-_____

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale

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

Representative Paul Santos, Nantucket Surveyors

Public None

Discussion (5:05) **Santos** – This is for relocation of beach stairs within buffer of coastal beach & coastal bank intersection. The intent is to have three parcels all with individual access to the beach. Don't have DEP number and have filed with Natural Heritage and Endangered Species Program (NHESP) and awaiting their approval.

Phillips – Asked if the removal and reconstruction of stairs would have to wait until the land division is settled.

Santos – Yes.

Erisman – Wants this conditioned so that the vista pruning on the property is no longer visible.

Santos – Asked for a two-week continuance.

Staff None

Motion Continued to March 18 by unanimous consent

Voice Vote N/A

6. *Summerwind Investments, LLC – 14 Celtic Drive (67-658) SE48-3286
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative David M. Haines, Haines Hydrogeologic Consulting
 Public None
 Discussion (5:12) **Haines** – This is for construction of a garage within buffer to a bordering vegetated wetland but outside the 50-foot buffer. Foundation is slab with footings; grade is at elevation 17 and wetland at elevation 10 so no waivers necessary. After the file was submitted, the property was sold; there is a new owner and new recording information; that correction is necessary. All disturbed area will be reseeded for stabilization.
Erisman – The 8 parking spaces indicates a lot of people living in a small area close to a wetland.
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: LaFleur) (seconded)
 Voice Vote Carried unanimously: Phillips, aye; Topham, aye; Golding, aye; Erisman, aye; LaFleur, aye; Engelbourg, aye; Beale, aye
7. *51 Ocean Avenue Nominee Trust – 51 Ocean Avenue (73.3.2-53) SE48-3287
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Jeff Blackwell, Blackwell & Assoc.
 Public None
 Discussion (5:17) **Blackwell** – This is to construction a landing on a set of existing beach stairs; the landing will be in compliance with the 50-foot setback to a coastal dune.
Erisman – Says stabilization will be with 8 inches of topsoil and Cape-Cod seed mix; beach grass plugs might work faster at stabilization.
Blackwell – Felt beach grass would be slow to establish on the slope; will to go with a combination.
 Staff This site might lend itself to an erosion blank that the plants grow through.
 Have everything needed to close.
 Motion **Motion to Close.** (made by: Golding) (seconded)
 Voice Vote Carried unanimously: Phillips, aye; Topham, aye; Golding, aye; Erisman, aye; LaFleur, aye; Engelbourg, aye; Beale, aye
8. *William F. Hopkins Trustee – 7 Hallowell Lane (30-14) SE48-____
 9. *Hallowell Lane Nominee Trust – 9 Hallowell Lane (30-14) SE48-____
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Art Gasbarro, Nantucket Engineering & Survey
 Public Edie Ray
 Burton Balkind
 Discussion (5:20) **Gasbarro** – For replacement in kind for licensed timber groins on adjacent properties in the same coastal beach and coastal dune. The Chapter 91 licenses for both properties have existed since 1959. Received comments from the Division of Marine Fisheries but haven’t heard from MNH; proposed access would be from Jetties Beach. The beach will be cleaned up and raked after completion of the work.
Golding – Noted the cross section; he’s concerned about this ending up a foot higher or a foot longer.
Gasbarro – He can provide an updated plan showing the current elevation of the top of the groin. He included the cross section provided for the license.
Erisman – In some areas it looks like it’s completely buried; asked how far down it goes.
Gasbarro – If they have to replace the below grade, it could be as much as 8 feet. They might try to pull it out unless it’s rotted.
Beale – Asked if the photo shows high or low tide exposure. Noted that the groins seem to be effective at holding the sand.
Gasbarro – At low tide the end still goes into the water, so will be working the end at low tide.
Engelbourg – Wants to go on record, noting that though this is existing and in an area with other existing groins, we should be looking at a better environmental solution. Would like to see an alternative analysis.
Erisman – She agrees. She also wonders if this is still catching sand.
Gasbarro – The beach goes up and down vertically, so more sand is captured during the summer. There’s a provision within the license that the licensee is responsible for maintaining the structure. It would be different if this were a new structure.
Phillips – Looking at the photo, she wonders why it’s necessary to do this work and if erosion control is still necessary.
Gasbarro – In terms of getting the rotten wood out before more is lost to environment; if the end is moved further landward, he feels the beach will move as well.
Erisman – asked if this was the first maintenance since installation.
Gasbarro – He included a previous NOI for maintenance, circa 1996.
Beale – He supports the request for drawings with the existing elevations.

