



CONSERVATION COMMISSION

PUBLIC MEETING

131 Pleasant Street
Nantucket, Massachusetts 02554
www.nantucket-ma.gov
Thursday, April 28, 2022 – 5:00 p.m.

This meeting was held via remote participation using ZOOM and YouTube.

Commissioners: Ashley Erisman (Chair), Ian Golding (Vice Chair), David LaFleur, Seth Engelbourg, Maureen Phillips, Mark Beale, and Linda Williams

Called to order at 5:00 p.m. by Ms. Erisman

Staff in attendance: Jeff Carlson, Natural Resources Director; Terry Norton, Town Minutes Taker

Attending Members: Erisman, Golding, Engelbourg, Phillips, Beale, Williams

Absent Members: LaFleur

Late Arrivals: Williams, 5:20 pm

Earlier Departure: None

*Matter has not been heard

I. PUBLIC MEETING

A. Announcements

B. Public Comment – None

II. PUBLIC HEARING

A. Notice of Intent

1. Linda Loring Nature Foundation – 90,110,124,130&136 Eel Point Road (39;32;33;38-&2;33;18;4,3,6, & 41) SE48-3500

Sitting Erisman, Golding, Phillips, Beale

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Art Gasbarro, Nantucket Engineering & Survey
Sara Bois, Linda Loring Nature Foundation (LLNF)
Kitty Pochman, LLNF

Public R.J. Turcotte, Nantucket Land Council (NLC)

Discussion (5:03) **Gasbarro** – This is for ecological restoration to enhance the property within the buffer the resource areas; reviewed the specific work. We have received the Massachusetts Natural Heritage letter.

Golding – It says herbicides will be applied by licensed applicators and follow established protocols. Asked what that protocol is.

Bois – Application will be targeted to the individual species; explained the application procedure.

Gasbarro – The application includes a copy of the services contract with Solitude Lake Management.

Turcotte – This is NLC's largest conservation restriction, and we approve the proposal.

Staff recomm. Have everything needed to close

Motion **Motion to Close.** (made by: Beale) (seconded)

Roll-call vote Carried 4-0//Beale, Erisman, Golding, and Phillips-aye; Engelbourg recused

2. 13 Commercial Street, LLC – 13 Commercial Wharf (42.2.4-10) SE48-3501 (Santos) (**Cont. 5/12**)
3. Brant Point Club, LLC – 6,8 North Beach Street/4 Dolphin Court (42.1.4-65;65.1;65.2) SE48-3518 (**Cont. 5/12**)
4. Park City Wind, LLC – New England Wind Connector (N/A) SE48-3524

Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Holly Carlson Johnston, Epsilon Assoc.
Pat Johnson, External Affairs Manager Avangrid Renewables
Chris Long
Hans Van Lingen, Avangrid Renewables

Public None

Discussion (5:12) **Johnson** – We submitted additional information in response to questions posed at the last hearing.

Johnson – Reviewed information provided at the Commission's request. All anchoring of this and future cables must be within the corridor, so none will be laid close to the edge. The cable DPS system allows monitoring of the cable's temperature, which could indicate they have been exposed.

Beale – Asked who established the corridor and how.

Johnson – The project team worked with the Massachusetts Ocean Team to establish the corridor.

Beale – Asked if they anticipate underwater filming of the cable.

Johnson – There will be post construction surveys and geophysical studies during the OEM phase. The proponent will perform a Benthic Habitat Monitoring Plan (BHMP) to monitor recovery of the benthic habitats; that will be memorialized in the final Department of Environmental Protection (DEP) plan and can be provided to ConCom.

Beale – Asked how often the video monitoring will take place; the bottom in that area shifts a lot.

Johnston – That’s a reason for the DPS system. The BHMP will be years 1, 3, & 5 and not beyond that. Geophysical surveys continue through the OEM period.

Engelbourg – Asked how many more cables there will be when all the wind farms are in.

Johnson – We anticipate a total of 7.

Erisman – We received letters from the public; their questions would be discussed under the order.

Golding – He feels the applicant has exceed the burden of his knowledge to form an opinion. He hopes the windfarm gets up and running as quickly as possible.

Beale – Asked if separate companies were to install windfarms, would the State require them to use your easement or would they have to establish a new corridor.

