

Town of Edgartown
Cape Pogue DCPC

Minutes of Meeting
June 30, 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)
County of Dukes County (Martina Thornton)
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 Harbormaster (Charlie Blair)
Edgartown Marine Advisory Committee (Ed Handy)
Edgartown Shellfish Constable (Rob Morrison)

Meeting called to order.

Minutes from prior meeting approved and recorded.

Water issues

Rachel Self inquired whether markers and signage had been placed at the Gut; Bob Hayman indicated that as of Saturday they had not been, and Charlie Blair reported that they would be placed by noon the next day, and indicated the Trustees were allowing boats on the beach despite nesting birds in the area.

Darci Schofield clarified that the Trustees have no jurisdiction over people anchoring below the mean high water mark, which is public property, but that they were monitoring for interference with shorebirds. Leslie Self raised the concern that the current map signage was too small to be legible from a reasonable distance.

Rachel Self reported that she had been in touch with Representative Fernandez, Senator Cyr, and the Chief of Police regarding efforts to have a full-time environmental officer stationed on-island. Education of representatives was continuing, and they were becoming more receptive. Housing availability was identified and discussed a major issue impeding the ability to have a full-time officer who lives on the island as opposed to commuting as Sgt. Opie currently does. Ideas are the home in the state forest, or the State Police Barracks. The TTOR also has a house on Chappy where Chris Kennedy used to live that might be an option. Darci Schofield indicated concern for vandalism of shorebird protection areas in Norton area which is also a part of the DCPC so she also thinks a full time EPO would be helpful in assisting with the shorebird

protection efforts. Rachel Self asked Darci Schofield about that house as a possibility. She indicated staff were living in that house now, but she would enquire about availability of housing in Trustee properties. However, they too are struggling to fill some full-time positions so they would need to have housing available for any full-time employees they may have in the future.

Chris Edwards noted that most likely any officer would have a family, and a room would not be sufficient. Charlie Blair noted that the current environmental officer's workload was such that single full-time officer would not likely be sufficient to meet the need. Rachel Self reported that one option representatives had raised would be introducing a special bill to allow budgeting for additional staffing. Shift balance is something being proposed (instead of 8 hour shifts, perhaps rotating 12 hour shifts). The infrastructure is getting more demand so it is important to have coverage. Charlie has eighteen people on payroll and they can't keep up with all the demand. When so many people want to enjoy such an incredible place we need to make sure we are providing the resources to manage everything properly.

Matt Pelikan reported that no dead birds had been noted washing up in the DCPC; Darci Schofield reported that dead birds had been reported washing up on Norton Beach, and the Trustees were working with the state to determine avian flu involvement and ensure safe handling.

Legal Issues

There was discussion about how best to ensure that the Committee fulfilled its mission and understood its enforcement abilities and processes for making changes to existing frameworks. James Hagerty offered a basic breakdown of the process of amending the DCPC, which would involve drafting an amendment, sending it to the Edgartown Planning Board, which would hold a public hearing, and then to the Martha's Vineyard Commission, to a town meeting for a vote, and then, if approved, ultimately to the Attorney General's office. He indicated that the appropriate enforcement agent in any situation would depend on what precisely was being violated.

Jane Varkonda indicated that land issues came under the purview of the Conservation Commission and Planning Board and special permits need to be issued and approved. Permits, permitting authority

Rachel Self moved that the Committee make an inquiry of town counsel as to what it could do as a committee as far as enforcement, and to draft any amended bylaw to provide a process for obtaining an exception to the herbicide/pesticide prohibition. Permits, permitting authority, what are the parameters.

Matt Pelikan wanted clear wording of the questions.

She moved to inquire of town counsel:

“A best way to navigate and negotiate as a public body with regard to proposing amended guidelines and what means of enforcement are available when there is a failure to comply

with applicable permitting/laws/regulations/ordinances and how to best effectuate and fulfill our committee responsibilities.”

Ed Handy seconded the motion. A vote was held, and the Committee unanimously approved.

Land Issues

Rachel Self reported that the town was placing a vehicle counter on the Dyke Bridge on July 5. She had reached out to Commonwealth to try to get inspection reports for approaches to bridge, and would report back. As the approaches to the Dyke Bridge, particularly on the land owned by the TTOR is in severe disrepair and has been an issue for quite a while and its dilapidated state is a concern particularly the East approach to the bridge.

Presentation of Draft Beach Management Plan

Darci Schofield presented the Trustees’ draft Beach Management Plan, joined by Tom O’Shea, Russ Hopping, and Elizabeth McDonough. An overview of Trustees mission, their properties, and their community education and engagement activities was provided.

Tom O’Shea made a presentation on the state of the coast, summarizing a coastal vulnerability assessment which found that island properties were vulnerable to flooding for 2030 and 2070 impacts. Beaches were expected to recede or be inundated or migrate, and the Trustees were developing and implementing dune restoration and other interventions to protect access, infrastructure, and habitat.