Ray – She was an endangered species monitor and knows unfledged piping plover chicks tend to move from Jetties Beach up to the Hallowell groin area; she has concerns about when this work will happen and if the height of the groins will impact the movement of the chicks at high tide.

Erisman – This is still waiting for MNH comments; they will probably add the time-of-year restriction.

Golding – Suggested ramps if necessary for the chicks.

Gasbarro – He could work on a plan to address that issue; he doesn’t want a condition requiring replacement sand for a “plover ramp.”

Balkind – Asked if the whole groin is being replaced.

Gasbarro – We’ll move from seaward to landward removing what is unstable and stopping when we reach stable groins.

Balkind – Asked if there is anything in the regulations allowing for a condition requiring access across the intertidal zone.

Erisman – This is an old structure and concerns have been raised about its height.

Golding – Asked if Town Counsel could supply an opinion on that; it seems to make sense that part of the condition be access to the intertidal zone.

Gasbarro – Asked for a 2-week continuance.

Staff Typically, the time-of-year restriction begins April 1 to Aug 31, sometimes into September; they still have to maintain compliance with the guidelines for piping plovers regarding vehicle access
That access is part of the Chapter 91 license and we can’t supersede that.

Motion Continued both 7 & 9 Hallowell Lane NOIs to March 18 by unanimous consent

Voice Vote N/A

10. *Kim Glowacki – 46 Easton Street (42.4.1-22) SE48-3285

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale

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

Representative Dan Wells, Goddard Consulting
Kim Glowacki, owner
Brook Meerbergen, architect

Public Marianne Hanley, Reade, Gullicksen, Hanley, & Gifford LLP, for 42 Easton Street Nominee Trust

Discussion (5:40) **Wells** – For relocation of a portion of the existing structure, construction of a second single-family dwelling and a studio outside the 25-foot buffer. Resource areas are: coastal beach, coastal dune, and coastal bank, and land subject to coastal storm flowage. The plan doesn’t show the existing wood bulkhead as a coastal bank; the coastal dune reaches just beyond the Japanese knot weed. We will have to submit revised plans showing all the changes. This site is within a mapped historic filled tideland requiring Massachusetts Environmental Protection Act (MEPA) and Chapter 91 applications. This is not located within priority habitat or NHESP area. Asked the commission to consider this project as water dependent due to the ground floors of the dwellings being for boat storage.

Engelbourg – The regulations state that dwellings are not considered water-dependent use and you are proposing two dwellings. He can’t see the possibility of that being a water-dependent use.

Meerbergen – Because of the required elevation above high water mark of about 7 to 8 feet of space, which lends itself to boat storage in both structures. He has not had time to create drawings; this is all conceptual.

Wells – We also would ask the commission to accept a waiver request under the bylaw; removal of the knotweed, a restoration plan, reducing impervious surface, and pulling the structure from 12 feet to about 30 feet from the dune would be a net benefit to the resource area. We comply with all State regulations and the other performance standards.

Topham – With the restoration area as delineated on the plan, he sees no way to get a boat from the water to the structures. It looks there are plantings in the coastal beach area from the highwater mark to the coastal dune mark.

Wells – The restoration area isn’t shown; they would total about 500 square feet spilling back landward of the coastal dune flags.

Erisman – We need a revised plan cleaned up lines, showing the knotweeds and resource areas and proposed restoration area.

Engelbourg – Regarding the removal of the knotweed, usually we see chemical application.

Wells – This is a relatively small area that he thinks can be dealt with by hand.

Engelbourg – He thinks it’s less of an impact on the resource area to use clip-and-drip herbicide treatment.

Golding – Under our local bylaw, we don’t encourage construction within the 50-foot buffer; also, without architectural drawings showing the boathouse, we are stymied.

Erisman – With subdividing this lot, there is a lot of new construction. She also questions the space being left open to allow flood waters to flow through; boats stored under there will hinder that free flow.

Engelbourg – We don’t know what types of boats would be stored there.

Phillips – She shares concerns expressed. Looking at the building moving landward, the amount of new groundcover will dramatically increase. We need the architectural drawings because it looks like you got an exemption from water-dependent use. She has real concerns about this amount of developing in these protected areas.

Engelbourg – The bulkhead as a coastal bank looks like it goes underneath and continues farther; he'd like that surveyed to find the terminus.

