

MEETING OF FEBRUARY 25, 2014
OF THE TRUSTEES OF THE FREEHOLDERS AND COMMONALTY
OF THE TOWN OF EAST HAMPTON, NY

Present: Diane McNally, Trustee Clerk
Stephanie Forsberg, Assistant Clerk
Timothy Bock
Brian Byrnes
Deborah Klughers
Stephen Lester
Sean McCaffrey
Nathaniel Miller
Bill Taylor

Also Present: John Courtney, Trustee Attorney
Lori Miller-Carr, Trustee Secretary
Chris Walsh, Star Reporter
Stephen Angel
Ira Barocas
John Ciarelli
Scott Dobriner
David Eagan
Chris Ganitsch
James Grimes
Susan Knobel
Tom Knobel
Lynn Mendelman
Ross Perchik
Aram Terchunian
Chic Voorhis

The meeting was opened at approximately 6:00 pm by the Clerk.

Chic Voorhis and John Ciarelli were present concerning the applications of Mullen, Lynch and Clemente for new rock revetments at Louse Point. Mr. Voorhis pointed out the applications were submitted on September 23, 2013. He presented an aerial photograph of the area of the proposed projects documenting the actual erosion as a result of storms. He noted the toe of the bluff is being scoured, causing slumping; and it continues to occur. Mr. Voorhis presented photographs pre and post Hurricane Sandy. In response to the Trustees previous inquiry if any efforts were ever made for soft solutions, Mr. Voorhis explained sand (and plantings) were placed on the beach in 2004 and lost during a storm event which occurred approximately six months later. He said sand cubes were proposed at the base of the bluff along the Clemente property in 2011, but the Trustees denied their placement. He went on to say the property owners are now proposing a combination of structural and non-structural measures, specifically to stabilize the toe of the bluff with a rock revetment with sand to be re-graded

2/26/14

and re-vegetate, and install a small berm along the bluff crest. He noted Clemente will seek to install a staircase, as it is the highest property; and the others would like to install steps into the revetment. Mr. Voorhis said there are a number of benefits which should be considered. He pointed out it is a permanent solution; it is an attractive solution; reduces energy and material construction and employs a comprehensive approach. He stated they would like the Trustee to come to a decision, so his clients can move on. Mr. Voorhis requested the Trustees consider that the waterfront owners seek to protect their property as it continues to occur, and would like the Board to consider re-opening the Wilder application. He pointed out if the Trustees leave that 30' section out, it will continue to scour and erode behind the structures. He added the Trustees need to look at all the properties together. Mrs. Klughers asked if the DEC gave the applicants a permit for a certain amount of sand. Mr. Voorhis replied no quantity was indicated in the permits. Mrs. Klughers asked if Mr. Voorhis considered the DuneLadder approach. Mr. Voorhis replied he doesn't feel it would be the best alternative in this particular situation. The Clerk thanked Mr. Voorhis for his presentation and said the Board will continue to review the applications. Mr. Ciarelli reiterated that Ms. Wilder was deeply involved caring for her mother before her death- and did not intend to offend the Board in any way. He added he felt the Trustees should consider this proposal as it is based on sound engineering.

Susan Knobel was present concerning emergency placement of sandbags on Lots 52N and 53N at Lazy Point. Ms. Knobel presented a copy of a letter she sent to the Army Corp of Engineers stating she is opposed to dredging of the western inlet in Napeague Harbor unless the dredge spoil can be used to replenish the beach from the launching ramp westward to the point. The Clerk noted a letter was received from First Coastal stating the same; a modification to the spoil location. Mrs. Knobel went on to say after several attempts she spoke with someone from the Army Corps by telephone, and they told her they had received numerous comments regarding the dredging project; and were forwarding them to Suffolk County Department of Public Works. She said she also contacted SCDPW and was told the plans would most likely be changed. Ms. Knobel pointed out at the last Trustees meeting she asked for permission to replace the sandbags in back of her house. She noted the area where the sandbags are is 3' high by 19' long and she has been putting them in twice a year for fourteen years. She said the rock revetment has helped tremendously and if it wasn't there, her house would be under water. Ms. Knobel pointed out the berm on west side is being undermined and the roots of the vegetation are exposed. . She stated the sand bags held the berm in place, and initially put the sand bags in on a temporary basis, as she thought the spoils from the last two dredging would be placed on Lazy Point but instead they were placed on Hicks Island. She noted the beach kept eroding back; and now that the sand bags were taken out, it has eaten into the berm. Ms. Knobel stated she doesn't want to lose the berm. She asked the Board for a temporary emergency permit for placement of sandbags until the harbor is dredged. She pointed out sand and plantings are not a good option in her situation. She advised the Board she requested Walbridge to do another survey and started completing the application for sand placement, but it is going to cost several thousands of dollars. Ms. Knobel went on to say she didn't feel that she, as a homeowner, should have to pay for sand when it might arrive through the dredging. She said she would like to wait until the dredging is done and put in sand bags temporarily. She explained she has written a history of the area and dredging projects; and she feels the previous projects have been a problem because of the location of her house. She asked if the Trustees would please consider letting her put the sand bags in even if it is to get her through the winter. The Clerk told Ms. Knobel she will ask the Committee to re-consider and asked if Ms. Knobel would be submitting an application for sand replacement. Ms. Knobel said she felt it would be a waste to spend so much to have it washed out in such a tiny area if the dredge spoils are going to be placed there. Mr. Byrnes said if the Trustees

