



Meeting Minutes - Edgartown Conservation Commission
February 1, 2023 (4 pm)

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

Commissioners Absent: Max Gibbs

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

Public in attendance: Alexis Colantonio , Alessandra Wingerter , Dylan Sanders, Seena A. Pidani, Bo Reily, Brooke Kushwaha, Connie & Ted Roosevelt, Cynthia Hubbard, DArCi Schofield, Dawn Colantonio , DK Dropick, Edward B. Self, elizabeth mcdonough , Ann Floyd, Jay OSler, Joseph Russo, Judy Murphy, Karen Osler, Kate Murphy Waldman, Leslie Self, Lionel Spiro, Lucia Tyler, Malissa Osler, Patricia, Rachel Self, Roger Becker, Russ Hopping, Sean Francis, Tom & Becky Ross, William Gazaille

Continued Public Hearings

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 to the Gut at Cape Pogue Wildlife Refuge in Edgartown, Massachusetts

Eligible commissioners: ALL

Documents shared: site photos from public commenters. Subject matter:

Chemical toilets at gatehouse, lighthouse and toilet at lighthouse.

The Chair asked the applicant if they had any response to the questions raised at the previous meeting, the applicant noted that they would reserve

comment until the end of this meeting. The Chair opened the floor to public comment.

Rachel Self noted that the Cape Pogue DCPC had scheduled a special meeting for the following week to discuss and opine on the application. She noted that she had visited the Conservation office recently and created a file that encompassed the documentation on file dating back to the initial NOI in the 1990s.

Jay Osler shared his frustration and sadness that the management of the area had deteriorated to the point that access may not be available for even a season. He spoke in favor of the historic access for fishermen and shellfishermen and offered ideas for compromise, specifically considering Different rules in different season, Daily limit on vehicles or reservation systems

Tom & Becky Ross spoke of their opposition to the TTOR application based on its lack of an approved beach management plan (BMP), and noted that the last approved BMP dated back to the early 1990s. They referenced points from the 1991 TTOR reports that noted the need to protect the area from OSV over use and that the access should be limited to current (1991) levels. They reviewed how the trail through the area known as *the cedars* had been opened due to hurricane damage to other trails and the use of the trails was to be reviewed annually and was supposed to be used by emergency vehicles and Pogue homeowners. The trail has been in general use ever since with no indication that it would be closed as directed. They noted that these points show that TTOR does not follow their own protocols that they established, at risk of permanent damage to the preserve. They noted that their current practices have neglected infrastructure and ignored their own policies.

Leslie Self spoke of the history between TTOR and Chappy property owners. She recalled the land, time, and monetary donations to TTOR to preserve and care for the property. She explained the amount of work volunteers put in fundraising for TTOR for their Chappy properties and expressed the disappointment of the volunteers when TTOR informed the Friends of Cape Pogue group that their fundraising efforts would not go back into the beaches but to the central TTOR accounts in Beverly MA. Access to these beaches is a reality because of the donations of previous and current landowners and they only ask that the established regulations be followed.

Bo Reily requested the NOI be rejected due to its incorrect and misleading nature. Mr. Reily asserted that some of the properties listed in the NOI

are not in fact owned or managed under contract by the applicant. He noted that 1.5 miles of trail pass over private property, including his own and he requested that TTOR retain access trails on their own properties or properties they actively manage.

Judy Murphy spoke to the history of the Dike Bridge and the need for the applicant to maintain the bulkhead on their property and that Pogue residents had been encouraging maintenance on the bulkhead for the past 10 years. She also spoke to the bottleneck at the gatehouse between kayak rentals, people airing down there rather than Mytoi and all traffic being directed into a single lane. Move all gate house ops to Mytoi (except kayak rentals), staff needs to be trained as to where TTOR properties end and where private property begins, communication between TTOR and the applicant need to be clear, do not impede traffic on the bulkhead.

Victor Colantonio addressed the WPA and voiced concerns about the lack of plan stamped by a professional and that the submitted plan does not accurately delineate resources and setbacks from these resources. He noted that trails that were previously 10' wide are now 40'

William Gazaille stated that the protection of Cape Pogue is paramount and that he didn't want the landowners and the Commission to be blamed for TTORs poor management and their opposition to separating the application into one for each distinct beach.

