



CONSERVATION COMMISSION

PUBLIC MEETING

131 Pleasant Street
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Thursday, January 19, 2023 – 5:00 p.m.

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

Commissioners: Ashley Erisman (Chair), Ian Golding (Vice Chair), Seth Engelbourg, Mark Beale, Linda Williams, Mike Misurelli, and Joe Plandowski

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

Staff in attendance: Will Dell’Erba, Conservation Agent; Terry Norton, Town Minutes Taker

Attending Members: Erisman, Golding, Engelbourg, Beale, Williams, and Plandowski

Absent Members: Misurelli

*Matter has not been heard

I. PUBLIC MEETING

A. Announcements

B. Public Comment

1. None

II. PUBLIC HEARING

A. Notice of Intent

1. Easton Street, LLC – 55 Easton Street (42.4.1-86) SE48-3590

Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski

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

Representative Brian Madden, LEC Environmental
Ryan Maxwell, Bracken Engineering
Sarah Alger, Sarah F. Alger P.C

Public None

Discussion (5:02) **Madden** – Reviewed plans revised based upon prior comments. Reduced intrusion into the 50’ buffer to an isolated vegetated wetland (IVW) by 114 square feet (sf). The entire structures is being elevated 2.5’ and put on a crawspace with flood panels. Feels this work will result in a significant net improvement. We are also willing to provide additional revegetation in a 3’ vegetated strip along the back planted with native shrubs.

Alger – It seems we are squarely within the net benefit; it’s hard to imagine what would cause a negative impact. It’ll be a better situation to deal with stormwater.

Golding – He agrees with Ms. Alger’s assessment.

Beale – Asked the plan for raising the house within the 50’ buffer. He’s concerned about excavation.

Madden – We will be improving the area. The flood vents will allow water to pass through; right not that is not possible. There might be a little “TBD” based upon the stability of the exiting foundation; the slab will have to be removed. There will be no deep footings.

Staff recomm. Have everything needed to close.

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

Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

2. ACK Hang Ten, LLC – 21 Meader Street (42.2.3-44) SE48-3611

Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski

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

Representative Art Gasbarro, Nantucket Engineering & Survey
Kevin Garneau, Northeastern Consulting Services
Glenn Wood, Rubin & Rudman, LLP

Public Diane Coombs, 44 Union Street
Steven Cohen, Cohen & Cohen Law P.C for 46 Union Street
David M. Haines, Haines Hydrogeologic Consulting for 46 Union Street

Discussion (5:12) **Gasbarro** – Reviewed plans revised based upon prior comments; the timbers are now an at-surface perimeter. The work is to restore the site, plant grass seed, and have a small parking area. We provided information in the supplemental response that there is no IVW on this site. This is land subject to coastal storm flowage.

Erisman – Asked if they have removed the timbers.

Gasbarro – The top row was removed; it was done at the time of the site visit. They were timber-locked down that required unscrewing.

Engelbourg – In the letter from Northeastern Consulting Services, they reference 2 test pits showing water at 23” and 25”; asked if that is the groundwater.

Garneau – We didn’t find modeling that would indicate a high ground water.

Engelbourg – There has been discussion about soils, vegetation, and hydrology; vegetation and hydrology are important. If there's water within 18" of the surface, you could have an IVW, but from what you've said, that is not the case.

Williams – Confirmed that this is not an active wetland. Any structure that goes on this lot will have to be on piers. Asked if there is any change of grade that will impact the flow of water; it's very wet in the properties around this lot.

Gasbarro – Doesn't believe we will ever be able to obtain a permit allowing a change in the grade.

Plandowski – The top row was removed when he visited the site.

Engelbourg – It's possible there once was an IVW given the vegetation; it's hard to know for certain. We don't have anything documenting high ground water or soil. We have to follow the language in the regulations.

Coombs – She's lived here for 50 years; she's concerned about the wetlands. In a particularly wet spring, the water gets up to 12' deep. She has lost a lot of plants because of the excess of water. Asked they consider what is being done to the natural drain of water with the remaining timber in the dirt. This area is never dry; any structure will stop the flow of water and kill everything around it.

