

Town of Edgartown
Cape Pogue DCPC

Minutes of Meeting
November 30, 2023 5:00 P.M.

In Attendance (virtual):

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)
The Trustees of Reservations Staff (Darci Schofield)
Conservation/Wildlife Specialist (appointed jointly by Sheriffs' Meadow Foundation, Vineyard Conservation Society, and Vineyard Open Land Foundation) (Matt Pelikan)
Edgartown Shellfish Constable (Rob Morrison)
Massachusetts Environmental Police (Matthew Bass)
Edgartown Board of Health (Chris Edwards)
Edgartown Police Department (Sgt. Ryan Ruley)
Edgartown Marine Advisory Committee (Ed Handy)
County of Dukes County (Martina Thornton)

Meeting called to order.

Water Issues

Scallop Season - Updates

Rob Morrison provided an update on the scallop season. This season was slower than it had been the past few years; about 20 – 30 limits of scallops were being seen every day, and about 1500 bushels had been harvested from Cape Pogue so far this season. It was a decent start to the season, but probably would not match last year's success.

Land Issues

Dredge

Ed Handy reported that they had been working in the Gut since the past week, and expected to be done in the next couple of days. They had been renourishing the north neck area. The dredge would next be moved to the Narrows, and would take another couple of days to set up and another couple days to bury the pipe. They would start dredging and building for a couple days before the contractor came to start moving the sand down. He asked Darci Schofield whether the original plan had been scaled down.

Darci Schofield reported that the actual geographical extent of the dredging was the same, but TTOR had to reduce the number of days the contractor would be working. Approximately 2500 cubic yards would be moved. The top priority area was the retired cedar trail; the second priority area was along the bayside trail; and the third priority was from the Dyke Bridge toward where

the trails divided to Tom's Neck. The intent was to focus on lower sports and bring them up to grade as much as possible. Then the fourth priority area was: everything else. That said, she reported that last night the Conservation Commission had voted to extend the current order of conditions for a week; TTOR had put in a request asking what the implications for this project were if the order of conditions was not extended beyond that.

Ed Handy believed the contractor would start on December 11, after the dredge was set up and had built up a few days' worth of a stockpile of material for the contractor to use. He would reach out to the contractor and also TTOR's project manager about dates.

Darci Schofield reported that TTOR had announced that Cape Pogue was closed and had removed stakes to remove any impediments to the dredge work. Ed Handy replied that TTOR did not need to close the beach on account of dredging; that would not cause an issue for them.

Jane Varkonda asked Ed Handy what the total volume of dredge was; he thought it was 4,000 – 5,000 cubic yards. Jane Varkonda asked Darci Schofield why TTOR was only using 2,400 cubic yards. Darci Schofield reported that the contractor had quoted TTOR \$150,000, and TTOR only had \$50,000 on hand to pay him. TTOR had made other requests to donors to help make up the shortfall, but in August, TTOR understood that it would have until January or February to do this work, so they had to quickly move to pull together the money they could find and look under all the sofa cushions. She stated that once the contractor was finished, TTOR would be using its own tractor to remediate where the pipe was now, and other areas like in the cedar trails. TTOR would be moving the sand itself in those areas. She did not know how many cubic yards that would be.

Ed Handy indicated that they would restore the area where the pipe had been run across; they had also offered to build the dune up there. The only thing TTOR should have to do in that area is plant beach grass. Darci Schofield reported that TTOR had agreed with contractor that he should focus on nourishment on project area, and TTOR would then rebuild dune area. Ed Handy was of the opinion that it would be a good idea to get the dune buildup accomplished when the large earth-moving equipment was present. Darci Schofield would make a note and discuss that with the team.

Jane Varkonda asked if TTOR had sent the agreed-upon letter of indemnification to the town; Darci Schofield indicated TTOR's attorney sent it today.

Matt Bass asked whether the full 4,000 cubic yards would be dredged. Ed Handy replied that all the sand would be moved, and whatever TTOR did not use would be left out on East Beach. Darci Schofield added that that area of the beach is very thin, so even if it was left there the sand would not go to waste. The beach was building up a little after the storm that came through before Thanksgiving.