Hanley – The property is under agreement for sale and her client would like to see something done with this structure; however, they would like something consistent with the neighborhood. This area is residential uses on much larger lots than the 2 proposed subdivided lots. Also, the Bracken plan shows a different subdivision line that on the Planning Board plan and would like clarification on which line they will use as well as information on the proposed groundcover. There are scenic wetland views that will be obstructed from the harbor to the Easton Street wetlands as well as from Easton Street of the harbor. With her understanding of DEP regulations, she doesn't see how two residential structures fits into this spot. Mr. Topham has a good point of how to get the boats from water to the storage isn't shown; we have no landscape plan showing how roof runoff will be handled; and more input about the boat storage. The water dependent use is a specious claim that could make any garage a water dependent use.

Glowacki – Regarding the water-dependent use, our family would like to store everything related to water activities under the houses; anything that can't be carried would be taken out at Children's Beach and towed around to the house.

Erisman – Towing from Children's Beach kind of negates the claim of needing to be so close to the water and the access to the water.

Wells – Asked for a 2-week continuance.

Staff None
 Motion Continued to March 18 by unanimous consent
 Voice Vote N/A

B. Amended Orders of Conditions

1. Sheep Commons, LLC – 214 Polpis Road (26-16) SE48-3187

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Jeff Blackwell, Blackwell & Assoc.
 Public None
 Discussion (6:12) **Blackwell** – This was previously issued an order of conditions for replacing a failed septic system; since that permit was issued, an evaluation of the house indicated it is in very poor condition. It's been decided to remove the existing and replace with a house smaller by about 245 square feet and one-less bedroom placed outside the 50-foot buffer.
Topham – Asked if there is thought of relocating the driveway between the two 50-foot buffers.
Blackwell – That hasn't been considered. Silt fencing and haybales can be installed along that side of the driveway.
Erisman – Suggested marking out construction parking outside the 25-foot buffer.
Blackwell – He can designate those on the plans as part of the conditions.

Staff None
 Motion **Motion to Approve the amended order with the condition that construction parking will be delineated.** (made by: Engelbourg) (seconded)
 Voice Vote Carried unanimously: Topham, aye; Golding, aye; Erisman, aye; LaFleur, aye; Engelbourg, aye; Beale, aye

2. Richard Berhman – 272 Polpis Road (25-30) SE48-3209

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative David M. Haines, Haines Hydrogeologic Consulting
 Public None
 Discussion (6:18) **Haines** – This amendment is to install a new well upon Health and Human Services Department request. This site has a history of water higher in iron and manganese.
Golding – Asked if the haybales will contain everything coming out during drilling.
Haines – They should; but they can also direct the flow of the water any direction they have too.
Golding – That should be a condition.
Engelbourg – asked if there were details on the depth of the well.
Haines – No, they find that out while drilling; they drill till they hit water than go about 1 foot lower. It will be a 4" or 6" well.

Staff None
 Motion Motion to Approve the amended order. (made by: LaFleur) (seconded)
 Voice Vote Carried 5-0: Phillips, aye; Topham, aye; Golding, aye; Erisman, aye; LaFleur, aye; Engelbourg, aye; Beale, recused

III. PUBLIC MEETING

C. Minor Modifications

1. Keybank National Association – 14 Washing Pond Road (31-19) SE48-3133

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Art Gasbarro, Nantucket Engineering & Survey
 Public None
 Discussion (6:24) **Gasbarro** – This is to relocate a maintenance access to provide sand for a fiber array. He has filed with MNH. The current construction access will be closed off.
Erisman – She wants to hear from MNH before approving this.
Gasbarro – asked for a 2-week continuance.
 Staff None
 Motion Continued to March 18 by unanimous consent
 Voice Vote N/A

2. Hulbert ACK, LLC – 2 Hulbert Avenue (42.1.4-2.1) SE48-3142

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Paul Santos, Nantucket Surveyors
 Public None
 Discussion (6:28) **Santos** – This is an active construction site; this request is for placement of a sub-surface propane tank within land subject to coastal storm flowage and outside the 100-foot buffer to a bordering vegetated wetland. We have a waiver in place for groundwater separation.
 Staff None
 Motion **Motion to Issue.** (made by: Beale) (seconded)
 Voice Vote Carried unanimously: Phillips, aye; Topham, aye; Golding, aye; Erisman, aye; LaFleur, aye; Engelbourg, aye; Beale, aye