Johnston – It’s unlikely the State would require another developer to use another corridor; they encourage common use. There is a point at which no more cables could be added to this corridor. Future project couldn’t connect and make landfall where we do; that might impact where their cables run.

Engelbourg – With new projects, more data from monitoring is better. He likes the DPS system, but he would want additional monitoring, ground-penetrating surveys locate the cable exactly. He thinks we should request an escrow for maintenance or potential removal.

Phillips – Having looked at all the allowed leases, asked if that puts some limitation regarding placement of future cables coming through this corridor and where the “lease holes” are for each company.

Johnston – The lease areas have been delineated; the specific location and orientation is just as important to routing as the anchored ends. In bundled corridors, we need to avoid cable crossing.

Phillips – She has concerns, as time passes, with these materials on the ocean floor and how they might be moved as well as material life span; that is something she hopes has been established by experience. Asked how the physical condition of the cable is monitored.

Johnston – The cable is designed to last the lifetime of the project; it’s heavily armored with no need for maintenance or repair. Regarding decommissioning, there are Federal rules requiring lease holders to provide protections.

Golding – Asked if they would address Mr. Engelbourg’s suggestion for ground-penetrating survey.

Johnston – In her opinion the geophysical surveys will be more than sufficient.

Erisman – We are still not able to mitigate this project in any way outside of the project area. By the time we see any impact of this offshore project, it could have gotten serious.

Golding – There is quite a bit of literature supporting the benefits of wind farms.

Engelbourg – Commercial shell fishing is a protected interest for land under the ocean. Everyone is on the same page that there will be a temporary impact to fishing during installation. Asked if ConCom could require the project representative to subsidize Nantucket commercial fishermen. Asked to look into establishing a fund to support fishing.

Johnson – Our project has a \$3m commitment to the fund held by Community Foundation of Nantucket.

Engelbourg – That is not under ConCom purview, and the funds could be allocated to many things. He’d like something tied to our process.

Staff recomm. He had trouble posting the responses to the website; those are now up and available.
We may to some degree require project mitigation, but it has to be tied to a specific impact. If there is an impact, an enforcement order can bring the applicant back in to address that.
Requiring subsidy of our commercial fishing industry is outside our purview.
Have everything needed to close.

Motion **Motion to Close.** (made by: Golding) (seconded)

Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

5. Kane – 12 Pond Road (56-295) SE48-3473 (**Cont. 5/12**)

6. *Meyer – 307 Polpis Road (25-39) SE48-3517

Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Art Gasbarro, Nantucket Engineering & Survey

Public None

Discussion **Gasbarro** – Asked this be continued to the next meeting.

