



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

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

Commissioners Absent: none

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

Public in attendance: 509746 (Ted Roosevelt), 17039634759, Abigail Rosen, Alexis Colantonio, Ann Brine, Ann Floyd, Attorney Dylan Sanders, Ben G., Bill Brine, Bo Reily, Bob, Bob Hayman, Bob Hurst, Brad Holley, Brooke Kushwaha, Brush, Flanders & Moriarty, Chris Kennedy, Chris Tuccelli, Chuck Willette, Cornelia, Cynthia Dittbrenner (TTOR), Cynthia Hubbard, Darci Schofield (TTOR), David Faber, David Tyler, dbalon Debbie Cron Deborah Edward B Self, Edwina Risland, Elizabeth McDonough (TTOR), Frank Pereira, George, Harrison Kisiel (MVLB), Hillary, J W, James Hagerty, Jay Osler, Jay Hunter, Jess Bardi, John Piekos, JoJo Brennan, Jonathan Herman, Joseph Russo, Joseph Susienka, Judy Murphy, Karen Osler, Katie Ryan, Kirk Oswald, Lisa Lichtenfels, Louise Brooks, Lynne, M Thompson, Malissa & Jay Osler, Marilyn Vukota, Mark, Mary Dettloff, Matt, Michael S. Gaimo, Morgan Herman, Penn Edmonds, Pete Murphy, Peter Baumann, Peter Sliwkowski, Peter Vaz, Phil Horton, Rachel Self, Rob Morrison, Robert, Roderick Lichtenfels, Ross Kessler (DMF), Sarah Jane Hughes, Calpel, Sean Francis, Seena A. Pidani, Serene Forte, Sourati Engineering Group (George), Tom and Becky Ross, Warren Gowell, Westpointinvestments@yahoo.com

Martha's Vineyard Land Bank SE20-1676

Location: 28 Litchfield Road (AP 30-233)

Project: The proposed project involves the creation of a trailhead, universal access trails, a boardwalk and associated site work & accessories

Documents Shared: Aerial of site, site plan, plan for earthen steps, existing conditions photos,

The MVLB is proposing 384' of new trail with 6' width in the buffer and 4' in the resource. The trails would be created by mowing then installing 3" of gravel, compacted. 79' is in resource areas with 18' from top of bank to the saltmarsh which would require earthen steps.

Commissioner Comment: Commissioner asked what happens when the earthen steps meet the marsh. Harrison explained that at high tide the water comes to the bottom of the bank and people could launch a kayak there but at low tide they would need to walk across the salt marsh. Commissioners asked why this was important and Harrison explained that it was part of the MVLBs plan for this property, to allow for public access to the water since there is no public access to Caleb's Pond currently. Commissioners stated that there is access from other points and did not recognize any hardship in this case, especially considering the pristine beauty of the area and the fact that it would promote people traversing the salt marsh. Harrison noted that several properties around the pond already have mowed access paths with mowing in the saltmarsh and felt that the access was already happening for private property owners so this would open the access for the public in the same manner. Commissioners noted that property owners need to stop mowing resource areas.

Public Comment: Kara read two letters into the public record (one from a group of abutters and another from Katie Ryan, both on file).

JW - Very concerned about any construction around Caleb Pond on either side of the road and felt that any walkway would damage the view and doesn't belong there.

Jonathan Herman - Expressed that the importance of this site is not just kayaks but access for all. There's currently no access for people to park and shellfish as there are no public access points that allow for parking.

Peter Vas - Noted that he is an abutter and lives in Caleb's Common Lane and that everyone in that neighborhood was very excited to have a public place to launch kayaks.

Peter Baumann: Noted that the boardwalk had been their biggest concern and feels that the number of visitors will be small.

Action: A motion was made, and seconded, to continue to 11/29 to allow for an additional site visit (not all Commissioner made the original site visit)

Passed via roll call vote of members present

Tower Hill Martha's Vineyard LLC

Representative: Sourati Engineering Group (George Sourati & Bryan Collins)

Location: 31 Tower Hill Road (AP 29-159)

Project: Seeking permission for the construction and maintenance of a 10' +/- long pier extension and the addition of floats to an existing pier located in Edgartown Harbor.