3. Hulbert ACK, LLC – 2 Hulbert Avenue (42.1.4-2.1) SE48-3142

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Paul Santos, Nantucket Surveyors
 Public None
 Discussion (6:31) **Santos** – This request is for a raised planting bed for hybrid swamp white oak trees along the western side for careening purposes. This is within previously disturbed area within the 25-foot no disturb zone.
Erisman – The planter box is structural, and we have been consistent about not allowing non-native plants within the 50-foot buffer.
Topham – Agrees with Ms. Erisman.
Engelbourg – Also agrees; suggested planting red oak without the raise planter.
 Santos – Asked for a 2-week continuance.
 Staff None
 Motion Continued to March 18 by unanimous consent
 Voice Vote N/A

D. Certificates of Compliance

1. Hardman - 51B Madaket Road (41-325.1) SE48-3110 **(Cont. 03/18/2020)**
 2. Madaket Wheelhouse, LLC – 13 Massachusetts Avenue (60-75) SE48-2893 **(Cont. 03/18/2020)**

E. Orders of Condition

1. Nantucket Island School of Design and the Arts, Inc – 23 & 25 Wauwinet Road (20-36 & 80) SE48- 3279

Sitting Erisman, Golding, LaFleur, Engelbourg, Beale
 Documentation Draft Order of Conditions
 Staff Condition 24 requires an on-site pre-construction meeting; Condition 25 regards soil conditions; and Condition 26 requires an on-site meeting with DPW about the culvert. Condition 27 will include autumn olives.
 Discussion (6:35) **Engelbourg** – We had talked about condition removal of the autumn olives from the culvert.
 Motion **Motion to Issue as amended.** (made by: Golding) (seconded)
 Voice Vote Carried unanimously: Phillips and Topham not voting
 2. Ten Easy Street Nominee Trust – 10 Easy Street (42.3.1-78) SE48-3284
 Sitting Erisman, Golding, LaFleur, Engelbourg, Beale
 Documentation Draft Order of Conditions
 Staff Nothing special about this.
 Discussion (6:39) None
 Motion **Motion to Issue as drafted.** (made by: Golding) (seconded)
 Voice Vote Carried unanimously: Phillips and Topham not voting

3. Escapehatch, LLC – 20 Western Avenue (87-74) SE48-3282

Sitting Erisman, Golding, LaFleur, Engelbourg, Beale
 Documentation Draft Order of Conditions
 Staff Condition 20 addresses for photo monitoring; Condition 23 requires a pre-construction meeting about the walking path. Will add Condition 24 addressing survivability of the replanted areas; we don't normal address minimum size.
 Discussion (6:39) **Engelbourg** – Asked about survivability of replantings and Condition 22 talks about red cedar; asked if we need a minimum size.
 Motion **Motion to Issue as amended.** (made by: Beale) (seconded)
 Voice Vote Carried unanimously: Phillips and Topham not voting

4. Summervind Investments, LLC – 14 Celtic Drive (67-658) SE48-3286

Sitting Erisman, Golding, LaFleur, Engelbourg, Beale
 Documentation Draft Order of Conditions
 Staff No special conditions. Not much we can do about oil leaks from parked cars.
 Discussion (6:43) **Golding** – Asked about oil leaks.
 Motion **Motion to Issue as drafted.** (made by: Engelbourg) (seconded)
 Voice Vote Carried unanimously: Phillips and Topham not voting

5. 51 Ocean Avenue Nominee Trust – 51 Ocean Avenue (73.3.2-53) SE48-3287

Sitting Erisman, Golding, LaFleur, Engelbourg, Beale
 Documentation Draft Order of Conditions
 Staff Will add Condition 19 to address replanting and stabilizing disturbed areas.
 Discussion (6:44) **Golding** – We talked about a stabilization blanket and adding beach grass plugs to the plants.
 Motion **Motion to Issue as amended.** (made by: Engelbourg) (seconded)
 Voice Vote Carried unanimously: Phillips and Topham not voting

F. Extension Requests

1. Nantucket Pond Coalition – Eastern Shore of Hummock Pond (81;85-N/A) SE48-3004

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Draft Order of Conditions
 Staff Asking for 3-year extension for on-going monitoring.
 Discussion (6:46) None
 Motion **Motion to Issue three 1-year extensions.** (made by: Golding) (seconded)
 Voice Vote Carried unanimously: Phillips, aye; Topham, aye; Golding, aye; Erisman, aye; LaFleur, aye; Engelbourg, aye; Beale, aye