Staff recomm. None

Motion Continued to May 12

Roll-call vote N/A

7. *7 Laurretta Lane, LLC – 7 Laurretta Lane (14-53) SE48-3528
- Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Mark Rits, Site Design Engineering
- Public None
- Discussion (5:47) **Rits** – Provided a revised site plan showing the elimination of much of the proposed grading; reviewed those revisions. Also provided a line showing the limit of the 100-year flood zone and land subject to coastal storm flowage. The pool and patio are outside those two zones. We also showed what is proposed versus existing.
Engelbourg – Asked if staff has made a determination on the flood zone. If the flood zone is at elevation 8, the entire foundation is below that; the coastal storm flowage will be interacting with the pool on a sub level. Feels that will need to be updated in the regulations.
- Staff recomm. We looked at the 100-year flood zone; as mapped by FEMA it was farther away. We are more comfortable with the flood zone as shown now. He doesn't believe the pool is within the jurisdiction of ConCom.
 Have everything needed to close.
- Motion **Motion to Close.** (made by: Williams) (seconded)
- Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
8. Nantucket Islands Land Bank – 17 Aurora Way (56-458) SE48-3529
- Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Rachel Freeman, Nantucket Islands Land Bank,
- Public None
- Discussion (5:55) **Freeman** – This is for a waiver to install an elevated boardwalk for public access. It will be 60” wide and elevated 18” off the marsh. Also asking for a split rail to delineate Land Bank property from private property. There is no parking involved.
Engelbourg – He doesn't see how this project could meet our waiver conditions. It seems a discussion needs to be done with the new property owner of 15 Aurora Way for an easement. He doesn't see a net benefit.
Beale – Asked if this connects to High Bush Path or Marsh Hawk.
Freeman – This is a dead-end access. We've examined the idea and asked for an easement with the idea to extend it, so it becomes a loop; we decided against that because it would require an extensive amount of boardwalk.
Erisman – As a dead-end path, it's hard for her to justify the waiver. A 60” boardwalk is very impactful on native vegetation.
Beale – If they were linking trails, it would be worthwhile but not for a neighborhood path; otherwise he finds it hard to grant the waiver as well.
Freeman – The Land Bank owns a number of properties with no parking so are neighborhood properties; the public is welcome to walk or bike to those properties. In that respect, this property is not alone. She feels denying public access to this property is not good.
Erisman – The neighbors should weigh in; asked if the Land Bank has considered a land swap for some truly accessible property.
Williams – Mr. Engelbourg brought up good points regarding meeting the waiver criteria. Asked Ms. Freeman what the justifications are.
Freeman – There is no alternative, and we don't expect it will affect the site. Suggested continuing so Land Bank can establish an alternative that does provide a net benefit.
Golding – Asked how long the entire path is.
Freeman – She doesn't know the length but guesses about 1 mile.
Golding – Providing access for the path and the forest is a public benefit.
Engelbourg – Asked for some information on the history of the existing berm.
Freeman – Asked for a continuance.
- Staff recomm. None
- Motion Continued to May 12
- Roll-call vote N/A
9. *Nicholson – 24 Brewster Road (54-169.3) SE48-____
- Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative David M. Haines, Haines Hydrogeologic Consulting
- Public None
- Discussion (6:10) **Haines** – This is for a single-family dwelling on municipal water and sewer; it's within buffer to a bordering vegetated wetland. No fertilizer or irrigation in the lawn area. House will be on a crawl space with footings at 12"; water is down at 5". Near but now within Massachusetts Natural Heritage jurisdiction, no review by them is necessary. Asked for a 2-week continuance
- Staff recomm. We don't have the DEP number
- Motion Continued to May 12
- Roll-call vote N/A

10. *Nantucket Islands Land Bank – 17 & 21 North Cambridge Street (38-158;159) SE48-3533
- Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Rachel Freeman, Nantucket Islands Land Bank,
 Public None
 Discussion (6:13) **Freeman** – This is for herbicide treatment of Cyprus Spurge, a grassland invasive species in the upland area of Hither Creek. Explained the herbicide to be used at no more than 1%. It will be wiped directly onto the plant. We explored other alternatives but found no other mechanism for managing this species.
Golding – The manufacturer BASF has a statement that Plateau Herbicide is harmful to aquatic life with long-lasting affects. Asked if wiping will be an adequate approach as opposed to digging it up.
Freeman – We tried digging it up and it just continued to spread. We included the data sheet in the spirit of being transparent. We won't apply in high wind or when rain is predicted. We won't know exactly how much we will be using until we are wiping the plants. We tried Plateau using this method in an upland area and felt we could control it.
Golding – Asked if there is a way to monitor the effects.
Freeman – This isn't a restrictive-use pesticide; anyone can purchase it and use it in their yard. We are working hard to be careful.
Erisman – It seems the product as a whole hasn't been tested; just the ingredients have been tested separately.
Engelbourg – Cyprus Spurge is on the prohibited plants list. He looked into other herbicides used around the country. Other pesticides are also acutely toxic to aquatic life. There are not a lot of alternatives. It's up to the applicator to follow the safety label.
 Staff recomm. Have everything needed to close,
 Motion **Motion to Close.** (made by: Beale) (seconded)
 Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
11. *Nantucket Islands Land Bank – 36 West Miacomet Road (86-14) SE48-3532
- Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Rachel Freeman, Nantucket Islands Land Bank
 Public None
 Discussion (6:26) **Freeman** – This is similar to the North Cambridge Street application. There is a very small amount of the Cyprus Spurge at this property and we'll be using the same herbicide with the same application process. As yet, the plant isn't found in a lot of areas of Nantucket.
Engelbourg – His only concern is where the Cyprus Spurge is detected, it doesn't look like it's on their property but in the roadway. If that is the case, asked if the Town has to be on the application.
 Staff recomm. They have the right to maintain and improve their property; in general, the Town encourages removal of invasive species. We can get a Town signoff before they start work.
 Have everything needed to close.
 Motion **Motion to Close.** (made by: Golding) (seconded)
 Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
12. *9 Columbus Avenue Nominee Trust – 9 Columbus Avenue (59.3-112) SE48-____
- Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative David M. Haines, Haines Hydrogeologic Consulting
 Public None
 Discussion (6:32) **Haines** – This is to construct an 500 square-foot (sf) addition; the Board of Health regulations for Madaket require an upgrade of the septic to I/A. This is .67 acres and the house is circa 1961. Resource areas are bordering vegetated wetlands, a coastal bank, land subject to coastal storm flowage at Elevation 8, and 2 policy coastal banks. The addition is within 50' of the policy coastal banks. The septic components are within land subject to coastal storm flowage; and the leach field within buffer to the coastal bank. We will be asking for waivers for all aspects of the work. The waivers may be granted when there is no adverse impact and no reasonable alternative; other criteria are over-all long-term net benefit and net improvement to the resource area. All work is greater than 50' from the bordering vegetated wetlands and Long Pond. There is no change in grade.
Engelbourg – It looks like there's the 512sf addition but also another 128 to the northwest.
Haines – That's an existing deck, which they propose to enclose; it's over a patio below.
Phillips – The site was developed a long time ago and has all lawn around it; asked if there is thought to let any lawn being allowed to go back to native brush.
Haines – He would have to bring that up with the applicant. We could expand the buffer along the pond.
Engelbourg – If this addition is approved, that would void the structure's right to coastal erosion protection. He realizes the site is constrained, but looking at neighboring properties and topography, it's built where a coastal bank would have been. He's concerned about allowing additional construction within the 50' buffer.
Haines – There is no coastal bank in the lawn area; if the house weren't there, there still wouldn't be a coastal bank. Grading around the north created on policy coastal bank and the walkout created the other policy coastal bank; they don't provide any sediment to the beach.

