



Meeting Minutes - Edgartown Conservation Commission
January 25, 2023 (4 pm)

Commissioners present: Peter Vincent (Chair), Max Gibbs, Geoff Kontje, Jeff Carlson, Lil Province, Christina Brown, Robert Avakian

Commissioners Absent: none

Staff: Jane Varkonda (Agent), Kara Shemeth (Admin)

Public in attendance: Alexis Colantonio, Dylan Sanders, Becky Ross, Chris Kennedy, Darci Schofield (TTOR), Deb Butler, Doug Hoehn (SBH), Edward B Self, E M McDonough (TTOR), Hans van Lingen (Avangrid), Joe Russo, Jonathan Kirby, Judy Murphy, Karen Osler, Leslie Self, Michael Luft-Weissberg, Penn Edmonds, Peter Sliwkowski, Rachel Self, Reid Silva (VLSE), Ron Dumurat, Russ Hopping (TTOR), Victor Colantonio, William Gazaille, Adam Kahn, Alan Stahler, Alessandra Wingerter, Ashley Harmon, Bo Reily, Brooke Kushwaha, Bruce Fowle, Caela Howard, choopes, Chris Long, Deborah, Radway, dkdropick, Elizabeth Johnson (Avangrid), Eric Adams, Erik Peckar, Erin Harizi, Erin Michaud, evill, H Hohenthal, Holly Johnston (Epsilon), John Harker (Avangrid), Jonathan Phinney (USFWS), Julia Livingston, Kirk Oswald, Laura Lipton, Lionel Spiro, Mara Connolly Taft, Maxwell Solet, Owen Larkin, Pat Johnson (Avangrid), Patricia, Peter & Tenley Callaghan, Peter Rayner, Rosemary Constantini, Ted Hubbard,

The meeting was called to order at 4:07

Public Hearing - Notice of Intent SE20-1640

Applicant: **Park City Wind LLC (Hans van Lingen)**

Address: the waters of Edgartown

Representative: Holly Johnston (Epsilon Associates)

Project: New England Wind 1 Connector - Application to install two offshore export cables beneath the ocean floor within Edgartown's offshore waters.

Eligible commissioners: Peter, Max, Geoff, Jeff, Lil

Continued from 1/5 for lack of quorum

Commissioners discussed the cables to be installed and that there will be more and there will be more cables as more areas open up for leases. While the

MVC decided that the project will overall have a positive impact, the Commission's job is to consider the impact to the resource rather than the overall impact.

The Applicant noted that while this corridor is wider than the one presented for Vineyard Wind, this one will not expand any wider with additional cables.

Commissioners noted that there is a 5-6 knot current in the Muskeget Channel and the data projects that the material won't move more than 12' on either side of the trench. The applicant noted that NHESP had submitted a letter regarding the rare species habitat and that this would not negatively affect the wildlife in this area.

Commissioners also expressed concern regarding the NOAA Incident Harassment for Marine Animals and the number of "takes" allowed. This is a level 2 harassment (disturb but not injure) and Commissioner had serious concerns that this allows a take of up to 30 Right Whales in this manner for each project. The applicant noted the concern and wanted to reiterate that these takes are not killings and there are protections in place to avoid such and noted that this aspect was part of the Federal permitting process.

There were questions from the public and discussion regarding the impact on fisheries and the applicant noted that studies have overwhelmingly shown that offshore wind projects and their cables have no impact on fishing.

Action: A motion was made, and seconded, to deny the application with commissioners expressing that they found that the applicants modeling of the displaced materials on the floor of the Musket Channel did not accurately reflect the impact the cable laying would have. The number of takes of Right Whales and other marine life was also a factor in moving for a denial.

Passed unanimously via roll call vote of eligible Commissioners
(Peter, Max, Jeff, Geoff and Lil)

Public Hearing – Notice of Intent SE210-1670

Applicant: **MV Regency Group LLC**

Address: 71 Butlers Cove (AP 53-7)

Representative: Doug Hoehn (SBH)

Project: The construction and maintenance of a 182' long, elevated wooden boardwalk across a wetland.

TO BE CONTINUED TO 2/8- Eligible commissioners: Jeff, Max, Lil, Christina, Bob

Public Hearing – Notice of Intent SE20-1671

Applicant: **MV Regency Group LLC**

Address: 71 Butlers Cove (AP 53-7)

Representative: Doug Hoehn (SBH)

Project: The creation of a Comprehensive Land Management Plan and a 3' wide path to the beginning of a proposed elevated wooden boardwalk. **TO BE CONTINUED TO 2/8- Eligible commissioners: Jeff, Max, Lil, Christina, Bob**

Action: a motion was made, and seconded, to continue both hearings to 2/8
Passed unanimously via roll call vote with Gibbs abstaining

Public Hearing – Notice of Intent SE20-1667

Applicant: 20 Orr Lane Realty Trust

Address: 20 Orr Lane (AP 20B - 76.4)

Representative: Dough Hoehn (SBH)

Project: Remove existing structures, construct dwelling, pool, cabana, garage, landscaping & related site activities

Continued from 1/5 for topo- Eligible commissioners: Jeff, Max, Lil, Christina, Bob

Public Hearing – Notice of Intent SE20-1668

Applicant: 26 Orr Lane Realty Trust

Address: 26 Orr Lane (AP 20B - 76.3)

Representative: Dough Hoehn (SBH)

Project: Remove existing structures, construct dwelling, garage, landscaping & related site activities

Continued from 1/5 for topo - Eligible commissioners: Jeff, Max, Lil, Christina, Bob

Doug Hoehn reviewed the materials that had been submitted as requested at the previous meeting which included a plan showing topo lines and a grading plan. The architects explained the grading plan and lawn between the 50' and 100' setback from the wetlands.

