

Town of Edgartown
Cape Pogue DCPC

Minutes of Meeting
May 30, 2024 5:00 P.M.

In Attendance (virtual):

Town Administrator (James Hagerty)

Cape Pogue Property Owner appointed by the Edgartown Board of Selectmen (Rachel Self)

Edgartown Conservation Commission (Jane Varkonda)

The Trustees of Reservations Membership (Bob Hayman)

Conservation/Wildlife Specialist (appointed jointly by Sheriffs' Meadow Foundation, Vineyard Conservation Society, and Vineyard Open Land Foundation) (Matt Pelikan)

Edgartown Board of Health (Chris Edwards)

Edgartown Marine Advisory Committee (Ed Handy)

The Trustees of Reservations Staff (Darci Schofield)

Edgartown Harbormaster (Charlie Blair)

Martha's Vineyard Commission (Dan Doyle)

Meeting called to order.

The minutes from December, January, February and March were submitted; Ed Handy moved to accept the minutes; Bob Hayman seconded. A roll call vote has held. The minutes were accepted.

Darci Schofield requested that an item be added to the meeting's agenda regarding the Wasque stairs.

Water Issues

Update from Harbormaster and Shellfish Warden

Charlie Blair reported that the project at North Wharf was on the final punch list — but unfortunately there was no fuel yet, and an electrical line needed to be fixed. He also reported that no-wake buoys would be installed at Cape Pogue. A new Deputy Harbormaster had been hired, with experience as a fireman, an EMT, and a member of the Coast Guard. They were very pleased to have him on board. Memorial Day weekend had been relatively peaceful.

Land Issues

Virtual Field Trip to Vape Pogue

At a previous meeting Ryan Ruley had suggested it might be useful to fly drones over Cape Pogue to get a view of the beaches; but because of nesting activity that was not feasible, but a drive-out video had been posted on YouTube showing the state of the beaches. Rachel Self had provided the link to that video and suggested that any Committee members who had not made it out to the area might watch it. Darci Schofield inquired as to why the video only included Cape

Pogue, and not Norton Point; Rachel Self explained that the reason was that it was a video sent to her by a third party, and that was all they had included. Darci Schofield reminded the committee that it also had jurisdiction extending all the way to Norton Point. Rachel Self encouraged anyone with any concerns or commentary about Norton Point, whether from the public or the Committee, to raise them at any time. Bob Hayman noted that on the video on the inside it looked pretty impassable; Rachel Self agreed. Ed Handy asked Darci Schofield whether the video was representative of the state of the area. She reported that there had been quite a bit of accretion at Leland and Wasque; Wasque was being protected for shorebirds with pedestrian access permitted, and Leland was open except for a small area for bird protection. She had last gone to Cape Pogue the previous Saturday, and reported there was a little accretion on the bayside, and a berm had begun to develop, but there was still not sufficient space to delineate an OSV corridor according to the guidelines. She suspected in a few weeks conditions would have changed. She had concerns about the bayside and Toms Neck.

Report of the Recreational OSV Subcommittee

Matt Pelikan recalled that at the last meeting of the Committee, a subcommittee had been formed to look into what conditions constituted a minimum for establishing an OSV corridor. In addition to the Committee members on that subcommittee, Russ Hopping from TTOR had been included. During meetings, the subcommittee was at a bit of a loss and without a full understanding of its purview. It did come to a decision, based on its own membership's experience and consultation with some experts, that there was no point in deciding on a minimum width for a corridor – that was a practical decision that should be left to individual beach managers. The subcommittee's recommendation was therefore that no minimum width for such corridors should be recommended. The subcommittee also realized that all of the beach and shorebird management guidelines that had been the main framework of this work since the 1990's were very general guidelines, and perhaps the subcommittee could look at those guidelines and collate them with the values articulated in the DCPC designation. For instance, the bird management guidelines talk about listed species – but it was very clear in the DCPC guidelines that avian resources don't just include listed species, but also common species, and the preservation of the entire ecological system is the value underpinning the DCPC. He suggested the Committee as a whole could, for instance, come up with clarifying language for the guidelines indicating that it was desirable for beach managers to enact protections for non-listed species. He requested guidance from the Committee on how the subcommittee should move forward.

Rachel Self expressed her gratitude for the time and work Matt Pelikan and all the other members had put into the subcommittee meetings. She reread the subcommittee's charge as agreed upon from the previous meetings.

Dan Doyle expressed that he believed there should at least be some floor defined for a corridor. Darci Schofield pointed out that this was the sort of work that the Conservation Commission did, making decisions about, for example, whether there was enough space for an OSV corridor in a particular location — there was already a regulatory body in place with the authority to make these determinations. She wondered if there was value in creating redundancy on specific issues like this when the authority to actually implement such decisions existed elsewhere.

