

Town of Edgartown  
Cape Pogue DCPC

Minutes of Meeting  
April 28, 2022 5:00 P.M.

In Attendance (virtual):

Town Administrator (James Hagerty)  
Edgartown Conservation Commission (Jane Varkonda)  
Edgartown Board of Health (Chris Edwards)  
The Trustees of Reservations Membership (Bob Hayman)  
The Trustees of Reservations Staff (Darci Schofield)  
Cape Pogue Property Owner appointed by the Edgartown Board of Selectmen (Rachel Self)  
Conservation/Wildlife Specialist (appointed jointly by Sheriffs' Meadow Foundation, Vineyard Conservation Society, and Vineyard Open Land Foundation) (Matt Pelikan)  
Edgartown Police Department (Sgt Ryan Ruley)  
Edgartown Harbormaster (Charlie Blair)  
Edgartown Marine Advisory Committee (Ed Handy and Bruce McIntosh)  
Edgartown Shellfish Constable (Rob Morrison)

Meeting called to order at 4:57 P.M.

Minutes from prior meeting approved and recorded with correction of spelling of Bob Hayman's name and also addition of Matt Pelikan to the attendance list.

Openings Remarks

Chairperson Rachel Self expressed appreciation for the participation from stakeholders and submission of data and other information during and since the prior meeting. Data provided by the Edgartown Police Department and by the Harbormaster were reflected in the supplemental agenda materials (attached). She indicated she met with the Chief of Police, who asked that all issues, violations, and complaints be reported by calling the comms center (phone number reflected in the supplemental agenda materials) so that they could be properly recorded. This data would allow for better budgeting and resource allocation for effective enforcement. Patrols have been scheduled by the Police Department, Harbormaster, Coast Guard, and other agencies for early in the season to encourage compliance.

Recommendations from the Harbormaster included retaining the anchoring moratorium for the coming year, better marking of the anchorage area, and implementing headway speed to eliminate certain types of craft. Harbormaster would begin to separately log all calls, tows, patrols, etc. pertaining to Cape Pogue.

Recommendations from the Marine Advisory Committee also included keeping the moratorium in place, and other recommendations identical to last year's. Recommendations and other

commentary received from public submissions since the last meeting were discussed, and reflected in the agenda.

No data was provided by the Trustees, who indicated that due to ongoing litigation they would not be providing any numbers.

### Discussion of water issues

Rob Morrison indicated that the Shellfish Department does not spend much time at Cape Pogue during the summer, and would not have the resources to take on the bulk of patrol duties. It could work with the Police Department and Harbormaster to supplement other patrols.

Charlie Blair emphasized the importance of obtaining data so that the Harbormaster could appropriately allocate resources for land and water. The anchorage area and its marking and signage would be modified in the coming year to avoid confusion and vandalism. There was discussion of how best to regulate craft such as jetskis, water skis, etc., including implementing headway speed, the importance of patrolling to enforce those restrictions, and the current lack of resources to implement patrols. He indicated that having a vote on the moratorium soon would be helpful because planning and logistics for the upcoming summer season needed to begin shortly.

James Hagerty explained that he understood DCPC could approve the moratorium by an affirmative vote, perhaps after formulating a formal letter spelling out its parameters and developing diagrams and examples of signage. He left the meeting for another engagement.

Jane Varkonda raised the possibility that surface water zoning might be a useful tool for addressing issues with the types of craft on the water, their speed, etc.

Darci Schofield indicated that boats are welcome on all the Trustees' beaches. Matt Pelikan urged the Trustees to think carefully about this policy and its possible effects on shorebird nesting, which could be impacted by increased human disturbance, including kiteboarding in proximity to the shore. Jane Verkonda echoed these concerns.

Ed Handy and Charlie Blair discussed the importance of the anchoring moratorium, despite the Trustees' welcoming of boats on the shore, in order to protect the eel grass. Reiterated that action in the near future was essential in order to allow for planning for the upcoming season.