Note: Marine Advisory has approve the plan being presented

Documents Shared: Aerial of site, site plan

George reviewed the site and noted that the pier has been there for years. This application seeks to add to the existing pier and add floats. George confirmed that the floats will not go low enough at low tide to impact the harbor floor.

Commissioner Comment: Jeff Carlson recused himself, Jane Varkonda noted DMF's response has not been received but once it is can be worked into the Order.

Public Comment: George (no last name listed) spoke in favor of the application.

Action: A motion was made, and seconded, to approve the application as presented with standard pier conditions:

Passed unanimously via roll call vote of members present with Jeff Carlson recusing himself and Max Gibbs abstaining

Continued Public Hearings

HCF HOA asked for their application to be continued to 12/13 as they are still obtaining permissions for construction access from abutters per the Commonwealth's request.

Action: A motion was made, and seconded, to continue the hearing to 12/13/23

Passed unanimously via roll call vote of members present

Soverns

Action: A motion was made, and seconded, to continue the hearing to 11/8/23

Passed unanimously via roll call vote of members present

44 Green Hollow Road LLC

Representative: Sourati Engineering Group (George Sourati), Chuck Willet, Frank Pereira

Location: 44 Green Hollow Road (AP 29-134)

Project: Seeking permission for the demolition of an existing single-family residence and garage/detached bedroom and the construction of a new single-family residence and garage/guest house with associated utilities. The project also includes the installation of a new well and sewage disposal system. A portion of the work is located within the 200' Buffer Zone to a Coastal Bank and Wetland, and within the 100' Buffer Zone to the 100-Year Flood as defined in the Edgartown Wetlands Protection By-law.

Documents Shared: Aerial of site, site plan, architectural elevations

George explained that a similar project had been approved by the Con Com, Planning Board and BOH several years ago, the work was never done and now there is a new owner and new architect on board. They are proposing to demo the existing structures and rebuild a new single family dwelling and guest house/

garage. The current proposal is smaller than the one previously approved. This hearing was continued previously to allow for a site visit.

Commissioner Comment: Commissioners asked about reducing the glass and noted that white trim would help the building blend into the existing architecture. The architect confirmed with their client that they were fine switching to white frames rather than the darker ones shown in the plan.

Public Comment: George (no last name listed) commented that the glass across the front would make the home look unusual from the water. The architects noted that the proposed home is set back further than the abutting homes and likely wouldn't stand out as much as it seems. The sliders are 14' back from the front of the house.

Site visit report: Commissioner Kontje noted that the entire lot is grass and this project won't result in any encroachment into any resource areas.

The applicant noted that the THPO is aware of the project

Action: A motion was made, and seconded, to approve the project with the standard conditions, including a landscape plan submission and the following condition: white framing on the doors/windows & white trim

Public Hearing –Notice of Intent **SE20-1703**

Applicant: Trustee of Reservations

Address: Cape Poge Wildlife Refuge

Representative: Darci Schofield, TTOR

Project: Seeking authorization for the operation of Over-Sand Vehicles (OSVs) on land The Trustees owns on Cape Poge Wildlife Refuge. Cape Poge Wildlife Refuge is approximately 357 acres with five miles of barrier beaches and approximately 10 miles of OSV trails beginning north of the Dike Bridge to the Gut.

The application applies to the following Trustees owned properties: Road to the Gut (AP 15-2, 15-3, 15-4, 3-1, 3-2.1, 4-1, 4-2), 20 Lighthouse Road (AP 17-1), 43 Lighthouse Road (AP 3-12), Shear Pin Lane (AP 3-13.112), 35 Lighthouse Road (AP 3-13.17), Lighthouse Road (AP 3-13.18 & 48-45), 30 Lighthouse Road (AP 3-13.2), 23 Lighthouse Road (AP 3-14), 29 Lighthouse Road (AP 3-15), 10 Lighthouse Road (AP 32-2), 71 Lighthouse Road (3-5.1), 16 Road to the Gut (AP 3-7.1), 23 Pocha Road Extension (AP 49-1) AND on non-Trustees parcels with right to pass: 5 Shear Pin Lane (3-13.111), 20 Road to the Gut (3-5.3), 29 Road to the Gut (AP 3-2.3), Road to the Gut (AP 3-2.2), 40 Road to the Gut (AP 15-1)