Rachel Self pointed out that many of the issues around OSV corridor definition also had to do with staffing levels; for instance, at Norton Point the beach was closed to OSVs unless staff were present; at Sandy Neck an officer had to be on duty for OSVs to be permitted. She suggested perhaps the DCPC could propose guidelines for the resources that had to be available for recreational OSV use to be permitted. Perhaps staff could be one of those resources. She reviewed how that could fall within the Committee's responsibilities under the DCPC.

Darci Schofield asked Jane Varkonda to clarify what the staff requirements were for Norton Point to be open. Jane Varkonda explained that in the early season the beach was open if staff were present within half a mile and able to respond; now, and for perhaps the past month, if there was no staff on the beach, the beach was not open. This was a public safety issue and the policy of the Town of Edgartown because "nothing good happens on a beach after midnight." The beach officially closed whenever the night rangers get off, either nine or eleven at night. This applied to vehicles, not pedestrians or boaters.

Jane Varkonda and Darci Schofield reviewed some beach management policies that were already in place to protect non-listed species.

Matt Pelikan suggested either disbanding the subcommittee, or asking the subcommittee to continue with a clarified charge. The charge could be to consider the 1993 and 1994 beach and beach bird management guidelines in the context of the specific values articulated in the DCPC declaration. Darci Schofield added that it could look at the protection of the resource – by using the DCPC as a way to update the stressors that are acting on the resource now. There was nothing in the beach management guidelines about the invertebrate community on the upper beach, for instance, and that was the kind of thing the DCPC could be used to help protect.

The charge to the Committee was clarified as: **Consider beach and beach bird management wildlife guidelines in the context of the specific values of the DCPC designation, and make recommendations to the full DCPC committee with regard to any potential changes or recommendations on what we need for clarifying language.** Matt Pelikan envisioned the subcommittee's final product as a guidance document that would be deliberated on by the full committee and that document would then be given to the Planning Board or the Conservation Commission to assist them in future deliberations.

Dan Doyle asked Jane Varkonda whether the orders of conditions issued by the Conservation Commission were generally more detailed than what was found in the guidelines. She agreed that was the case because those guidelines were old, and much had been learned since then. He asked because it occurred to him that it might make sense for the subcommittee also to look at recent orders of conditions in addition to the beach guidelines, because they were more updated. Jane Varkonda agreed that anything could be looked at, and more sources and more information were better than less. Ed Handy agreed. Matt Pelikan suggested the values articulated in the DCPC declaration should be what ultimately guided the final product. Darci Schofield reminded the Committee that the Committee had voted to implement the DCPC recommendations for TTOR's beach management plan. The one recommendation not implemented was driving on the bayside, for various reasons previously discussed. There was already the authority to make

recommendations to the Conservation Commission to implement DCPC's recommendations into beach management plans.

Ed Handy requested the subcommittee's proposed purview be read again in advance of the motion. Rachel Self did so. Matt Pelikan had moved to issue that charge to the subcommittee; Rachel Self had seconded. A roll call vote was held. The motion passed unanimously.

Stairs at Wasque

Darci Schofield updated the Committee – TTOR had dismantled the stairs because the breach was migrating towards them; they had been working to get a redesign from an engineer to reconstruct them. She was pleased to report the NOI application had been filed with a new plan that afternoon, and the special permit application had been drafted and should be filed that week. She believed they were scheduled to go before the Conservation Commission on June 12.

The meeting was opened to the public.

Richard Thompson expressed that as a fisherman, he had seen fantastic things happen after midnight on the beaches of Chappy, including the camaraderie that occurs at three in the morning during the Derby. He was a regular visitor to the beaches at 6:00 or 6:15 AM, at which point the gatehouse was usually not staffed. He expressed that if he and other fishermen were waiting for staff to arrive it would be awkward and unnecessary.

Rich Salzberg explained that he was tasked with gathering information for the Commission. He asked about the Lighthouse Road: was it a private way, a public way, a prescribed right, a temporary road, etc.? Rachel Self had heard it described by people who live out there as "the driveway." It was the only remaining viable way to get to and from domiciles in the area. She did not believe it was a public way because it was privately owned except for at one area, and access had been permissive or paid. If someone did not own property or did not purchase access from TTOR, they did not have permission to be on the road. Chris Kennedy provided some history of the road and described it as a "well traveled way" historically and traditionally used by residents, fishermen, shepherders, and anyone else who accessed Cape Pogue. Beyond TTOR property, at the lighthouse the road crossed certain property that was privately owned, so the question is what does it become at that point and he did not know if there was a definitive answer.

The next meeting was scheduled for June 27th at 5:00 P.M.

Ed Handy moved to adjourn. Jane Varoknda seconded.

Meeting adjourned.