Darci Schofield continued the presentation, describing the publication to the public of the draft plan on the website, and the distribution of the draft plan to various governing and regulatory bodies and stakeholders. The plan had taken 18 months or so to draft, and the Trustees were hoping to collect feedback and public input during the season, including at public meetings. They wanted to launch when they knew the most people were around to provide public input. Input would then be analyzed and the plan finalized and submitted for regulatory approval. She provided a general description of the basis and foundation for the plan, an overview of current practices, and a summary of some of the proposed changes, including: pedestrian and boat access, changes in dog visitation policies, OSV limits, parking, trails, etc. There was a detailed exploration of OSV trail changes and parking. The presentation concluded with a listing of the public meeting times.

Public Comment

Rachel Self opened the meeting to public comment.

James Hagerty indicated that, as an Edgartown resident, he found certain trail closures extremely problematic. Rachel Self commented that regardless of what the plan included, there would be a need for people on the ground to effectuate the plan. Matt Pelikan expressed approval for the plan from a wildlife perspective. Darci Schofield underscored that the plan was in draft form, and nothing was definitive.

Leslie Self noted that the guidelines on which the plan was based were roughly thirty years old, and that much had changed in the intervening time. She expressed that it would be best to conduct research so the plan could be based on current data. What further studies can be done with regard to having more updated guidelines. Jane Varkonda indicated that while the guidelines might be old, certain principles on which they were based and the science behind them had not changed. Darci Schofield replied that the Trustees were trying to work at the state level to obtain more information, but that the plan was grounded in the current data and science as reflected in the state of the coast section of the plan. The plan would be reevaluated every three years.

Karen Osler expressed that as a Cape Pogue resident, she hoped people would take the time to absorb the plan, and looked forward to focus groups allowing more detailed discussion.

Jay Hunter, a resident of Chappaquiddick assigned to a focus group, expressed that the high numbers of parking spaces available would be detrimental to the quiet nature of the beach, and also was concerned about the lack of access for scalloping at Cape Pogue and thinks the parking numbers are way high and the point of being out there is to enjoy a quiet beach. Stacking cars in like cord wood seems completely at odds with the mission and that number of vehicles on that strip of sand is completely excessive.

Jake McCauley inquired whether the Trustees kept data on how many incidents there were in which dogs had killed nesting birds. Darci Schofield replied that they have no data on birds being killed by dogs, but it was her understanding that the mere presence of dogs was sufficient to interfere with nesting. Matt Pelikan confirmed that every dog increases the possibility of something going wrong; their presence created a disturbance that created opportunities for other predators to move in on nests.

Bruce Dew inquired whether there was any evidence that dogs are the ones polluting the flats. Darci Schofield replied, "Yes. Absolutely. Fecal chloroform is one of the greatest pollutants that is managed by the Clean Water Act and it is almost entirely directed at dog waste that is not managed properly. And that's not just at Cape Pogue or in the DCPC area but that is across the Commonwealth. So it is critically important that we're, you know, ... we would love it if everybody was a good, you know was very diligent about cleaning up after their dog and we know that is not the case. And we do in areas where we have swimming do water testing on a weekly basis. On the ocean side we do it on a monthly basis."

Ed Handy raised the issue of whether there was a way for Edgartown residents to access the town-owned properties without paying the Trustees. Rachel Self indicated that Norton Point and Wasque and Cape Pogue are very different as far as ownership, and use and access so it doesn't necessarily make sense to have the same plan for the various beach properties. Darci Schofield requested that those communications be shared with the Trustees. Rachel Self moved to inquire of town counsel about this issue, as well as the issue voted on previously. Ed Handy seconded the motion. The vote was as follows:

Jane Varkonda: Aye

Chris Edwards: Aye
Bob Hayman: Aye
Darci Schofield: Abstain
Martina Thornton: Abstain
Matt Pelikan: Nay
Charlie Blair: Abstain
Ed Handy: Aye
Rob Morrison: Aye

Bob Hayman inquired as to the status of the lawsuit involving the Trustees; Rachel Self believed it was ongoing, and that the draft plan being released at this time was the result of a court order. Darci Schofield stated this was incorrect, and that the plan had been in the works for over a year and had been delayed until a director was put into place and a summer season to socialize this plan so that we can work together to effect positive change on our beaches. She inquired where Rachel Self had obtained that information; Rachel Self indicated it was from the docket.

Jake McCauley inquired as to the plan's policies about kite surfing and whether the changes in pet policy were in line with other beaches. Jane Varkonda and Martina Thornton provided overviews of dog policies on various other beaches. Chris Edwards indicated that the dog officer has been working on more stringent leash laws, but this is private property and on private property the town can't necessarily regulate it. This is one of the reasons why Cape Pogue and Wasque are different from Norton and Leland (private ownership vs. municipal ownership). Martina Thornton and Jane Varkonda indicated that no dogs are allowed on the town and county beaches in the summer (April 1-August 30).

The meeting was adjourned at 6:25. The next meeting was scheduled for July 28, 2022 at 5:00 P.M. James Hagerty indicated there was uncertainty as to whether any meeting after July 15 would need to take place in person due to changing regulations, but would provide more information.