

Town of Edgartown  
**Cape Pogue DCPC**

Minutes of Meeting  
October 26, 2023 5:00 P.M.

In Attendance (*virtual*):

Town Administrator (James Hagerty)  
The Trustees of Reservations Membership (Bob Hayman)  
The Trustees of Reservations Staff (Darci Schofield)  
Cape Pogue Property Owner appointed by the Edgartown Board of Selectmen (Rachel Self)  
Massachusetts Environmental Police (Matthew Bass)  
Edgartown Board of Health (Chris Edwards)  
Edgartown Marine Advisory Committee (Ed Handy)  
Conservation/Wildlife Specialist (appointed jointly by Sheriffs' Meadow Foundation, Vineyard Conservation Society, and Vineyard Open Land Foundation) (Matt Pelikan)  
Edgartown Conservation Commission (Jane Varkonda)  
Edgartown Police Department (Sgt. Ryan Ruley)  
Edgartown Shellfish Constable (Rob Morrison)

Meeting called to order.

Water Issues

*Scallop Season - updates*

Rob Morrison gave an update regarding the scallop season. Last year would be a tough act to follow. There was a lot of seed in the pond, but most recreational fishers were not harvesting the full limit. Recreational dragging would start the next morning, and the commercial season would start this coming Monday. He expected a better idea of what was around for this year's crop at that point. The abundant seed gave him high hopes for what would be available next year.

Land Issues

*Beach updates*

Rachel Self reported that regular flooding at high tides was one of the issues that had arisen in the last several weeks; she shared images of recent flooding during normal high tides. These images were also presented at the Stakeholder Group. She believed that all of the flooding trails required remediation, not just Tom's Neck. Her position was that these trails were in violation of the Wetlands Protection Act, as they involved driving through low grade in places where water was coming up from the ground.

*Dredge spoils*

Rachel Self also wanted to make the Committee aware that at the last stakeholder meeting it was brought up that dredge spoils are available for these purposes. TTOR had applied for a grant from the Department Marine Fisheries to try to raise funds to remediate this trail.

Darci Schofield first clarified that simply driving on the beach is a violation of Wetlands Protection Act, which is why TTOR got an order of conditions; and the guidelines were the roadmap for TTOR's complying with the Act. As for the grant, TTOR two years ago applied for a grant to build up resilience on Cape Pogue through salt marsh restoration (this was the roughly \$400,000 grant described in a recent newspaper article). That grant was just awarded. Those funds were not available for this Cape Pogue project, because at the time of the application the Tom's Neck project had not yet been contemplated. When TTOR heard that dredge was available, the vision was to restore the bayside trails, retire them, and create a new crossover trail to Tom's Neck. TTOR now has money to accept and move the dredge sediment to do this, and steps are being taken to make that happen. They have also just learned that the area shown in the images Rachel Self shared was part of pre-approved nourishment area. So TTOR could raise the grade of the trail, and there should be sufficient sediment to accomplish the whole project they had proposed. She would send the proposal to the Committee members.

Rachel Self asked how many cubic yards of dredge were involved; Darci Schofield did not have an exact number. Ed Handy reported that it was somewhere around 4,400 cubic yards. He expressed that it was pretty apparent from the photos that the road was well below grade with the rest of the beach, beaten down by traffic, and the only solution was to go forward with this project, which was not something he believed had ever been done before. He described the current plan from the Edgartown Dredge Department's point of view: they would pump sand and someone TTOR hired would put it where it needed to be, getting the roads up to the same grade as everything else, replacing the sand that had been pounded down by OSV's.

Rachel Self believed that remediating the trails was incredibly important in order to make arguments that recreational OSV access could continue to be allowed in the future. This kind of remediation had never happened before, and she was very pleased that it was going forward. Darci Schofield confirmed that it was going forward now, and TTOR was actively working out the specifics of the funding required.

Ed Handy expressed that, once again, the town of Edgartown was coming in to do the work for the better of the pond and helping TTOR out with trail remediation. The town had the permits, and intended to keep them up to date so that this could continue to happen in the future. Because it was private property, they needed help from the landowners to do it so they wouldn't be seen as benefitting private interests.

Bob Hayman asked if the NOI was turned down, would this job be allowed to go forward? Jane Varkonda and Ed Handy answered that yes, the project would go forward. If the town had not already had those permits ready to go, then an NOI would be required to do that work; but the permits were pre-existing, and the town had had them long enough to pre-date everything else that was going on. Any nourishment outside of the area the town had permits for would require TTOR to go through a separate permitting process. Bob Hayman asked what the cost was to the town for this project. Ed Handy replied that the town's primary objective with this project was to

improve flow into the pond for shellfish purposes, and they had nowhere to put the sand involved except to put it on the beach if this project doesn't work out.

