

Nantucket Coastal Resilience Advisory Committee (CRAC)
Tuesday, August 8, 2023
Via Zoom

*Meetings are audio- and video-recorded

Members present: Gary Beller, Dr. Sarah Bois, Tim Braine, Matt Fee, Rachael Freeman, Dr. Jen Karberg, Christy Kickham, Joanna Roche, Doug Rose

Members Absent: Peter Brace

Staff present: Vince Murphy, Leah Hill

Speakers: attorney Vicki Marsh, KP Law

Others: D.Anne Atherton, Rick Atherton

Recording available here: <https://www.youtube.com/watch?v=Snb9dDE6Xho>

1. Call to Order – 10:01am

- the meeting was called to order by vice chair Bois

2. Meeting announcements

- Script for remotely conducting Open Meetings
- Meeting is being audio/visually recorded

3. Continued discussion on Coastal Resilience Districts (CRDs) with attorney Vicki Marsh, KP Law, and Vincent Murphy, Town of Nantucket (TON) Sustainability Programs Manager

Marsh discussed her preliminary research on CRDs, and addressed a wide range of questions from the committee.

A. PURPOSE OF CRDs

- Select Board has identified CRDs as a potential tool to facilitate the planning and funding of projects identified within Nantucket’s Coastal Resilience Plan (CRP).
- Among the purposes discussed:
 - *Paraphrasing Marsh’s memo: “The creation of a district enables the municipality to fund, construct and manage infrastructure projects that benefit particular areas within the municipality... to be paid by betterments assessed to the property owners benefitted.”*
 - *To provide greater transparency for prospective homebuyers as to Sea Level Rise (SLR)/climate-related vulnerabilities of a certain area.*
 - *To establish an expectation of future costs associated with those vulnerabilities.*
- Marsh opined that CRDs should not circumvent the authority of regulatory bodies like ConCom and the Planning Board; it’s possible that a CRD might identify additional resource areas for ConCom regulatory oversight.

B. CREATION OF CRDs

- Marsh reviewed various options for establishing a CRD, and outlined the potential advantages and disadvantages of each. Highlights:
 - **Massachusetts State Law** currently provides no statutes that would enable municipalities to establish CRDs. While MA lags behind several other states in this regard (e.g., NC, SC, possibly CA), it is a topic of growing interest in Boston (see

[Boston Globe opinion piece 8/7/23](#)).

- ◆ Hill mentioned Long Island, NY as another point of reference. The [Coastal Erosion Districts of the Town of Southhampton, NY](#) establishes special taxing districts that fund ongoing beach nourishment.
- **General Bylaws:** Nantucket's flood overlay districts provide a precedent for creation of CRDs via a general bylaw. But this route has some limitations.
 - ◆ A general bylaw would not enable the Town to assess betterments without separate votes at Town Meeting.
- **Zoning Bylaws:** KP Law's position is that zoning bylaws are better suited for establishing restrictions in certain areas than for the purposes of planning, protection, preservation or funding as envisioned with CRDs.
- **Home Rule Petition (HRP):** Based on its preliminary research, KP Law sees some advantages to HRP as a means of creating CRD(s) on Nantucket.
 - ◆ HRP advantages:
 - A well-crafted HRP could provide the means to:
 - define the geographical boundaries of a district,
 - authorize the Town to plan, protect and preserve infrastructure in the district, and
 - fund the project via the assessment of betterments on the properties benefitted by the project(s).
 - Marsh suggested there could also be value in pursuing a HRP that grants TON the authority to establish new CRDs as needed, without having to repeat the HRP approval process for each new project.
 - Marsh also suggested that hypothetically, an HRP could be crafted in such a way as to allow TON authority to assess local betterments without having to go to Town Meeting for approval on each project – though of course that would be subject to approval by island voters and the state legislature.
 - ◆ Going the HRP route would also present some disadvantages:
 - It's a long process (typically 1-3 years), beginning with drafting of an article, securing approval at Town Meeting, and then by state legislature;
 - An HRP is therefore subject to off-island political forces;
 - Nantucket would likely be the first municipality in MA to propose a CRD, and so an HRP might involve a steep 'learning curve' with state legislators;
 - While it's possible that HRPs might improve chances of securing state or Federal grants, there is no certainty of that.
 - Murphy cautioned that state and Federal grant applications have become extremely competitive.

C. FUNDING OF CRDs

- Marsh, Murphy and Fee addressed CRAC questions regarding funding of coastal resilience projects:
 - To be clear: TON already has statutory authority to assess betterments to properties that benefit from specific projects, subject to approval at Town Meeting.
 - Marsh advised that betterments should have localized benefits, and well-defined

costs.