Public Hearing –Notice of Intent **SE20-1702**

Applicant: Trustee of Reservations

Address: Leland/ Wasque

Representative: Darci Schofield, TTOR

Project: Seeking authorization the operation of Over-Sand Vehicles (OSVs) on land The Trustees own and manages under contract at Wasque Reservation and Leland Beach.

The Notice of Intent pertains to approximately 3.6 miles of OSV trails within the 298-acre combined properties.

The application applies to the following properties: 23 Pocha Road Extension (AP 49-1) Lighthouse Road (AP 48-45)

Both hearings were reopened, the presentation for SE20-1702 (Leland/ Wasque) took place at the previous hearing. The application for SE20-1703 (Poge) will take place today.

Documents shared: Powerpoint presentation on Cape Poge application (on file with Conservation Office)

Recap of BMP and stakeholders and the changes made from the initial application last year including dog policies, the loss of bayside access and access to the Gut and TTOR's non-listed species protection.

Darci reviewed the structures on this area of beach, including the Dike Bridge gatehouse and portable toilets, boardwalks, the lighthouse, which is outside the WPA jurisdiction but noteworthy nonetheless.

The benefits of adaptive management were presented, specifically assessing OSV trails and corridors and making management decisions appropriately based on conditions. Darci explained how the adaptive management approach would reduce blanket OSV trail closures as it allows for TTOR to manage trails and access by responding to the "dynamic nature of the beach system".

Darci reviewed how TTOR will delineate the OSV corridor per the Guidelines and how the ocean side OSV corridor will be delineated between 10' from toe of dune and the berm crest. The bay side differs based on the tides and wrack lines with the bayside having higher high tides and more frequent flooding. The OSV corridor will be delineated based on the average high tide line and the base of the vegetation with at least a 9' corridor. Darci discussed that TTOR is managing the wrack by moving it towards the vegetation by hand so it is not driven over.

The OSV permit sales were reviewed compared to the Cape Cod National Seashore and Sandy Neck Beach (chart in ppt presentation). Per the Commissioners request at the previous meeting, TTOR presented their 2023 stats with 1531 total permits being sold, 279 (18%) to island residents and 41 being AWD vehicles (2.6%).

Restoration and resilience was discussed as TTOR understands the impacts of OSV vehicles and wants to work to make them available for future generations to enjoy. Darci noted that TTOR is working with the Dredge Committee and the Town to utilize dredge spoils from Cape Poge in November. They are also looking at solutions for Tom's Neck and the Cedars regarding restoration. They are also working on funding for a design and feasibility study for saltmarsh restoration in Pocha Pond.

Commissioner/ Staff Questions:

Commissioners expressed surprise that 86% of OSV passes sold were for non-residents and asked for further breakdown.

Commissioners stated that before beach access and trail maintenance was discussed people had to be able to get to the beach and stressed that some kind of timeframe for rebuilding the causeway needed to be in place. Commissioner Kontje read the letter from the Selectboard into the record regarding the state of the bulkhead and asked that the Conservation Commission consider making a condition of the Order of Conditions that TTOR put a percentage of OSV sticker sales into an escrow account to go towards the bulkhead repairs (letter on file with Conservation Commission).

TTOR Atty Dylan Sanders spoke in response to the letter noting that they had just received the letter today and would follow up with a formal response. He stated that "categorically, this is not our bulkhead, this is not our land." He noted that TTOR is committed to finding a solution with the Town and that no one is more interested in ensuring that the bulkhead is safe and they are very motivated in finding a solution but the fees collected via OSV sales don't fully defray the cost of managing the property. He stated that the Town is aware that TTOR does not own the bulkhead that the and that the group (successors of Pocha Pond Hunting and Fishing Company) is "making a claim against the Town to be bought out by eminent domain". He stated that phase 2 of rebuilding the bridge was never completed by the state. Commissioners asked their plan if the bridge washes out, how can TTOR sell access over something that doesn't exist?