Joe Russo spoke of TTORs *State of the Coast* report and the future inundation predicted at Cape Pogue. Mr. Russo felt that the current management activities likely contributed to the vulnerability of Pogue. He expressed disappointment with the applicant's management of the properties and the lack of attention to the ecology of the area and compliance with the WPA.

Rachel Self spoke to the black and white of the law and of the WPA and its regulations. She spoke of the need of other Pogue residents to follow the procedures laid out by the WPA in regards to submissions, abutter notifications, the recording of Orders of Conditions and extensions. It was noted that the applicant had been issued an Order of Conditions in 2016 (which is not on record at the Registry of Deeds **CONFIRM THIS**), the submission of a complete BMP be submitted by the Fall of 2016, this BMP is not on record as being submitted. The last valid BMP was in 1990 and based on a 5 year study utilizing local experts, university members, and the public. One of the conditions set

when the Edgartown Selectboard approved the BMP was an annual review/approval of the BMP and transparency regarding the funding for the execution of the BMP. Rachel noted that none of the access limits or monitoring set forth in the 1990s were ever implemented. She also noted that the portable toilets were in violation of the 2016 Order of Conditions that allowed them but mandated that they be “unobtrusively located” (pictures shared) and that they regularly tipped over during storm events, into the resource area.

Rachel Self raised concerns about the commercial use of the property and the increase in tours and reviewed the complaints filed with the then Edgartown Zoning Inspector. She noted that it did not appear that any NOI or abutter notification had been submitted for this expanded use. She also noted that the applicant had, without permitting or abutter notification, installed a chemical toilet at the Cape Pogue Lighthouse (pics of lighthouse and surrounding area shared). She also noted that the Cape Pogue DCPC regulations require a current BMP.

Edward B. Self thanked the Commission for providing the space for public comment.

The Chair asked for any Commissioner questions or public comment, there were none. He thanked the attendees for the valuable information provided.

The Chair asked the Agent to review the questions that had been posed to the applicant by herself and the board including:

- Applicant should provide maps and/or lists of trails that are closed to OSV traffic during flooding
- Alternative access around the Cedars when the bay side is flooded
- Does TTOR protect unlisted species on Leland Beach
- Does TTOR exceed state guidelines regarding the OSV corridors on Leland
- What is the condition of the Maritime Cedars a state ranked community labeled as imperiled
- Timeframe for submitting the new NOI to change practices and what will those practices entail
- Why allow AWD on their Vineyard beach properties when AWD is not allowed on their Nantucket properties
- Location of cross over trails, would ramps help?
- Locations of signs marking restricted areas
- What information is given out to OSV users

- If TTOR can't meet staffing requirements and be in compliance with any permit issued, what do they plan to do.

Darci Schofield (TTOR) thanked everyone for their thoughtful comments and advised that TTOR is working with the public to develop their new BMP and build consensus around the plan. Darci spoke of the challenge of balancing all multiple interests in these places is almost insurmountable. She spoke of her commitment to improve management of and access to the properties. She noted that they have listened over the past year and have reduced the number of tours and dealt with porta potty issues and noted that change takes time.

Darci advised that she and her staff do redirect visitors who deflate on Dike Bridge road rather than Mytoi. She noted that the BMP submitted with the NOI was an effort to best capture existing practices. She spoke of her commitment to work within the regulations and noted that this NOI is designed to give visitors access this summer season while they work with the community to develop a more extensive plan.

The Chair asked if anyone had anything new to add.

Alexis Colantonio requested that Commissioners review the photos and videos provided by abutters as they will provide a glimpse of the day to day on the properties. She noted that this is not an issue with Darci but a longer term TTOR management problem that has led to these issues.

Action: A motion was made, and seconded, to continue the hearing to 4 PM on 2/15/23

Passed unanimously via roll call vote

With nothing further to discuss the meeting was adjourned at approximately 5:36 PM