G. Other Business

1. Approval of Minutes – 2/05/2020 & 2/19/2020:

Motion **Motion to Approve the minutes with the 2/05/2020 minutes as amended.** (made by: Golding) (seconded)
 Voice Vote Carried unanimously: Phillips, aye; Topham, aye; Golding, aye; Erisman, aye; LaFleur, aye; Engelbourg, aye; Beale, aye

2. Monitoring Report

- a. Nantucket Conservation Foundation – Medouie Creek & 5 Quaise Pasture Rd (20,26-25,21) SE48-3190
- b. Pocomo Road Nominee Trust – 72 Pocomo Road (15-37) SE48-3188

3. Discussion

- a. Sconset Beach Preservation Foundation (SBPF) SE48-2824 – Daily Logs, Chemical Analysis report.

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation SE48-2824: Daily logs 2/24/2020b through 2/28/2020, Chemical analysis reports, G. Berman review dated 2/18/2010, SBPF response dated 2/28/2020
 SBPF reps Steven Cohen, Cohen & Cohen Law P.C.
 Dwight Dunk, Epsilon Associates Inc.
 Denise Kmetzo, Toxicologist Collaborative Risk Solutions, LLC
 Jim Borrebach, OHI Engineering
 Town reps Gregg Berman, Coastal Processes Specialist 3rd-Party Reviewer (by phone)
 Public Burton Balkind
 R.J. Turcott, Nantucket Land Council, Inc.
 Yvonne Vallencourt, UMass Field Station
 Edie Ray

Discussion (6:50) **Cohen** – The sand has been tested and those tests followed up by hazard mitigation specialists; there is nothing wrong with the sand and nothing needs to be done to it. We don't want to further hold up sand contribution if it isn't necessary; if we stop covering the sand, we aren't contribution sand during the storm season.

Dunk – This request for testing came about in December during discussion about man-made debris in the sand; the commission was open to removing that debris but wanted testing for contamination; the OHI report indicates there is no contamination in the sand. The nutrients identified in the sand were addressed in

December and reiterated in the Epsilon letter dated February 28. We asked for a risk review regarding public health regarding total coliforms (TCs).

Kmetzo – Reviewed her credentials. She was asked to review the information as well as Mr. Berman’s letter of February 18th with the potential of human health risks. She would identify contaminants, risk drivers, the risks, and how to reduce the level of no risk. Noted that TCs are not considered toxigenic and so lacks a base level against which to test the risk; enumerated natural conditions creating TCs. Based upon her review, there is no hazard identified. If there is a potential hazard from a subclass, we looked at the potential for exposure and response identification. She was able to visit the site today and saw evidence of wildlife but no human activity. The potential for contact would be dermal; the typical concern would be ingestion, but sand is not typically identified as a public health concern. The only concern might be massive gull use but didn’t see that. There is no basis to believe the grey sand is septic sludge; that is based upon the TC count. Mr. Berman noted methods to provide a more hostile environment, but from a human health risk protection, she doesn’t see a need for that. This meets the not-significant risk level for public health.

Dunk – We agree with Mr. Berman that when the sand is pushed onto the template face, the sand is exposed to UV and would desiccate faster; the bacterial count will degrade quickly. We identified the lot to the south of the sand ramp, 85 Baxter road, has building material sticking out of the bluff; we ask for permission to remove that material. Noted the conditions of the dredged sand from Polpis Harbor; asked for acceptance to use that material.

Erisman – Mr. Cohen said “there’s nothing wrong with the sand” which is a misstatement; the debris-laden and grey sand don’t meet the performance standard.

Golding – Disagreed with Ms. Kmetzo statement that the grey sand could not be tested for contaminants from septic systems. Regarding the deer prints, he feels that is a rationalization. Asked if it’s worthwhile making a comment on that.

Berman – He’s not comfortable saying whether the contamination comes from animal or human source based upon TCs. If the coliforms come from wither source, it will mobilize and die out pretty quickly this time of year.

Dunk – The coliforms are a naturally occurring and will die off regardless of its source; it will die off in the ocean. Trying to determine the source is an unanswerable question. The human health risk isn’t there.

Erisman – We talked about extrapolating the percentage of fecal coliforms from the TC. If we had the actual measurements of fecal coliforms, asked if there are set standards.