Commissioners asked the applicant to modify the plans to keep the fill, grading and lawn completely out of the 100' setback.

Action: A motion was made, and seconded, to continue to 2/8 to allow the applicant to revise the plans to keep the lawn and grading out of the 100' buffer.

Passed unanimously via roll call vote with Brown abstaining

Public Hearing - Local Notice of Intent

Applicant: **Eastern Wall, LLC**

Address: 58 Oyster Watcha Road (AP 41-1.1)

Representative: Chris Alley (SBH)

Project: Proposed construction of a guest house and associated site work within Zone 2 of the EPAD and within 200' of a BVW.

Eligible commissioners: Geoff, Jeff, Peter, Max, Lil, Christina

Action: A motion was made, and seconded, to continue to 2/8

Passed unanimously via roll call vote

Public Hearing –Notice of Intent **SE20-1672**

Applicant: **Trustee of Reservations**

Address: Norton Point to the Gut

Representative: Darci Schofield, TTOR

Project: Application seeking an Order of Conditions to permit Over Sand Vehicle (OSV) access on the Trustees owned, or managed under contract, approximately 12 miles of beach from ~~Norton Point Beach~~ Wasque* to the Gut at Cape Pogue Wildlife Refuge in Edgartown, Massachusetts

*received correspondence from applicant requesting Norton Point Beach be withdrawn from application

Continued from 12/14- Eligible commissioners: All

The Chair confirmed with the applicant that Norton Point had been removed from the application. Chair Vincent also confirmed that the Commission was still awaiting the input of the Cape Pogue DCPC and that a vote would not be taken until their input had been received.

Darci Schofield spoke of attempts to meet with the Cape Pogue neighbors and will be meeting with them on 2/3/23. Darci read into the public record TTORs written responses to questions and comments raised at previous hearings (attached to these minutes).

Commenters noted that the benefit of multiple NOIs was brought up by the Commission's Agent as well as Cape Pogue abutters. There is currently active litigation regarding property access in areas north of the Dike Bridge. The WPA does not permit "injury to private property or invasion of property rights". Abutters noted that TTOR advised that their authority extends to TTOR property only and the TTOR does not regulate trespassers on private property when responding to concerns regarding unruly passholders.

Commenters noted that many of the of the existing OSV trails north of the Dike are not in compliance with the WPA yet the NOI seeks to continue their use without a proposal to remedy the lack of compliance. Concerns were raised about the unlimited number of OSV vehicles potentially allowed on the beaches of Chappy.

Photos of the recent damage of the bulkhead at the Dike Bridge were shared and concerns about the state of it were raised. A resident of Cape Pogue felt a cease and desist order should allow only essential vehicles over the bridge until it is satisfactorily repaired.

The Chair noted that the meeting time was winding down and several members of the public still wanted to speak and proposed continuing the TTOR application until the end of the meeting once the Melrod application had been heard.

Public Hearing –Notice of Intent **SE20-1666**

Applicant: **Melrod Family Martha's Vineyard LLC**

Address: 11 & 17 Faulkner Drive (AP 45-123&124)

Representative: Reid Silva (VLS)

Project: Proposed reconstruction of an existing elevated walkway and permit ongoing maintenance of the walkway.

Continued from 12/14 for site visit – Eligible Commissioners - All

The Chair noted that at the site visit the existing walkway seemed to be in good condition and there was a question as to why it needed replacing.

Reid Silva explained that the boardwalk had previously been damaged by ice and the idea is to raise the walkway so that it wouldn't be as susceptible to damage.

Geoff Kontje gave a report on the site visit and confirmed that the boardwalk was mahogany and aside from a slight tilt, was in very good shape with years of life left. He noted that raising it will bring it into the public view and that repairing the existing structure is a better solution than rebuilding it.

Reid proposed utilizing the existing posts and setting pins in problem areas and re-doing the decking. Max spoke as a member of the public and noted that retrofitting the boardwalk would be a good option.

Commissioners had noted on the site visit that the lawn seemed to be encroaching in the buffer and possibly wetlands. Reid noted that he would return with a plan for retrofitting the walkway and a landscape plan.

Action: A motion was made, and seconded, to continue the hearing to 2/8 to allow for the additional modifications to the plan

Passed via roll call vote with Max abstaining

Administration

Action: A motion was made, and seconded, to approve the 11/9 minutes as presented

Passed unanimously via roll call vote of eligible Commissioners

Action: A motion was made, and seconded, to approve the 11/30 minutes as presented

Passed unanimously via roll call vote of eligible Commissioners

Action: A motion was made, and seconded, to approve the 12/21 minutes as presented.

Passed unanimously via roll call vote of eligible Commissioners

Action: A motion was made to accept the 26 Caleb's Pond Conditions (SE20-1664)

Passed unanimously via roll call vote of eligible Commissioners

TTOR Continued:

Pogue residents noted that they had historically met annually with TTOR and most recently TTOR had conditioned the meeting upon a mediator being present. Also requested was a beach management plan prior to approval by the Conservation Commission. The residents want a positive relationship with TTOR. Another abutter noted the attention to detail and resources with other applications and felt the TTOR application did not pass muster.

Action: A motion was made to continue this hearing to Wednesday Feb 1, 2023 with TTOR as the only agenda item with all Commissioners in favor

Action: A motion was made, and seconded, to adjourn the meeting at approximately 7 PM
Passed unanimously