Cohen – Mr. Haines submitted a letter on behalf of his client. It was listed in the real estate listing that there was a wetland; the applicant scooped out all vegetation and topsoil and installed a wall. The problem is the applicant is arguing there is not wetland when they removed the evidence. The commission should require all timbers be removed and the plants be replaced as they are shown in the photos and the land allowed to rest. There should be no finding made until the land has restored itself.

Engelbourg – There was unpermitted work, the enforcement process, then an NOI was submitted and withdrawn, now there's this NOI. His point is that some of these issues are outside of scope of NOI and should have been handled in the Enforcement process. We might not have done a good job at identifying resources on site. We can't require restoration of unpermitted activities in an NOI. The client has admitted there are wetlands on site; they are asking for work within land subject to coastal storm flowage, a resource covered by our bylaws and the Wetland Protection Act (WPA). Asked if we have any staff-level soil data.

Erisman – If we do need mitigation on a property, we can ask for that through plantings. Perhaps we need to mitigate what happened here by not allowing a full lawn; we don't have the full information we need to do that.

Haines – He was hired by the neighbor who wanted to buy the property; they had questions about wetland restrictions and saw what they thought were wetland conditions. We looked at it in July 2020 and found it was dominated by wetland species: Cattails, Jewel weed, Money wart, swamp milkweed, marsh ferns. He found hydric soil and black muck. The hydrology was saturated to the surface; this is a low area that collects water. In his opinion, this was a shallow wet marsh. Looking at the photos taken in 2021, it appears the wetland had expanded. The photos from the disturbance, it's evident the entire site was stripped of topsoil. It was said the disturbance was from removing debris and that this was a dump site; this site was a lawn, not a dumping site.

Williams – We need a list of what violations haven't been pursued and/or resolved. If we don't carry out enforcement, people will keep doing it.

Golding – If we find out the Enforcement Order is open, that's settled; if it isn't, we should require restoration be done.

Cohen – He doesn't believe differentiating between NOI and Enforcement Order is accurate; you have the authority to enforce based upon the photos. His client is objecting to the eradication of the wetland and installation of timbers and changing the topo.

Golding – Mr. Cohen makes a compelling case and feels Mr. Haines speaks the truth.

Engelbourg – It seems like violations are handled through enforcement process; if we can do it through the NOI, so be it. He feels it's evidently clear today that the conditions on site do not indicate a vegetated wetland of any type. It seems from the 2020 data and photos, there was a fresh-water marsh. He'd like to see restoration to that if possible. It's important in our process to ensure we are basing judgment off of fact; he'd hope for more concrete data. He will say it was probably a fresh-water marsh.

Haines – The Enforcement Order was from Spring 2022. We have tried to get a copy of it. It also appears the lot has been regraded; it's so disturbed, he can't tell what has happened. The rear of the site is higher than the front when it previously was lower.

Coombs – It was March 2022 when she saw the orange markers in there. Asked that they look hard into this.

Erisman – We will track down the Enforcement Order.

Gasbarro – We have also requested a copy of the enforcement. The first NOI was in reaction to a stop-work order, which the owner has done. The owner told him he removed 6 trucks of subsurface debris. There seems to be a lot of speculation going on; we collected the hard data from the site. The timber surround is only 2 rows of 5.5" set in the ground and are not stopping groundwater. Suggested looking at an aerial including the surrounding structures. We've put forth the findings from the site investigation.

Wood – Reiterated the point about the development going on around the property. The water on the property on Sunday was coming from off this property. It's the legal responsibility of every owner to handle water on their own property; if they weren't creating a water trespass, the condition could be very different.

Erisman – Better stormwater policies would help stop water trespass. She'd like to see the Enforcement Order; asked Mr. Gasbarro what he wants to do.

Gasbarro – He doesn't want to go against the chair, but he would want to know what comes out of the Enforcement Order; no one seems to have it. We've provided everything we can.