Edward Self inquired about the Trustees' policies for allowing anchoring on beaches – how such anchoring would be managed and overseen, whether and how people would be charged, etc. Darci Schofield deferred from commenting on this issue due to ongoing litigation, but affirmed the Trustees' mission of conservation, and that there would be oversight in support of that mission.

Sgt. Ruley expressed his belief that the Trustees do good a good job of land management re: bird protection. He indicated information about anchoring could potentially be published on the Edgartown Police Department and Harbormaster websites to improve public education.

Chairperson Rachel Self indicated the Committee would take a vote on renewing the anchoring moratorium, and encouraged anyone with any additional information, data, or concerns to send them by email.

### Discussion of land issues

Chairperson Rache Self opened the discussion by identifying the state of the bulkhead on the Trustees' side of the Dyke bridge as a major concern. She strongly recommends coordination between DCPC, the Trustees, and the town of Edgartown for its repair.

Darci Schofield indicated the Trustees were ready to move forward to an assessment of the bulkhead and its need for repair, and this needed to be done in partnership with the town. The Trustees were looking to secure funds to perform an assessment. She declined to comment on the number of vehicles crossing the bridge, due to ongoing litigation.

Rachel Self reviewed past recommendations made by DCPC to the Trustees, including requiring training for drivers, etc., as reflected in the agenda. She addressed the fact that the use of pesticides herbicides is not allowed without DCPC approval, and she understood the Trustees had been using such substances without approval. Discussion of land issues was opened for commentary.

Matt Pelikan agreed that the use of pesticides, etc. was prohibited without DCPC approval, but he urged the committee to support the Trustees in their use of management tools available to protect birds. He indicated that predator control was essential, and that opening beaches without regard to shorebird nesting sites would have a negative effect on the protected species nesting there. He believed the Trustees had been prudent in the restrictions they enacted closing certain beaches.

Alexis Colantonio inquired whether the DCPC could limit the number of vehicles coming over the bulkhead until there was a timeline for its repair. Rachel Self indicated the committee could make recommendations based on its concerns.

Mr. Tyler inquired whether there had been a change in policy regarding unleashed dogs, as there had been a large number of them. Chris Edwards indicated there had been a Board of Health meeting last night with a dog officer, who was trying to do more patrolling in terms of waste, off leash dogs, issuing fines, etc.

Edward Self indicated he was encouraged to hear the Trustees were considering an assessment of the bulkhead, but noted that five years ago the same thing had been said, and nothing had happened, and the deterioration had since worsened. He inquired whether the Dyke was jointly owned, or whether each end was owned by different parties, as they were very differently maintained. Judy Murphy indicated that the Trustees had been promising to repair the bulkhead for many years, but with changes in staff the corporate memory of such promises was deficient. She expressed disappointment and frustration, and that the Dyke was landowners' only means of

access to their land. Tom Ross indicated that landowners have always needed town and DCPC approval for their actions, and expressed that the Trustees should be held to the same standards.

Ed Handy moved to vote on continuing the anchoring moratorium for a year, and reminded attendees that the harbormaster needed a vote soon. Charlie Blair expressed that signage was critical to the success of the moratorium, and that it took time to produce and would be needed in time for the summer season. Rachel Self seconded the motion.

Rachel Self read the Marine Advisory Committee recommendations, which that committee voted on, and which would be identical to the recommendations DCPC would vote on now. A roll call vote was held. All members present voted in the affirmative, except for Darci Schofield, who abstained. Rachel Self indicated the committee would send a letter with its recommendations to the Select Board, and asked for any additional comments.

Leslie Self expressed concern about larger boats, which may pull up on shore as allowed by the Trustees and yet still anchor in such a manner as to harm the eel grass. Ed Handy recommended that concerns be expressed to Charlie Blair and Rob Morrison as they arise. Rob Morrison indicated he would be happy to work with Charlie Blair in marking areas and developing charts. Charlie Blair and Ed Handy expressed their appreciation of Steve Ewing and Aquamarine for their assistance.

The meeting was adjourned at 6:11 P.M.

Town of Edgartown  
Cape Pogue DCPC

April 28, 2022 5:00 P.M.