Commissioners asked about where the upcoming dredge priorities are and Darci noted that the entrance trail, the cedars and Tom's Neck are all on the list and there should be ample material for these areas. Commissioners asked Chris Kennedy to report on the current state of the area based on a recent flight he and Bill Brine took at low tide. He noted that the oceanside looked similar to during his tenure but that the bayside clearly had less beach and higher water. He did note that driving in the intertidal zone is legal and 2 hours either side of high tide could be an adaptive management solution similar to other towns have done.

Commissioners expressed concern with the amount of staffing TTOR has given what it will take to manage a property like with adaptive management. They added that they would like reassurances that the staff will be there and be available to respond as needed.

Capacity was discussed and Darci Schofield explained how, based on the 1994 guidelines, the number of OSVs that could fit on these beaches is 889, knowing that was too much, TTOR looked at additional data and set the top of the capacity at 300. Chris Kennedy noted that during his tenure TTOR did a traffic study and found that only 25% of Ferry traffic were beachgoers.

DMF - Ben Gahagin spoke on behalf of the MA Division of Marine Fisheries and expressed their support for the NOI and stated that the adaptive management

principles satisfy a lot of their organizations concerns regarding beach management and what DMF is trying to do in regards to beach access and they are happy with TTORs willingness to work with them to ensure access.

Public Comment:

- Joe Russo - spoke to the bulkhead and noted that ownership is not the issue, the issue is who caused the damage, "I could stand on the street and throw a rock through a window, I don't own that home but I would be responsible for repairing it". He stated that it is clear that over 30 years of OSV access is the cause of the damage to the bulkhead and spoke to the finances and "the profitability of non-profits" noting that TTOR has a quarter billion in assets and last year showed 38 million in profitability with several several directors making over \$300,000, noting that they should reevaluate where they spend their money.
- Edwina Rissland - Seasonal Chappy resident, asked about carrying capacity and OSV permit sale limits.
- Ted Roosevelt - Spoke of the need for TTOR to rehire the Woods Hole Group to use scientific methods to analyze how the beaches have changed and incorporate the changes in the beach to a management plan.
- Seena Pidani - Spoke to the need to resolve the Dike Bridge issues and supported the need for scientific analysis for beach management. He noted that TTOR was running a business and that we needed to examine to what extent we are willing to tolerate damage to the beach. He spoke of the Parker River project in Newburyport which, due to the impact of OSVs on beaches, reduced OSV permits from 200 to 85 and more recently 25-75 OSV permits are issued annually along the 4 mile stretch of beach. He stated that it was very clear that \$\$ was not going back into their properties and was "astonished" that there was pushback from TTOR on repairing the Dike Bridge which is clearly an instrument of the organization and a bulk of the traffic is attributable to TTOR. He noted that financially there is a correlation of 2002 the top three executives made between \$220,000 - \$153,000 and in 2020 the top three made between \$520,000 and \$311,000.
- David Tyler spoke of the need for a third party analysis of TTORs information

Action: A motion was made, and seconded, to continue the hearing until October 8, 2023 at 4 pm

Passed unanimously via roll call vote

Action: A motion was made, and seconded, to approve the 9/13/23 minutes as presented

Passed unanimously via roll call vote

Action: A motion was made, and seconded, to approve the 9/27/23 minutes as presented

Passed unanimously via roll call vote with the Chair abstaining

Unanticipated item:

Kara explained that she has found a year-long program through the University of Vermont that would result in her obtaining a professional certificate in GIS. She noted that it could be a very helpful skills set for Conservation and other Town Departments and that she's spoken with the Vineyard Vision Fellowship and felt it would be a good fit for their organization and they noted the Chair would be an appropriate person to nominate the candidate.

Action: A motion was made, and seconded, to allow the Chair to nominate Kara for the Fellowship.

Passed unanimously via roll call vote

With nothing further to discuss, a motion was made to adjourn the meeting at approximately 6:55 PM