- Wood** – Whether or not the Enforcement Order was issued, we did follow it.
- Golding** – If the Enforcement Order had come before the commission, he would have asked the wetlands be restored to what it was; that’s what his position is now and would request it in the Order of Conditions.
- Wood** – Asked for a 2-week continuance to search out the Enforcement Order. We don’t have any data or dimensions on the IVW; he’s not sure how that would be restored.
- Staff recomm. He doesn’t know of any staff-level soil data; he can ask Mr. Carlson when he returns.
He and Morgan Sayle have revamped the internal enforcement tracking so that it is clear. We need to get a handle on anything over 4-months old.
- Motion Continued to February 2nd.
- Vote N/A
3. *Drexler – 95 Washington Street (55.1.4-46; 47; 6.1) SE48-3617
- Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
- Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
- Representative Leo Asadoorian, Blackwell & Associates
- Public None
- Discussion (6:12) **Asadoorian** – This is for construction of a garage. We staked out the location; we moved it 7 points west away from the main house. He lowered the floor slab down to 3.5” so the bottom of the vents are no more than 12” above grade. Accessed via cross easements.
Engelbourg – Proposed around the garage is a 5X10 apron; it shouldn’t be impermeable material within LSCSF. Asked they change that to a pervious surface.
Williams – Agrees with Mr. Engelbourg about the impervious surface.
- Staff recomm. Have everything needed to close.
- Motion Motion to Close. (made by: Beale) (seconded)
- Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye
4. *14 North Road, LLC – 14 North Road (43-83) SE48-3612
- Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
- Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
- Representative Brian Madden, LEC Environmental
- Public None
- Discussion (6:18) **Madden** – This to replace existing beach stairs with elevated wood stairs 3’ wide and elevated 12”; it’ll be supported by helical piles. Asking for 6 cubic yards east of the set of stairs in a washout area that abuts an adjacent bulkhead. The sand will be delivered via shoot over the bank and hand-raked into place.
Engelbourg – Asked that following the delivery and raking of the sand, we require vegetative planting to prevent future washout.
- Staff recomm. Have everything needed to close.
- Motion Motion to Close. (made by: Williams) (seconded)
- Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye
5. *Nantucket Boathouse, LLC – 2 & 6 Easton Street (42.1-4.8; 4.9) SE48-3613
- Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
- Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
- Representative Cole Bateman, Coastal Engineering Company
- Public R.J. Turcotte, Nantucket Land Council
- Discussion (6:22) **Bateman** – This is a marine pier replacement and bulkhead alteration. Timber bulkhead 136’ long. The pier is within the existing footprint but raised to facilitate storm management and improved access. Will reduce the number of piles for the pier and raised about 3’; the float piles will be replaced. There is a current Chapter 91 license, which allows a 30’ gangway. The Division of Marine Fisheries asked for a time-of-year restriction, and existing piles be removed below the mud line.
Engelbourg – He’s concerned there is not a suitable alternative analysis for the bulkhead replacement; the burden of proof is on the applicant to show there is no way to use a more environmentally friendly solution to control erosion. Asked for a suitable analysis.
Golding – Asked when the mean high water was measured (Summer). There should be public access between mean high water and mean low water.
Bateman – It’s being raised to allow that access.
Beale – He supports Mr. Engelbourg’s request; this is the perfect location for an alternative such as a living shoreline.
Williams – There is almost a continuous bulkhead from here to the Breakers. If there’s a hole, that’s where the water comes in. She’s not opposed to bulkheads and is opposed to making them do something else.
Erisman – Many of those were permitted before the Wetlands Protection Act and our Bylaws; some of the alternatives might offer the same protection but be better for the environment.
Williams – A lot of those bulkheads have been repaired or replaced over time. If we’ve allowed everyone else to repair or replace, we’re headed into trouble requiring that on this one property.
Engelbourg – This process isn’t about being anti or pro bulkhead; after we have a good alternative analysis, we can decide one way or another. Our regulations require that we look at more economically friendly

alternatives. He’s also concerned that in the application the resources are only from the Massachusetts Wetlands Act; there is no reference to the local performance standards.

Bateman – This is a pre-1978 home on a coastal bank.

Erisman – We still require that alternative analysis.

Turcotte – In agreement with the ConCom; an analysis needs to be asked for every time a bulkhead comes in.

Engelbourg – He’s repeatedly submitted articles on how some alternatives are more protective and more financially reasonable in the long run.

Bateman – Asked if the commission has any comments on the pier itself or if it’s the bulkhead.

Consensus – Okay with the pier.