Beach Management Plan

Rachel Self recounted that at the last meeting she had expressed her opinion that the NOI's currently under consideration required a special permit. She had since been able to obtain all the

Planning Board files on this matter from 1990 to the present. She would upload these soon to share with everyone. These files contain the special permit application, and include everything they believed required a special permit. The files show that ultimately the 1990 plan was approved after public input and input from agencies, and that it was supposed to be subject to Planning Board annual review. The special permit applied for and voted for appears never to have been issued, and cannot be found. The Building Inspector has now made a determination and as of yesterday has referred this matter to the Planning Board; her position is that numerous changes have occurred in the 30 years since the plan's approval, and since that annual review never happened, is now seeking guidance from the Board on how to proceed. The materials also suggest that originally the DCPC Committee's role was to advise planning board, and that eventually evolved to a place where the Conservation Commission took on the Planning Board's role. Rachel Self hoped everyone would review these materials and perhaps come up with some recommendations to Planning Board. It is the committee's job to make actual suggestions — for instance, coming up with concrete vehicle counts.

Darci Schofield announced that she was working with her team on some changes to the plan; some modifications to the beach management would be coming. She would cc the Committee when she submitted them.

Trail Damage

Rachel Self reported that sometime between 3:30 PM yesterday and this morning, the fence and trail by the Dyke Bridge gatehouse were damaged. She shared a video showing the damage. Darci Schofield reported that the winter ranger was addressing the situation; the sand had been raked and dune grass replanted to remediate those areas. She stated that cameras would be installed at the entrance to Cape Pogue, because interestingly this kind of damage only ever happened on Cape Pogue and not at Leland. Rachel Self inquired as to whether TTOR allowed shotgun hunting on any properties; Darci Schofield replied that one individual had in the past had permission to hunt on Cape Pogue to control the deer population. Rachel Self reported that it was possible people were deer hunting at night without permission; Darci Schofield replied that was why the winter ranger was out looking for the culprits now.

Matt Bass agreed that cameras would be a good idea, including perhaps plate-reading cameras. Darci Schofield indicated that if people were hunting on the property without TTOR permission, that would be a matter they would take up with the police.

Rachel Self asked if the town had anything they did at Norton to prevent this kind of damage. Jane Varkonda replied that there was a gate that was locked, and there were many cameras. TTOR had one camera at the Jetties; but the batteries need to be replaced. Darci's understanding was that residents on Cape Pogue did not want a locked gate, because they needed to be able to leave quickly in the event of an emergency. She was of the opinion that contractors for residents were also coming on with inappropriate vehicles, causing damage to trails. Rachel Self expressed that maybe clearer, more unambiguous signage at the bridge would help; she did think a locked gate was potentially dangerous in an emergency situation. Darci believed having a camera would help identify the individuals causing the issues; signage would help honest people who want to

follow the rules to do that, but some people would break the rules regardless, and a camera would help address that.

Ryan Ruley indicated that if there are issues, people should not hesitate to call the police department; he would be happy to team up with Matt Bass. He would put a note in the log about this incident and would get some extra patrols on Chappy before the ferry stopped running. He would start putting on an extra patrol tomorrow night.

Jane Varkonda asked Darci whether TTOR closed their properties at a certain time. The Park Department and Conservation Commission for instance always said their properties were open dusk to dawn, etc. Darci Schofield understood that there was 24 hour access for fishermen on some properties; Chris Kennedy clarified that from 10PM to 6AM, properties are closed except for people who are actively fishing.

Ed Handy suggested that trail cams would be a good idea; Darci Schofield provided a rundown of TTOR's winter staffing on Cape Pogue, and indicated this could be supplemented by cameras to fill in the gaps.

Meeting opened to the public.