- ◆ *Betterments should not be applied island-wide:*
 - *In Marsh’s view, projects with island-wide benefit are better suited for capital funding, rather than through betterments.*
 - *Roche cautioned that the current capital funding process can sometimes lead to time-sensitive projects getting stuck in the cue.*
 - *To that point, Murphy urged the committee to consider including a bullet point in its recommendations to the effect that TON prepare a separate funding mechanism for resilience projects with island-wide benefits (e.g. harbor resilience, etc).*
- ◆ *Betterments should have well-defined costs:*
 - *In Marsh’s opinion, betterments would not be appropriate for building a coastal resilience ‘war chest’, as the costs should be project-specific.*
 - *To Fee’s question, Marsh believes that a **long-term** project – involving 1) construction → 2) ongoing operations & maintenance → 3) removal – might potentially be broken up into a series of betterments over time.*
 - *Marsh also stated that betterments are typically assessed **after** TON has appropriated capital to a project, i.e., as a means to recoup all or part of a Town investment that benefits a specific subset of island taxpayers.*
- *To Bois’ question, Marsh acknowledged that the creation of a CRD, and the planning, protection/preservation functions of coastal resilience projects, might be addressed separately from the funding mechanism(s) for them.*
 - ◆ *For example, Marsh confirmed that a CRD could be created via a general bylaw, and projects funded via betterments, without having to resort to a HRP.*

D. MAPPING OF CRDs

- Several options were discussed in terms of how to define districts ...
 - *CRD map(s) could be defined by*
 - ◆ *1) hazard areas, e.g., erosion, coastal flooding, storm surge, SLR, etc.*
 - *might help ensure that at-risk mid-island areas are not overlooked*
 - ◆ *2) neighborhoods,*
 - ◆ *3) project-specific benefit footprints*
 - *Murphy pointed out that in the process of creating the CRP, many boundary options were considered (electricity grids, electoral tracts, etc); ultimately it was decided to use pre-existing Civic League Homeowner Association areas, as most are already recognized by the state.*
 - *Karberg is inclined to look at CRDs from a higher altitude, offering Madaket as an example CRD, within which multiple projects would be planned, constructed, operated and maintained – each with its own betterment footprint.*
 - *Bois stated that ultimately, the method of mapping should be determined by what the most important goals of the CRD are.*
 - *Fee suggested that we don’t need a comprehensive list of CRDs now; that CRAC could identify 2-3 starting points, and learn as we go.*
 - ◆ *Sees Brant Point as an ideal candidate because its boundaries and vulnerabilities*

(storm surge, rising water table) are both well-defined.

- *Murphy suggested that districts could be defined simply by need, and the possible benefit, and left TBD for now.*

E. OTHER QUESTIONS, CONSIDERATIONS AND NEXT STEPS REGARDING CRDs

- Bois urged CRAC members to give careful consideration to what are the most critical goal(s) and objective(s) in establishing CRDs, as that should help clarify the way forward.
- Rose suggested that it might be helpful to establish consistent, objective criteria for how project benefits and costs are assessed.
- Murphy asked if we need a mechanism by which districts could be sunset
 - Marsh commented that sunseting might best be dictated by triggers like accessibility/habitability
- Fee suggested that CRAC challenge itself to think through how do we get agreements to betterments without involving Boston.

4. Discussion of subcommittees – due to timing, motion to postpone this discussion to a future meeting (Fee), seconded (Rose), approved unanimously 9-0.

5. Public comment

- Speaking on behalf of the Nantucket Coastal Conservancy, D.Anne Atherton urged CRAC to send a letter to the Select Board in support of Conservation Commission's updating of Nantucket's wetlands regulations, which was identified as a priority in the CRP.
- Point of order: Kickham encouraged chair to allow for public comment prior to votes. Murphy reminded that while there is usually room for public comment regarding topics not on the agenda, it is at the discretion of the chair as to whether and when to allow for public comment on topics on the agenda.

6. Approval of Minutes

- June 13rd meeting: after review of edits, approved 8-0 (Braine abstained)
- June 27th meeting: after review of edits, approved 7-0 (Braine, Fee abstained)
- July 25th meeting: after review of edits, approved 7-0 (Kickham, Roche abstained)

7. Approval of letters thanking Mary Longacre and Ian Golding

- Moved (Fee), seconded (Beller), and approved unanimously 9-0

8. Committee Reports

- Hill referenced her recent [interview in N magazine](#) (pp 76-79); recently spoke at Civic League regarding resiliency best practices
- Karberg invited CRAC members to attend two upcoming events on the Nantucket Conservation Foundation (NCF) calendar:
 - [NCF Coskata-Coatue documentary film & discussion at Dreamland 8/24 @5-7pm](#)
 - [Nantucket Climate Change Summit, 9/6 @4:00-6:30pm, GHYC](#)

9. Discussion of upcoming meeting dates and topics

- Next meeting is August 22nd at 10am via zoom.
- Bois urged members to submit their suggested bullet pointed comments regarding CRDs to Hill by Wednesday, 8/16/23.

10. Motion to adjourn – 12:01pm