Batman – Asked for a 2-week continuance.

Staff recomm. None

Motion Continued to February 2nd.

Vote N/A

6. *Madaket Land Trust – 3 Baltimore Street (60-19) SE48-3614

Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski

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

Representative David M. Haines, Haines Hydrogeologic Consulting

Tony Butler, Madaket Land Trust

Public None

Discussion (6:40) **Haines** – This involves brush removal to create a firebreak and enhance the wildlife habitat. A small portion is in the buffers for a bordering vegetated wetland and land subject to coastal storm flowage. It’s within Massachusetts Natural Heritage habitat and received their response; if we use appropriate native seed mix, this project is exempt. Will brush hog the area leaving bush along the backs of abutting properties; will remove Black pines; no regrading and no fertilizer. Proposing a wildlife seed mix with a little Blue Stem. The existing herbaceous layer will thrive and expand once the brush is gone.

Erisman – Asked if Massachusetts Natural Heritage addressed the Pitch Pine; given the status of the long-eared bat using those for habitat, she’d like to see as much remain as possible.

Haines – They didn’t address bats; they did address the Spotted Moth.

Engelbourg – Agrees the Pitch Pine should be retained. We should have a condition for no work between June 1 and July 31. He supports the goals. There is predominantly native shrub with a lot of Jap black pin and honeysuckle; brush hogging could spread those species. Before brush hogging, they could hand remove those species or restrict the time of cutting outside the growing season or have appropriate monitoring to ensure they don’t grow back.

Golding – He’d like to see a plan showing the location of trees that will be preserved.

Haines – We could try to preserve all the Pitch Pine and have someone flag them before brush hogging. Work should be done in the winter so agrees with the time constraints.

Erisman – We’ve conditioned it in the past to have staff on site when the clearing begins.

Butler – He’s been through the site; we have a map. We couldn’t find Pitch Pine; it’s mostly Black Pine. There is Black Cherry we’d like to keep.

Staff recomm. Have everything needed to close.

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

Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

7. *Gifford/Carlin – 28 Sheep Pond Road (63-34) SE48-3615

Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski

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

Representative Paul Santos, Nantucket Surveyors

Public None

Discussion (6:52) **Santos** – This is along an eroding shoreline to abandon the existing tank from within the buffer to the coastal bank and install a tight tank outside ConCom jurisdiction. We’ve removed the leach pit under Nantucket Surveyors’ supervision. We have subsequently filed this NOI for the existing tank and line to the house.

Staff recomm. Have everything needed to close.

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

Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

8. *78 Wauwinet Road, LLC – 78 Wauwinet Road (14-18) SE48-3616 (Cont. 2/2)

B. Amended Order of Conditions

- 1. None

III. PUBLIC MEETING

C. Minor Modifications

- 1. None

D. Requests for Determination of Applicability

- 1. None

E. Certificates of Compliance

1. ACK East Lincoln, LLC – 1 East Lincoln Avenue (42.4.1-12) SE48-3488
 - Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 - Representative None
 - Staff recomm. Work is compliant; no on-going conditions.
 - Discussion (6:55) None
 - Motion **Motion to Issue.** (made by: Engelbourg) (seconded)
 - Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye
2. Nantucket Islands Land Bank – 231 Polpis Road (26-28) SE48-2981
 - Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 - Representative None
 - Staff recomm. This is the Reyes Pond property; everything is as portrayed. He doesn't have the on-going conditions related to the invasive species removal – Conditions 19, 21, 22, and 24.
 - Discussion (6:57) **Erisman** – Asked if they need on-going conditions for invasive species.
Engelbourg – There was Scotch Broom and Love Grass removal going on. He'd rather have the on-going conditions in place before issuing.
 - Motion **Motion to Issue with on-going Conditions 19, 21, 22, & 24 related to invasive species management and removal.** (made by: Williams) (seconded)
 - Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye
3. Nantucket Islands Land Bank – 21 North Cambridge Street (38-158) SE48-2259
 - Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 - Representative None
 - Staff recomm. This is for removal of structures and appurtenances. Work is in compliance.
 - Discussion (7:03) None
 - Motion **Motion to Approve.** (made by: Golding) (seconded)
 - Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye
4. Callen Miller, Inc – 117 Orange Street (55-377) SE48-3427
 - Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 - Representative None
 - Staff recomm. This was for a deck and landscaping. Work is in compliance.
 - Discussion (7:08) None
 - Motion **Motion to Issue.** (made by: Williams) (seconded)
 - Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