Chris Kennedy asked Jane Varkonda and Darci Schofield about the one-week extension of the existing order of conditions: would a lack of further extension of this order prevent the dredge contractor from doing the work? Jane Varkonda indicated that TTOR's attorney had agreed last night that the order of conditions for dredging and nourishment covered the contractors being out there even if the currently extended order of conditions were to expire. Darci Schofield expressed that TTOR would like to see that in writing; Jane Varkonda suggested that TTOR's attorney should write the Conservation Commission a letter, which could serve as written confirmation. Chris Kennedy agreed with Rachel Self that originally the DCPC was a creature of the Planning Board rather than the Conservation Commission. The gate at the Dyke was originally intended to control vehicle access and protect shorebirds. The guidelines at that time were clear and were being enforced by Environmental Police officers who at that time were actually stationed there. It was agreed upon to keep the gate in place until the state came up with guidelines. The gates were not closed on a routine basis except during storms. He also suggested perhaps issuing OSV permits that have a chip in them, like they do in Duxbury, so that TTOR will be able to tell who is on the property when. Readers for RFID chips could be installed at the access points, and could be solar-powered.

Alexis Colantonio was curious as to what the winter ranger's schedule was, as well as the gatehouse keeper's. Darci Schofield indicated that the gatehouse was 12 – 4 on Saturdays and Sundays, and that the winter ranger was out almost every day for a couple of hours; he sets his own hours. The intent was to monitor conditions and respond to tows as available. Alexis Colantonio suggested that if TTOR could not control their customers, the beaches should be closed. Darci Schofield agreed that she could not control all TTOR's customers, or indeed residents speeding on the beach, or resident's contractors bringing inappropriate vehicles. She expressed that TTOR is dedicated to preserving public access, and that throughout history there

had always been people behaving badly, and that it was impossible to control everyone — but it was important that TTOR was present to respond to damage and minimize harmful behavior.

Victor Colantonio asked whether there was sand that couldn't be used because there was no money to place it. He expressed frustration that this opportunity might be missed due to TTOR's failure to budget for the project. Darci Schofield reiterated that 2400 cubic yards would be moved, and if more could be moved during the time contractor was hired, they would be, and the remainder would be used to build up East Beach, which would still benefit ecological protection, resilience, and OSV access for the beach.

Edward Self commented that he believed RFID technology would be very useful in this situation, and should be pursued. He also expressed his disappointment that TTOR only had budgeted to use part of the available materials. He was reminded of the last time the narrows were dredged, the spoils were on the beach, and TTOR did not have the money to move it, so it was wasted. He hoped that there was some mechanism in TTOR's finances that would allow Darci Schofield to request the board come up with emergency funds. Darci Schofield expressed again that there would still be a benefit to leaving the sand on East Beach, and that TTOR had a \$100,000 funding gap to fill in order to have the contractor do the rest of the work, which could be filled by donations.

Becky Ross commented that she and her family were Cape Pogue residents, and that she had heard Darci Schofield speak at a CIA meeting. A CIA member had asked what residents want from TTOR. She indicated that if TTOR simply communicated to residents that their contractors were causing problems, they would fix it. At this point, Ryan Ruley called a point of order, indicating public comment should not be addressed to specific committee members; Darci Schofield should not be getting approached in public comment. There were other meetings, like CIA meetings, where that was appropriate. He expressed that public comment should be addressed to the board or to the chair. Ryan Ruley expressed that it was very important to allow public comment during meetings, but that he believed it was probably better to leave it at a comment, rather than allowing members of the public to question committee members at a meeting or get into a back-and-forth. Darci Schofield expressed that it was unfair not to allow committee members to correct misrepresentations or false narratives put forward in public comments

Ted Roosevelt wanted to share exchanges he had had with Cynthia Dittbrenner and her colleague Elizabeth. They suggested that CIA needed to work with the Woods Hole group to address concerns the CIA had. Elizabeth had written a letter supporting the idea of updated analysis, but Woods Hole did not currently have resources to do it. The CIA had been doing its very best to sit down with senior TTOR leaders to find a way to work together and with the Woods Hole Group to incorporate science into management planning. Unfortunately, they had been shut down because there is not funding. He offered that it might be possible to seek private donations, but he did not feel they would contribute unless they felt they were really part of a give and take about how to manage the beaches in a more sustainable long term way.

The next meeting was scheduled for December 28 at 5:00 P.M.

Jane Varkonda moved to adjourn. The motion was seconded.

Meeting adjourned