Chris Kennedy asked whether all 4,400 cubic yards would be used in the roadways. Darci Schofield had heard that the 4,400 yards would be enough, and if there was extra, there were plans that could be discussed. Chris Kennedy asked Ed Handy whether the dredge spoils could be dewatered in the trail system, or did it have to be pumped to East Beach? Ed Handy's concern was that dewatering in the trail would overrun the marsh. Pumping it onto the beach would be more practicable. Jane Varkonda asked Darci Schofield whether TTOR had to go through with separate NOI for the restoration of the cedars trail. Darci Schofield would discuss that with her at a later point.

### *Vehicle Counter*

The vehicle counter had been damaged and was no longer working. Rachel Self asked James Hagerty whether that could be addressed. She had traffic numbers from the Commission counter, and had asked for help from the Commission in reading the reports. She was told that the counter registered trips. Over 105 days, there were 25,468 trips. Dividing that by two gave the number of round trips. The average was 243 trips per day, or about 120 cars per day. The reports had data about what times were the busiest, and they averaged weekday traffic, Saturday traffic, and Sunday traffic, as well as showing peak times heading east and west. This data could help inform proposed daily limits on vehicles, and also clarified the need for remediation of the bridge infrastructure. She had sent the reports to the Committee members, and hoped that at the next meeting the Committee could have a substantive discussion about the issue, anticipating that the Commission would want input from the Committee regarding any future potential vehicle limit numbers.

Ed Handy asked what the asterisks meant on certain days in the reports. Rachel Self indicated that the asterisks mean that the counter had been taken down for an hour or two to download the data. Ed Handy asked Jane Varkonda whether the Commission wanted feedback from the Committee. She replied that, yes, the Commission had put in the order of conditions that TTOR should gather daily vehicle counts and submit them to the Commission upon request; because the Commission was deep in reviewing applications, it seemed logical to ask the Committee to take a look at the TTOR data and any other data, and let them know their thoughts. She hoped the Committee would, for instance, tell the Commission that the busiest days were X, what was the maximum number of cars per day, etc.

Chris Kennedy identified some inconsistencies in the data, particularly that there seemed to be a higher number of vehicles going out to East Beach than returning, and the discrepancy could not be explained by summer residents going home at night. Rachel Self did not have an explanation for that level of inconsistency. It would be interesting to get someone to figure out the issue. Darci Schofield expressed that it was important to understand that there was a margin of error in the instruments. There were three different systems of vehicle counting, and none of them were likely to align exactly. She was happy to talk to the Committee about the data, but it would not be a precise comparison between sets of numbers.

## *Update on Beach Management Plan*

The NOI's were currently before the Commission for the beach management plan. Rachel Self indicated she was still confused, as she had expressed in previous meetings, about how the NOI was in front of the Commission without TTOR having a special permit first. The Planning Board had issued a special permit back in the day when TTOR was first given this responsibility, which permit was supposed to be subject to annual review. She understood that in 1990, when the special permit was approved to permit management, OSV access, sticker sales, etc., the only access was through Wasque. At that point, no one could drive over the bridge. Now that the only access was the bridge, and she wondered how that changed things — how did the fact that TTOR says they don't own the access point change things? Back in the 90's, the pamphlet handed out to OSV drivers indicated 4WD only was allowed, and all sticker fees were used for management and protection of the properties. Questions about these practices and changes to them had come up at the Commission meeting last night. She was seeking input from Committee members on these issues, because she was concerned that if there was no special permit, that might be a problem.

Jane Varkonda explained that her interpretation was that because structures were included in that original plan, that was why it went to the Planning Board in 1990. She agreed the issues needed to be discussed. Darci Schofield commented that the language in the DCPC was about development, whereas the Wetlands Protection Act discussed alternation or development or impact, etc. She suggested it might be a good idea to have a lawyer like town counsel make a legal determination about the differences in that language so the issue could be put to rest. Rachel Self read the DCPC as requiring a special permit for development as defined in the 1977 act; that language defines development in words to the effect of "affecting and altering the resource." She would supply the language to the Committee. Chris Kennedy explained that the reason they applied for a special permit in 1990 was because they were putting structures on the beach. They went to the Planning Board when a structure was involved. His understanding was that if there were no structures, they would only go to the Commission.

At the next meeting, Rachel Self hoped there would be substantive discussion and motions about language to create an exception for herbicide use. Jane Varkonda also discussed opening a discussion regarding the numbers of structures or dwellings that were permitted on each lot within the DCPC. Ed Handy indicated there were no plans to change pier regulations in Cape Pogue, and Rob Morrison expressed support for that position.

The next meeting was scheduled for November 30 at 5:00 P.M.

Meeting adjourned.