F. Orders of Condition

1. Easton Street, LLC – 55 Easton Street (42.4.1-86) SE48-3590
 - Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 - Documentation Draft Order of Conditions
 - Staff Will add Condition 20 regarding cultivars.
 - Discussion (7:10) **Erisman** – We should add no cultivars in reference to the hedge.
 - Motion **Motion to Issue as amended.** (made by: Golding) (seconded)
 - Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye
2. Drexler – 95 Washington Street (55.1.4-46; 47; 6.1) SE48-3617
 - Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 - Documentation Draft Order of Conditions
 - Staff Already added Condition 20 requiring a pervious surface.
 - Discussion (7:12) **Williams** – They had an apron around the whole structure; that pad was expanded unnecessarily.
Erisman – This should say no impervious surface around the structure; that way it all has to be changed.
 - Motion **Motion to Issue as amended.** (made by: Engelbourg) (seconded)
 - Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye
3. 14 North Road, LLC – 14 North Road (43-83) SE48-3612
 - Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 - Documentation Draft Order of Conditions
 - Staff He already added Conditions 20 and 21. Will add Condition 22 about the sand. Condition 23 requires yearly reports on survivorship.
 - Discussion (7:15) **Erisman** – We will probably need photo monitoring of the beach grass.
Engelbourg – Related to the nourishment material (sand), he'd like a condition requiring all the sand is beach compatible by grain size and Munsell grain analysis. We need to set percentage of survivorship as noted in other Order of Conditions. At one point we were putting in dates for the reports; he'd like to have that.
 - Motion **Motion to Approve as amended.** (made by: Golding) (seconded)
 - Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

4. Madaket Land Trust – 3 Baltimore Street (60-19) SE48-3614
 Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 Documentation Draft Order of Conditions
 Staff He’s already added Conditions 20, 21, & 22 based upon today’s discussion. Will add Condition 23 requiring a staff inspection.

Discussion (7:23) **Erisman** – Wants a condition the staff will inspect the site before brush hogging.
Engelbourg – Condition 21 should say “outside the active growing season” and no work between June 1 to July 31. Regarding Jap Black Pine, if there are any larger trees that have to be cut and chipped, there is no need to put the chips through the digester so can add “...or otherwise disposed of appropriately off site.)

Motion **Motion to Issue as amended.** (made by: Williams) (seconded)
 Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

5. Gifford/Carlin – 28 Sheep Pond Road (63-34) SE48-3615
 Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 Documentation Draft Order of Conditions
 Staff Will add Conditions 20 requiring revegetation.

Discussion (7:28) **Erisman** – Wants to ensure revegetation of disturbed areas.
 Motion **Motion to Approve as amended.** (made by: Golding) (seconded)

Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

G. EXTENSION REQUEST

- 1. None

H. Other Business

- 1. Approval of Minutes 01/05/2023:

Motion **Motion to Approve as drafted.** (made by: Plandowski) (seconded)
 Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

- 2. Approval of Minutes 01/12/2023:

Golding – He said, “We still have the issue of a deficit of 60,000 cubic yards.”

Motion **Motion to Approve as amended.** (made by: Wilalims) (seconded)
 Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

- 3. Enforcement Action/Potential Enforcement Actions
 - a. 2 Gully Road (“Sconset)

Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 Documentation Letter from Seth Wilkinson, Wilkinson Ecological Design;
 Speakers Paul Santos, Nantucket Surveyors for DiMartino former owners
 Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP for ‘Sconset Trust
 Glenn Wood, DiMartino & Robert Slade Landscaper

Discussion (7:33) **Santos** – Since the initial Enforcement Orders were issued, a project team was compiled to develop a restoration plan. Reviewed members of the team. All parties attended a site visit yesterday. The letter requested that the hearing be continued to March 9th in order to develop a complete restoration plan. Mr. Wilkinson also requested the ConCom amend the Enforcement Order to allow removal of debris and outlined how that removal would be done. The corner of Gully Road would be the best area from which to stage activities.