---

5:00PM

1. Anchoring Moratorium

a. Data Received Regarding Enforcement Issues

i. Edgartown Police

1. Requested data April 6. Received data April 7.

a. Total number of calls on Chappaquiddick between 01/01/21 and 04/07/22 - 257. 57 of these were 911 abandoned or hang up, so total true reports were 250.

i. Total number of calls for Cape Pogue - 29

1. 18 for motor vehicle assistance (MV Assist, Minor MVA, MV Disabled, MV Tow, MV Acc and MV lockout)
2. 9 "assist citizen" calls
3. 1 "marine mammal" call
4. 1 "boating incident"

2. Recommendations of EPD

- a. Keep anchoring moratorium in place.
- b. If you have any issues at all you need to call the Communications Center at 508-693-1212.
- c. Scheduled patrols early in the season in conjunction with Harbormaster, Shellfish Warden and also the Environmental Police and US Coast Guard. Regular Patrols the rest of the summer.

ii. Harbormaster

1. Requested data April 6. Received data April 7.

a. Total responses for August 2021 - 71

- i. Medical responses: 13
- ii. Number of tows: 32
- iii. Number of harbor complaints: 11
- iv. Number of "other" complaints: 15
- v. Days patrolling Cape Pogue: 25

2. Recommendations of Harbormaster

- a. Keep anchoring moratorium in place.
- b. Begin to log all Cape Pogue Related Calls and log date and time of all Cape Pogue Patrols and also begin to specifically

log Cape Pogue related tows, medical assistance and boats anchored.

- c. Make anchorage area more clearly marked and clearer signage
- d. Implement Headway Speed for all of Cape Pogue Bay (4 knots) to eliminate all PWC (Personal Watercraft) from going faster than 4 knots in Cape Pogue Bay. This would also eliminate tubing, waterskiing and jet skis.

iii. Marine Advisory Committee

1. Recommendations of MAC

- a. Keep anchoring moratorium in place.
- b. Mark entrance channel at the gut with no wake buoys at both ends of the channel.
- c. Harbormaster and Shellfish Constable will make recommendations on areas that they recommend no anchoring.
- d. Station a member of the Harbormaster dept/police/shellfish in pond during weekends and holidays during the summer for educational/enforcement issues.

iv. Trustees of Reservations

- 1. Requested Data April 9. No data received.
- 2. Recommendations of Trustees of Reservations
  - a. None.

v. Positions received from others

- 1. Outlaw PWCs (jet skis) in Cape Pogue Bay as they violate quiet harbor because they go over 50 MPH and are very loud. A day's ride on a 100 horsepower jet ski emits the same amount of smog-forming air pollution as driving 100,000 miles in a modern passenger car. Other PWC environmental problems include extreme noise pollution from engines, as well as pollution from the gasoline additive MTBE. When the craft leak fuel into the water, MTBE tends to collect in shallow, shoreline areas, killing plankton and other tiny sea life that is the basis for many water ecosystems.
- 2. Outlaw Anchoring in Cape Pogue Bay until the scallops come back. The signs are confusing and no one knew where to anchor and there needs to be better enforcement.
- 3. Any visiting motorboats permitted in the pond must be smaller than 25 feet.
- 4. No kite-boarding.
- 5. Less sign pollution.

2. Land Issues

a. Bulkhead at Dike Bridge

- i. The land the bulkhead is on is owned by the Trustees of Reservations. This bulkhead has been in deteriorating condition for decades. It has been

almost 30 years since the bridge was rebuilt and the bulkhead has significantly eroded since then. Sea level rise, increasing storm ferocity, overuse/overburdening and lack of maintenance have resulted decrepit and hazardous condition.