Erisman – She agrees that enhancing the buffer zone would be an important component.
Haines – Asked for a 2-week continuance.

Staff recomm. None
 Motion Continued to May 12
 Roll-call vote N/A

13. *Lehrman Dynasty Trust – 18 Washing Pond Road (31-18.1) SE48-3534

Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Mark Rits, Site Design Engineering
 Public None

Discussion (6:51) **Rits** – The structures have been on this property since 1975. This is to reconstruct the eastern groin, which has been repaired and maintained since the 1970s; it recently went through an extensive recertifying process. It was damaged in this-year’s late-January storm. We will rebuild it in the same height, design, and location as existing.
Erisman – She’d like to see photographic evidence of what it looked like before the storm and when it last received maintenance to ensure it was damaged in the storm rather than from neglect. If it hasn’t been maintained in the last 5 years, that opens it up to not being grandfathered.
Rits – It hasn’t had maintenance in the last 5 years because it didn’t need it.
Golding – He considers this an offense to the Island the way it sticks out. The Town’s Assessor database says Building 1 was built in 1994, Building 2 in 2008, and Building 3 in 2013. He’d like to see proof that these are pre-1978. He feels this structure has no right to statutory protection and has asked for Town Council advice on that. Through Chapter 91, the Commonwealth seeks to protect the rights of the public; it elaborates preserving public access along the water. This clearly interferes with those statutory rights; he’d like the certificate revoked and this removed. Asked for Mr. Carlson to get Town Council advice on this.
Engelbourg – Within our performance standards for coastal bank, coastal beach, and land under the ocean, one performance standard is that they not be rebuilt unless an ecologically alternative is presented. The onus is on the applicant to provide a discussion of alternatives that are more environmentally friendly.
Rits – We went through a similar exercise when the bulkhead was reconfigured, and the western groin moved back; prior to obtaining ConCom approval, we got a denial and DEP remanded it back to ConCom. You approved the existing configuration. This Commission has granted a number of approvals to rebuild and maintain a number of coastal engineering structures.
Engelbourg – Over the last 3 years for every bulkhead/groin repair, he’s asked for an environmentally friendly analysis be submitted. If that is not possible, the structure can be rebuilt.
Erisman – There have been changes to the water line over the years; at high tide, the water is up to the groin. It projects farther into the water than when the last certificate was received in 2009. She agrees an alternative analysis is important since the system has changed.
Rits – The only alternative would be to construct a significant beach, but we can provide that analysis. The water line is the same as it was in 2009.
Erisman – A beach might be a better idea since the groin doesn’t provide sand into the system.
Williams – It was lawfully permitted; she feels they have the right to reconstruct and maintain it.
Erisman – That’s why she wants the maintenance records and photos; if there was rot going on before the storm, they wouldn’t be allowed to rebuild it. We are trying to correct environmental damage from these structures with the alternative analyses.
Golding – He disagrees with Ms. Williams in how it has changed. Also, under the original Chapter 91 license, it no longer complies, and the license should be revoked. He formally requests Town Council weigh in on this.
Engelbourg – Part of the issue is different permitting regimes with different standards. They ultimately need to meet the criteria for all three regimes. Appreciates Mr. Rits looking into alternatives; there are living shorelines, hybrid shorelines, and marshes.
Rits – Asked for a 2-week continuance.