Kmetzo – No; the fecal coliforms are a subset; we don’t have readily available standards for soils.

Erisman – Asked if we should retest for fecal coliform to assess the health risk.

Dunk – In terms of typical issues we look at consumption.

Golding – Unless we find toilette paper in the sand sample, we’ll be going around and round. If we found clearly human fecal coliforms, you are saying it will degrade in the sunlight. He feels we’ve reached a dead end.

Beale – If it degrades over time, they inferred it’s okay to keep dumping septic sand.

Dunk – No we didn’t say we’d keep dumping it; we won’t use that source sand. We will do due diligence regarding clean and compatible sand. What I did say is that we can push the sand that’s there over onto the slope.

Engelbourg – If we did take additional samples for E. coli and fecal coliforms, asked if that would tell us anything meaningful.

Kmetzo – Mass. DEP provides a lot of data for the backgrounds for metal but none for fecal coliforms. It would provide an understanding of the concentrations here as opposed to areas with no impact from the grey sand. If it’s different, the problem is still the lack of a health-based standard.

Dunk – There are no labs around here that test sand for fecal coliforms.

Golding – We had discussed removing the sand; asked Mr. Berman’s opinion on doing that.

Berman – If you did another round of testing and found the concentrations were not reducing, you might want to consider removal; if you found it is reducing, which it should be doing quickly, one could expect it to continue doing that. Storm activity could stir things up pretty quickly; but he doesn’t think the sand will do much additional damage to what is there. It’s very likely going to degrade pretty quickly; after a big storm, it might not be there at all.

Phillips – It sounds like we’re struggling with this because it’s an unusual situation; this isn’t a superfund site but an area where people and children will be playing in what is on the beach. It sounds like the environment will degrade it and agrees with what Mr. Berman was saying about testing to ensure the concentration to go down; It’s up to us to ensure that resource area is pristine, and we don’t have all the information we need to determine that what is there is not a health risk. Thinks we should have more robust testing of the sand before it gets to the site. The idea of saying it’s all taken care of because of the environment, doesn’t sit right with her. She wants further testing.

Berman – It wouldn’t need the full spectrum of testing.

Golding – In Mr. Berman’s report, he says the maximum value of the suspect sand and beach sand are similar; for the mean, it seems to have degraded fairly quickly. The max is 15 times higher than the mean, but he’s hearing it will degrade and isn’t a risk to human health anyway.

Berman – When looking at max versus mean, the max might have come from a hot spot. It should degrade pretty quickly.

Golding – The difference between the suspect and mean high water is very wide.

Berman – The hotter beach samples could have just come off the template; there is a lot of how the samples were taken has a lot to do with the test results. If you do additional testing of sand that has nothing to do with the template could tell you a lot.

Erisman – Appreciates the idea of another round of testing for coliforms to ensure it is degrading. Also, would like to have continued testing to establish a background. We had identified a higher silt content in the grey sand; that will carry more onto the beach.

Dunk – Additional testing would be more peace of mind as opposed to a potential issue. The nutrients going into this well-mixed system will have no impact on the water quality.

Berman – He agrees it's a well-mixed system; he doesn't agree that the nutrients and maybe TCs are not a health risk. Once it gets to the water, it will go away quickly. He assumes the grain size is compatible and will move quickly, but if there is a lot of silt, that will stick around long.

Topham – Agrees with one more round of testing; but once that testing is done, SBPF should be allowed to mix in the sand airing it.

Balkind – Regarding the public health issue, he witnessed a classroom of kids walking through the mud at the base of the template and a family on the beach. He'd like to see another round of fecal coliform testing. Asked the board to test any new sand from the Polpis Harbor sand based upon the SBPF track record.

Turcott – The commission agrees the fill is contaminated; the sampling has provided more questions than answers because we don't know what type of coliforms is in the sand. A simple solution is to remove the 4,000 square feet of sand and start fresh. The longer it sits there without cover the tubes creates an issue.

Vallencourt – If the retesting is done for changes of level, you have to test for what they tested for, which is TC; but she would like to see testing for fecal as well. This is a learning situation for creation of a protocol. If you do TC again, it could not be from mixed samples; the samples have to be separate, especially from the hot spots. Agrees with Mr. Turcott that the best move is to take it all away.

Erisman – She'd want the sampling to come from the same locations.

Golding – Ms. Vallencourt's suggestion for testing for both is a good idea. He doesn't think we can justify the removal and he wonders how it would be removed without damage to the bluff. Also, SBPF could refuse because the scientific evidence from their experts states it's not a threat to human health.