Williams – Asked who got cited.

Santos – ‘Sconset Trust, DiMatinos, Nantucket Land Bank, and the landscaper, Robert Slade.

Engelbourg – He supports allowing the 2 requests. Asked the staff if fines were issued.

Plandowski – Asked what the bottom line would be once all this is done.

Santos – On March 9th, we would propose a restoration plan: remove fallen trees, better assess surviving vegetation, and present a restoration plan. Some sapling Japanese Black Pines would be left in place to act as a buffer. This is a dune area subject to wind.

Golding – They didn’t fall; they were illegally cut Wants to know if we can press criminal damage against the perpetrators; it was malicious damage. Wilkinson should have a plan for putting in mature trees.

Williams – Agrees.

Engelbourg – There is a pathway within the WPA to pursue criminal enforcement; he doesn’t advocate for doing that. We need to temper expectation about the height of replacement trees. There will be no opportunity for the applicant to propose Japanese Black Pines, which are invasive.

Golding – He would like to motion we approach Town Counsel about pressing charges for those responsible both directly and indirectly.

Motion Motion we approach Town Counsel about pressing charges for those responsible both directly and indirectly. (made by: Golding) (seconded)

Vote Not Carried 3-3//Beale, Golding, and Williams-aye; Plandowski, Erisman, Engelbourg-nay

Motion **Motion to consult with Town Counsel about pressing charges.** (made by: Golding) (seconded)

Vote Carried 6-0//Beale, Golding, and Williams-aye; Plandowski, Erisman, Engelbourg-nay

Further discussion **Reade** – Hopes no changes would be pressed against ‘Sconset Trust or Nantucket Land Bank. We’re very happy the DiMartinos have engaged qualified experts. “Sconset Trust would sign the NOI understanding all work would be done by and at the expense of the DiMartinos. Endorses Mr. Engelbourg’s comments about plants that would take hold and survive in this location.
Wood – His clients will take tonight’s comments to heart; we’ve had on-going conversations with Mr. Reade, Ben Champoux, and Natural Resources staff. A small amount of the footprint involved the Land Bank; the majority of work was on Trust property.
Erisman – We should probably make a motion to allow them to remove the debris before the next hearing.
Beale – Asked about removing the stumps.
Dell’Erba – They are not going to want 3’ stumps dotting the landscape.
Williams – If the remove the trees and take the stumps to grade, how are they going replant with all those stumps still there.
Erisman – She trusts Mr. Wilkinson to come up with a plan.

Motion **Motion to Allow the applicants to remove debris and burr the stumps to grade before the next hearing.**
(made by: Beale) (seconded)

Vote Carried 6-0//Beale, Golding, and Williams-aye; Plandowski, Erisman, Engelbourg-nay
Action Continued to March 9th.

b. Turcotte – Asked again the ConCom address the stormwater issues along the harbor
Erisman – We need to tighten up enforcement.

4. Reports:

- a. CRAC, Golding
- b. CPC, Beale

5. Commissioners Comment

a. Williams – Confirmed Japanese Black Pine was just added to the invasive species list; asked what other plants have been added. She’d like Privet added to the list.

Engelbourg – Weeping Love Grass and Scotch Broom are also on the list. Recommends not using those plants during the Phase-out period. ConCom wrote a letter to Massachusetts Division of Agricultural Resources (MDAR) requesting adding these species to the list; thanked ConCom for doing that. Reviewed the process that leads plants to being put on the Invasive Species List. With appropriate documentation, any species can make it to the list; only one species of Privet is on the list.

Plandowski – He was surprised the nurseries have time to clear their inventory; that will encourage planting them.

Erisman – The best way to deter use of invasive species is to push using native species.

b. Erisman – Asked for an email to set a date for the next regulation update meeting.

6. Administrator/Staff Reports

a. Any Enforcement Order that has come up in the last 4 months is being well tracked; working on Enforcement Orders older than that.

b. Norton – This is her last ConCom meeting.

I. Adjournment

Motion **Motion to Adjourn at 8:16 pm.** (made by: Plandowski) (seconded)

Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

Submitted by:
Terry L. Norton