- ii. Recommendations
  - 1. Strongly led and coordinated effort between the DCPC Advisory Committee, The Trustees and The Town of Edgartown to repair the bulkhead.
  - 2. Limit number of visiting vehicles during busy season.
- b. Overburdening of land by visiting vehicles
  - i. Recommendations for visiting vehicles
    - a. 4WD only. No AWD vehicles permitted.
    - b. Limit number of visiting vehicles per day.
    - c. Limit hours of day visiting vehicles are permitted.
    - d. Require beach driving education class to all visiting vehicles. Must complete before driving on the beach. Include in training basic beach etiquette:
      - i. Rights of way
      - ii. Turn outs
      - iii. Speed limits
      - iv. 15PSI tires
      - v. Require Shovel, Rope, Board, Tire Gauge
      - vi. Respect neighbors. Do not trespass on private land
      - vii. Refuse access to any non-compliant visitors
    - e. Open outer beaches so that the visiting vehicles permitted per day can spread out and they do not overburden the resource. Determine available space for visiting vehicles and establish vehicle quota.
      - i. Open the Muskeget Channel outer beach from the north side of the walk-on bathing beach northward to Arruda Point. Allow access to this area from the center trail via two existing outer beach crossovers, one at the Narrows and one at Arruda Point.
      - ii. Eliminate overburdening and erosion on the sensitive fragile narrow land mass from Arruda Point to the Gut by working with police and first responders to establish permissible visitor numbers to be spread out along the Muskeget Channel beach based on visitor safety, emergency requirements for access and egress under all conditions, as well as safety considerations based on storms and tide conditions.
    - f. Contribute financially to preserve and protect the resource that is overburdened by visiting vehicles.

- c. Use of Herbicides, Pesticides, Poisons and Killing of Native Species
  - 1. The Trustees of Reservations has been using herbicides on plants without prior DCPC approval and poisoning wildlife for “predator control”.
    - a. Recommendations: Absolutely no herbicides, pesticides or lethal predator control will be employed by the Trustees of Reservations without prior approval of the DCPC committee.



Town of Edgartown  
Cape Pogue DCPC  
AGENDA  
April 28, 2022 5:00 P.M.







Cape Poge Gut Boat Anchoring 2021

Date	Day	Time	Weather	Total boats anchored	Anchored in designated area	Anchored on beach above MLW	Comments
24-Jul	Saturday		sunny	50	0	most	
26-Jul	Monday	1:30	sunny	5	0	5	
30-Jul	Thursday	2:00	sunny	9	0	9	
31-Jul	Saturday	3:00	sunny	27	0	most	beach parties
6-Aug	Friday	2:30	sunny	11	0	9	
7-Aug	Saturday	1:00	sunny	35	0	most	beach parties
8-Aug	Sunday	12:00	cloudy	12	0	most	
14-Aug	Saturday		sunny	30+	0	most	
26-Aug	Thursday	2:30	sunny	20	1	10	
27-Aug	Friday	noon	sunny	3	1	2	

There seems to be confusion as to bouys- are they channel markers or moorings for boats?

Weekends of 8/7 and 8/14 groups of Jetskis were seen in Cape Poge and Pouche Pond

From MVOceansports website:

MV Oceansports Jet Ski tour 2Hours \$290 "Along the way you will see Oak Bluffs, Edgartown and even Cape Poge on Chappaquiddick. There you will get to enjoy a relaxing time on the beach."



Town of Edgartown  
Cape Pogue DCPC  
AGENDA  
April 28, 2022 5:00 P.M.

PHOTOS OF DIKE BRIDGE SHOWING CONCERNS









TOWN OF EDGARTOWN  
Marine Advisory Committee  
70 Main Street  
P.O. Box 5158  
Edgartown, MA 02539

March 10, 2021

Board of Selectmen  
Town of Edgartown  
POB 5158  
Edgartown, MA 02539

Dear Mr. Smadbeck, Ms. Serpa, Mr Donaroma,

In view of Feedback received the Marine Advisory Committee would like to make the following revised recommendations for Cape Pogue Pond for the summer of 2021:

1. Mark entrance channel at the gut with no wake buoys at both ends of the channel
2. The Harbormaster and Shellfish Constable will make recommendations on the areas that they recommend no anchoring.
3. Station a member of Harbormaster Dept / Police / Shellfish in the pond during weekends and holidays during the summer for educational / enforcement issues.

Best Regards,

Bruce McIntosh, Chair  
Skip Tomassian  
Ed Handy

cc: Edgartown Planning Board  
Edgartown Shellfish Committee  
The Trustees of Reservations