



Meeting Minutes - Edgartown  
Conservation Commission  
December 8, 2023 (2 pm)

Commissioners present (5): Peter Vincent (Chair), Lil Province, Geoff Kontje, Jeff Carlson, Robert Avakian

Commissioners Absent (2): Christina Brown, Max Gibbs

Staff (2): Jane Varkonda (Agent), Kara Shemeth (Assistant)

Public in attendance (37): 12407600237, Alexis Colantonio, Dylan Sanders, Bo Reily, Brooke Kushwaha, Bruce, Chris Kennedy, Constance Roosevelt, Cynthia, Darci Schofield (TTOR), DCron, Edward B Self, Elizabeth McDonough (TTOR), Hillary, iPhone, Jonathan Herman, Joseph Benton, Josiah Jameson, Karen Osler, Leslie Self, Malissa and Jay Osler, Mark Osler, Mary Dettloff, Matt, Morgan Herman, MV Striped Bass and Bluefish Derby, Peter Sliwkowski, Rachel Self, Rick Schifter, Ron Domurat, Ross, Sean Francis, Serene Forte, Ted Roosevelt, Timothy Moriarty (Brush, Flanders & Moriarty, llc), Victor Colantonio

The meeting was opened by the Chair. A brief summary of events leading to this meeting was given by the Assistant:

- 11/8/23 - extension of SE20-1672 under the local bylaw was voted under "unanticipated items". The Order was continued to the end of December.
- 11/29/23 - extension put on agenda as a discussion item and Order was extended to 12/6/23 rather than the end of December.
- 12/6/23 - Due to a clerical error, the extension was not added to the 12/6/23 agenda and Commissioners voted to hold a meeting on 12/8/23 at 2 PM to address the issue

The Applicant (Darci Schofield, TTOR) gave year round visitors and the upcoming dredge / nourishment project as drivers for the extension. The Agent, Jane Varkonda, noted that the dredge nourishment is covered by the Town's permit and the work is allowable under that existing permit.

The Chair asked for potential issues if this Order was not continued. The Agent explained that without the extension the beaches would need to close.

## Public Comment:

Peter Slikoswki: Asked for clarification on the timing of the extension vs the issuance of the potential new Order.

Victor Colantonio: Stated that he felt very strongly that the applicant does not have the capacity to manage the property or nourish the trails adequately and asked that the extension be denied due to lack of staffing to manage the beach.

Chris Kennedy: Noted that an important reason to extend the Order is to allow people who are mobility impaired to be able to experience the property. He spoke in support of the applicant and noted that he felt that their staffing could manage the beach in the off season.

Serena Forte: Asked (via Zoom chat) if people could still access on foot if the Order were not extended. The Chair confirmed with the Agent that access by foot would be allowed if the Order were not extended.

Rachel Self: Asked for clarification on the ability to extend the local Order. She quoted her email to the Agent: "I just want to be clear that the special conditions trump the general conditions, particularly with regard to the time that is covered by the Order of Conditions." She read the guidance for issuing an Order for 5 years rather than the standard 3 and noted that there is no guidance for when an Order is issued for less than 3 years. Her email went on to ask for clarification that this Order would expire on 11/30/2023 and asked if that superseded the 3 year standard length. She noted that the ability to extend the local Order was not noted in the conditions (it was expressed in the minutes) and felt that it was a violation of due process for those who would have been able to appeal the Order. She asked for the code and statute that provided a mechanism for the local extension being discussed.

The Agent explained that she respectfully disagreed and explained that her response to Rachel Self's email was that "yes, if it's not extended under the local bylaw, the Trustees permit expires". She noted that staff had reviewed the minutes and noted that the decision was voted in a manner that allowed for extensions under the local bylaw. She also noted that there is no mechanism to extend a local bylaw simply because the Commission does not have any such regulations in place. The Agent explained that she believed that the extensions were allowed under the local bylaw because of how it was voted and noted that the guidance from the Wetland Protection Act referenced by Rachel Self do not apply to the local order and that it was laid out this way to ensure that the applicant returned with a new NOI within the timeframe they set.

Rachel Self asked about the legality of TTOR continuing to utilize access over the Dike Bridge/ causeway after they've come out publicly denying that they own it. The Agent noted that that was a legal issue not dealt with by the Wetlands Protection Act.

Jonathan Herman : He spoke to not being able to access the beaches over the past few days and hoped that an extension would be granted.

As of 12/6/23 TTOR closed the beaches as they did not have a valid local Order until today's potential decision. Commissioners asked how TTOR had gone about closing the beach and Darci Schofield explained that they had put up barriers and sandwich boards with the pertinent information

The Agent asked that the rope be moved from the Gatehouse to the western side of the bridge so people don't have to back off the bridge. She advised that if TTOR does not have staff, the beach should be closed. Darci noted that she will take that under advisement.

Commissioners asked for the answers to the list of questions that will be provided to TTOR be submitted in writing by 1/17/24.

**Action:** A motion was made, and seconded, to extend the local Order to 1/24/24. It was noted that prior to the 1/24/24 meeting, Commissioners want regular staffing on the beach and expect the applicant to come to the 1/24/24 meeting with a staffing plan for the entire year going forward as well as a budget for operating the beach and proof of financial responsibility.  
Passed unanimously via roll call vote.

A motion was made to adjourn the meeting at approximately 2:50 PM