Staff recomm. None
 Motion Continued to May 12.
 Roll-call vote N/A

14. *Ack Hang Ten, LLC – 21 Meader Street (42.2.3-44) SE48-____

Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Art Gasbarro, Nantucket Engineering & Survey
 Public None

Discussion (7:15) **Gasbarro** – This is for work within land subject to coastal storm flowage in response to an enforcement order; the owner started clearing for a garden within jurisdictional area. Ultimate condition and care will be an improvement to existing conditions. Driveway will be gravel except for the apron.
Engelbourg – Asked if the apron is a pervious surface.
Gasbarro – Under zoning, the apron has to be a “hard” surface extending 10’ in from the edge of the travelled way.
Engelbourg – He’d prefer the apron to be brick or cobble to allow movement of flood water. Asked if the landscaping timbers were set without the permit (yes). That too prevents flood waters from moving.

Gasbarro – The timber surround is level with the surrounding properties; it is to hold the garden soil within the property. He doesn't think a 6" wide timber would impact the land's ability to contain or absorb flood water.

Erisman – It sounds like the grade will be raised to match the timber wall.

Gasbarro – There was soil that was removed; the soil to be placed will bring it back up to where it was.

Erisman – Asked if they need a waiver to bring in soil.

Noted Kathe Pate, 5 Francis Street, states wetland vegetation exists along 2 sides and nothing was to be built within 25'.

Gasbarro – He looked for records of wetland vegetation. It has an Order of Conditions from 2013, which was modified in 2015; it did not show any wetlands. The permits are based on no resource areas.

Engelbourg – This is proposed to be garden; he's concerned about use of fertilizer and chemicals; Performance Standard 2 addresses stormwater pollution. He'd like fertilizer and chemicals restricted from the site.

Gasbarro – The owner is willing to apply using best management practices (BMPL) and use only enough to feed the plants and to use full release. Would accept conditions for BMP and cobble or brick apron. Requested a 2-week continuance.

Staff recomm. You are ordering it to be restored back to its original capacity; he doesn't think it would require a waiver.

Motion Continued to May 12

Roll-call vote M/A

15. *Carol W. Dean Revocable Trust – 48 West Miacomet Road (86-4) SE48-3535

Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Paul Santos, Nantucket Surveyors

Public None

Discussion (7:31) **Santos** – This is for installation of seasonal aluminum beach stairs within a coastal dune about 15' feet long. There is an existing footpath to where the stair would be placed. This requires an NHESP response, which we have not received. No platform or landings are proposed.

Golding – He wants to see what the stairs look like.

Santos – Asked for a 2-week continuance.

Staff recomm. None

Motion Continued to May 12

Roll-call vote M/A

16. *41 Monomoy Road, LLC – 41 Monomoy Road (54-79.1) SE48-3536

Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Don Bracken, Bracken Engineering

Public None

Discussion (7:34) **Bracken** – This is for a porch, pool, patio, and retaining wall within 100' buffer and outside the 50' to a wetland. We are providing a drainage system for patio and roof runoff. All disturbed areas will be restored.

Erisman – She's concerned about the slope of the lawn toward the wetland.

Bracken – We could accept fertilizer conditions within the 50'.

Staff recomm. Have everything needed to close.

Motion **Motion to Close.** (made by: Williams) (seconded)

Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

17. *Town of Nantucket – Washington Street and Francis Street Layout SE48-3531

Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Sam Campbell, GPI

Brian Myers, Project Manager

Public None

Discussion (7:37) **Campbell** – This is to reroute the road; resource areas are coastal dune, coastal beach, and land subject to coastal storm flowage. The coastal dune will be impacted by placement of silt control.

Engelbourg – He doesn't agree the performance standards are met; they are working within the 25' buffer to the coastal dune which requires a waiver; we don't have that waiver. They are talking about putting erosion sedimentation protection on the dune.