Berman – You could bring in your own environmental expert, but he suspects they'd find the same thing. His guess that it's been a couple of months and the percentages have degraded.

Phillips – We are crossing several bridges we haven't yet reached: removal, objections, etc. She thinks we should have further testing along the lines Ms. Vallencourt and Ms. Erisman suggested. She wants peace of mind on this; potential contamination of a beach is "fighting words" on this Island. She doesn't want to say were done till the additional testing is done. We have other issues with the quality of the fill. She would move to require additional testing.

Erisman – This wouldn't be the first time we've required materials to be removed from a beach.

Engelbourg – Asked how long additional testing would take.

Borrebach – We could have it back by the next meeting.

Turcott – Confirmed that currently SPBF is removing the debris and materials and replacing with clean fill. This is not clean fill, it's contaminated and should be removed and replaced and put an end to it.

Erisman – After a second round of testing, at that time we would discuss letting it be pushed over onto the slope or have it removed.

Ray – SBPF dumped contaminated sand into the project area and the only way we found out about it was from an independent person who brought it to our attention; that's frightening. At the beginning of this discussion, Ms. Erisman noted the sand being pushed over was not compatible. Asked what it takes for the board to rule that the failure criteria have been met.

Erisman – The first step is to try to get it back into compliance; that's what this process is for.

LaFleur – We are trying to work this out so that in the future more is considered so everything is covered.

Ray – Asked if SBPF would be self-monitoring or if the board would monitor it.

Erisman – The daily logs have to have a named person on it and they have to ensure quarterly reports are submitted on time, that is not part of this discussion.

Topham – If Nantucket Coastal Conservancy is worried about the beaches, they should check every coastal erosion structure site, not just this one.

Golding – Going forward, we hope to have regulations ensuring that we don't have any contaminated sand used on any project.

Carlson – From our staff perspective, we have looked back at older projects and seen the improvements in criteria for sand compatibility. It's not just sand, silt, and clay content; it's looking deeper.

Cohen – Appreciates the concerns; we need to be practical and removing 4,000 cubic yards (CY) sand is a very big undertaking involving 300 dump trucks and would be impactful on the environment; delaying contributing of the sand is also impactful to the environment. Okay with the second round of testing.

Erisman – For her 300 trucks dumping full loads of this grey is mind blowing; thinks the ConCom shouldn't be "blamed" for being thorough and trying to protect our resource areas. If that means two more weeks for another test, that is 2 more weeks for another test.

Cohen – He thinks the commission and SBPF need to be prudent about ensuring appropriate steps are being taken to ensure there is no environmental or health issue and we aren't getting caught up in a much smaller issue. This shouldn't have happened, and we have put into a place to ensure that won't happen on our site.

Dunk – We want to be clear if that additional testing is for TC and fecal coliform.

Erisman – She would like to see the nutrient levels because they were higher than background.

Engelbourg – Looking at where first samples happened, we would want the samples taken from the same place and depth; but we would have to also ascertain the location and depth for the background samples.

Berman – The coliforms are most concerning; the nutrients are above background but probably a cheap and easy thing to show they are reducing over time. Background samples should come from both up drift and down drift away from the geo-tubes.

Borrebach – I would go quite far from the template both north and south for more than one sample each location. The 19 samples from across the top of the template was to map the location of the grey; he thinks we should go back to areas we know are grey or tan based upon the initial sampling.

Erisman – Her feeling is that we should do the whole thing again.

Motion **Motion to Require an additional round of testing per a sampling plan to be submitted to staff for review and acceptance.** (made by: Golding) (seconded)

Voice Vote Carried unanimously: Phillips, aye; Topham, aye; Golding, aye; Erisman, aye; LaFleur, aye; Engelbourg, aye; Beale, aye

4. Reports:
 - a. CRAC, Golding
5. Commissioners Comment
 - a. Golding – The Nantucket Island Land Bank boardwalk at 50 Tennessee Avenue has massive piles. Would like to see the original NOI and plan.
Carlson – We'll view the site and get a written report as well as information requested by Mr. Golding.
6. Administrator/Staff Reports
 - a. Next meeting will be at the NHS cafeteria.
 - b. Site visits are moving to 4 p.m. with the time change.

Adjourned at 8:10 p.m. by unanimous consent.

Submitted by:
Terry L. Norton