Golding – If the waiver is necessary, we can say in the Order of Conditions that the waiver is granted. He has no difficulty in this situation of acceding to Mr. Engelbourg's points while not holding up the project.

Erisman – Regarding the length of time do the work, asked if there will any mitigation against a flooding event while construction is going on.

Campbell – All of this work would be completed this spring.

Myers – The contractor said widening would take maybe 5 days; sidewalk work would take longer. They are shooting for completion by the end of May.

Erisman – Asked if there are plans in place for a flooding event.

Campbell – We will accept a condition that no material and equipment will be stockpiled at the site.

Phillips – She agrees with Mr. Golding about handling the waiver within our Order of Conditions to get this project going.

Staff recomm. Mr. Campbell is referencing when the resource area is separated by a road; the new work is outside that 25' setback. We can award a waiver if necessary but he's not sure a waiver is needed
Have everything needed to close.

Motion **Motion to Close.** (made by: Beale) (seconded)

Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

B. Amended Order of Conditions

1. Philips, Trustee – 19 East Tristram Avenue (31-4.1) SE48-3304 (**Cont. 5/12**)

III. PUBLIC MEETING

C. Minor Modifications

1. 16 Western Preservation Trust, LLC – 16 Western Avenue (87-72) SE48-3371

Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Art Gasbarro, Nantucket Engineering & Survey

Public None

Discussion (7:53) **Gasbarro** – This is to replace an existing picket fence and install a board fence within 100' buffer.

Staff recomm. Recommend issue.

Motion **Motion to Issue.** (made by: Williams) (seconded)

Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

2. 46 Union Trust – 46 Union Street (42.2.3-28) SE48-3436

Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Paul Santos, Nantucket Surveyors

Public None

Discussion (7:55) **Santos** – This is to reduce an approved deck, relocate the stairs to the deck, relocate an outdoor shower at grade and replace an existing board fence.

Staff recomm. Recommend issue.

Motion **Motion to Issue.** (made by: Williams) (seconded)

Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

D. Requests for Determination of Applicability

1. None

E. Certificates of Compliance

1. Water's Edge Nominee Trust – 16 Medouie Creek Road (20-26) SE48-3252 & 2557

Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams

Representative Art Gasbarro, Nantucket Engineering & Survey

Staff recomm. We can issue on both of these.

Discussion (7:58) **Gasbarro** – Reviewed the history of the project; this is in compliance. There is an on-going management plan reported to Massachusetts Natural Heritage annually.

Motion **Motion to Approve both SE48-3252 & SE48-2557.** (made by: Golding) (seconded)

Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

2. J. Graham & Katherine Goldsmith – 86 Pocomo Road (15-41) SE48-2626

Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams

Representative None

Staff recomm. Construction of a coastal dune; it's done in compliance. Recommend issue.

Discussion (8:06) None

Motion **Motion to Issue.** (made by: Phillips) (seconded)

Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

F. Orders of Condition

1. Nantucket Conservation Foundation, Inc. – Gibbs Pond (51-1) SE48-3519

Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams

Documentation Draft Order of Conditions

Staff This has additional Finding 2 the this qualifies for inland restoration.
He talked about the DDT with Mass DEP and tying it to the project; he agrees with Mr. Golding's sentiments, but there are other avenues to follow for impacts not tied to a project.
He will add to Condition 19 requiring water-quality testing.
Added Condition 21 requiring a year-to-year comparison of algae blooms.

Discussion (8:06) **Golding** – There were over 100 50lb bags of DDT buried in close proximity of Gibbs Pond. He wants DDT sampling to be included in the data required under Condition 19.
Engelbourg – We talked about more robust sampling; we need to tie that to project activities. Asked if there is a success quantification condition.
Discussion about success criteria.

Motion **Motion to Approve as amended.** (made by: Beale) (seconded)

Roll-call vote Carried 6-0// Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

2. Nantucket Land Council – Hummock Pond SE48-3530
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff Corrected the name of the pond and resource area.
 Condition 21 is different from Gibbs Pond SE48-3519.
 Discussion (8:20) **Erisman** – She thought they said this would have only 1 treatment.
R.J. Turcotte, Nantucket Land Council – Confirmed there will be only one treatment.
Engelbourg – The wrong pond is listed, and resource area is different.
 Motion **Motion to Approve as amended.** (made by: Golding) (seconded)
 Roll-call vote Carried 6-0// Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
3. Linda Loring Nature Foundation – 90,110,124,130&136 Eel Point Rd. (39;32;33;38 - &2;33;18;4,3,6, & 41) SE48- 3500
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff He'll draft a positive order for this.
 Discussion (8:24) None
 Motion Continued to May 12
 Roll-call vote N/A
4. Park City Wind, LLC – New England Wind Connector (N/A) SE48-3524
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff He'll watch the discussion to help draft the Order.
 There is a standard condition that requires it comply and follow all permits.
 Read the Finding about the impact of additional cables.
 Discussion (8:25) **Erisman** – For Vineyard Wind, we had a finding about the impact of additional cables in the corridor; that should be added.
Phillips – The decommissioning is in the Federal law, but she would like a way to say that this conforms to all agency requirements.
Engelbourg – He still thinks we should ask for monitoring beyond the geophysical surveys.
 Motion Continued to May 12
 Roll-call vote N/A
5. 7 Laretta Lane, LLC – 7 Laretta Lane (14-53) SE48-3528
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff He added Condition 20 about soil.
 Added Condition 21 that no discharge from man-made uses may occur within out jurisdiction. Groundwater isn't protected under the resource of land subject to coastal storm flowage.
 Discussion (8:31) **Engelbourg** – Though the pool is outside our jurisdiction, wants it conditioned that the water won't be pumped into our jurisdiction.
Golding – Thinks ground water protection is within ConCom protection.
Engelbourg – We do have some ability to protect groundwater and need to address that in the regulations rewrite.
 Motion **Motion to Issue as amended.** (made by: Golding) (seconded)
 Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
6. Nantucket Islands Land Bank – 17 & 21 North Cambridge Street (38-158;159) SE48-3533
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff This and 36 West Miacomet will look the same.
 Have standard conditions memorializing use of Plateau Herbicide.
 Discussion (8:35) **Engelbourg** – Found an error in the invasive being treated.
 Motion **Motion to Approve as amended.** (made by: Beale) (seconded)
 Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
7. Nantucket Islands Land Bank – 36 West Miacomet Road (86-14) SE48-3532
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff Need to change the invasive being mitigated.
 Discussion (8:38) None
 Motion **Motion to Approve as amended.** (made by: Engel) (seconded)
 Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

8. 41 Monomoy Road, LLC – 41 Monomoy Road (54-79.1) SE48-3536
Sitting Erisman, Golding, Engelbourg, Phillips, Beale
Documentation Draft Order of Conditions
Staff Can add that no fertilizer or chemicals are allowed within the 100’ buffer
Discussion (8:39) **Erisman** – The Order is labeled wrong.
Discussion about extending the restriction within the 100’ buffer
Motion **Motion to Approve as amended.** (made by: Engelbourg) (seconded)
Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

9. Town of Nantucket – Washington Street and Francis Street Layout SE48-3531
Sitting Erisman, Golding, Engelbourg, Phillips, Beale
Documentation Draft Order of Conditions
Staff Added Condition 19 prohibiting storage within resource area.
Condition 20 requiring all material and equipment from the area be removed if a flood event is predicted.
Added a waiver.
Discussion (8:45) **Golding** – The permit overview says waivers are not required.
Motion **Motion to Issue as amended.** (made by: Williams) (seconded)
Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

G. EXTENSION REQUEST

1. None

H. Other Business

1. Approval of Minutes None:

- Motion N/A
Roll-call vote N/A

2. Monitoring Reports: None
3. Enforcement updates:
a. 8 Meadowview Drive

- Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
Documentation Photos
Staff The wooded resource area was cleared, and a privet hedge installed without permit
Discussion (8:50) None
Motion **Motion to Issue the Enforcement Order.** (made by: Golding) (seconded)
Roll-call vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

4. Reports:
a. CRAC, Golding
b. CPC, Beale
c. NP&EDC, Phillips
5. Commissioners Comment
a. Williams – She will send the address of a possible violation to Mr. Carlson
6. Administrator/Staff Reports
a. Next meeting we will adopt codified regulation
b. Town Meeting starts Monday May 3.

I. Adjournment

- Motion **Motion to Adjourn at 8:58 p.m.** (made by: Williams) (seconded)
Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

Submitted by:
Terry L. Norton