2/26/14

reconsider the sand bags, he would like to see what is currently there to be cleaned up. Ms. Knobel said she would be happy to do that. She told Mr. Byrnes she spent four hours this past weekend moving the rocks around to make it look presentable. In a discussion, Ms. Knobel told the Clerk she still has an application pending as the Trustees did not formally deny it at the last meeting. The Clerk told Ms. Knobel she is not sure what the outcome was and would have to review the minutes of the last meeting to make that determination.

Scott Dobriner and James Grimes were present concerning phragmite removal at 42 LaForest Lane on Georgica Pond. Mr. Dobriner said the property was purchased by his client approximately six months ago and there are no applications before the DEC or Trustees to date. He explained they are proposing to excavate the phragmites, truck them to an upland portion of the property and contain them in a basin for a few weeks before removal at an offsite location. Mr. Dobriner noted they plan to place clean sand in the areas where phragmites are removed and install native plantings. Mrs. Forsberg recommended an application with details should be submitted to the Trustees. She told Mr. Dobriner she didn't feel there should be an issue as long as herbicides are not used. The Clerk said she would like to know what the general high and low levels of the Pond is when it is opened and closed because the phragmites are usually wet when the Pond is full and if they put sand out there, it will be lost. She added Mr. Dobriner might want to consider what is being placed along the shoreline. Mr. Dobriner replied they won't proceed with the project until after the Pond is let in the fall. Mrs. Klughers asked if they plan to install some kind of barrier to prevent run-off (as a result of the project) from entering into the Pond. Mr. Grimes told Mrs. Klughers the DEC requires installation of sediment controls seaward of the project. He said the intent is to remove as much of the rhizomes as possible. Mr. Dobriner added he will submit a formal application to the Board for their review.

Chris Ganitsch, a homeowner at Hog Creek, told the Board she was present to support Cornell Cooperation Extensions plans to evaluate the health and to potentially improve the situation in Hog Creek. She said those who live in the area have noticed a dramatic change in the overall health of the Creek; and where there was a large pollution of eelgrass, it doesn't exist anymore. Ms. Ganitsch went on to say there is a huge sandbar that goes from one end of the marina to almost the other shore. She pointed out there are many homeowners who are interested in forming a Friends of Hog Creek group and would like to work with Trustees in getting this project started. Mrs. Klughers explained this is a proposed restoration project which would be funded thru Cornell Cooperative Extension and Lion Head or Clearwater Beach, or a community group. She said the idea is to have CCE come in and do studies in order to find out if it is a viable area for a restoration project. She noted they could possibly plant a native species of eelgrass in fall. Mrs. Klughers added she will forward information concerning the proposal to the Board and would like them to review it. Mrs. Forsberg told Ms. Ganitsch the Trustees have set a date for a presentation on their water quality project which will be held on March 19th at a public forum at the East Hampton Town Hall.

Mr. Angel was present concerning the application of Mollie Zweig for construction of a rock revetment which will be covered with sand. The Clerk said the application was received yesterday and copies will be forwarded to the Beaches Committee for their review. Aaron Terchunian gave a brief presentation on the proposed project with a stenographer present. Mr. Terchunian told the Board they have considered a whole range of options; and what they have presented to DEC and the Village of

2/26/14

East Hampton is the option that has the least environmental impact and considers the preservation of the beach and dune system. He stated an inventory was taken of 2000' of shoreline east and west of the Zweig property. He pointed out on almost every property some type of structure presently exists. Mr. Terchunian noted introducing another structure into that shoreline is not a new idea, but it needs to be tailored and fit in a way that would be reasonable. He explained they are proposing a rock core dune, building a large sand dune on top of it and installing sand fencing in order to allow the natural system to repair itself while holding a reserve in the core of the dune, and installing a flood control device in the form of a rock wall that will enable the dune to resist a flood during a storm event. He said they removed the entire wall 40' landward (or north) of the structure on the Manheim property (to the east). Mr. Terchunian said he felt the Board should recognize they are attempting to retreat in an orderly fashion. He stated this project provides long term protection that is consistent and complimentary to what exists on the adjacent properties. He pointed out this is a \$500,000.00 project (noting there was an error in the amount indicated on the Trustee application) and it has gone thru significant review with the DEC; He said the DEC requested the revetment be moved landward and that the groin be removed (which was done). Mr. Terchunian noted with those changes, the DEC and Village of East Hampton, agreed to approve the project. He added he realizes the concerns of Board and of the community are very deep regarding potential adverse impacts on the beach; but if the Trustees review the materials presented to them, and look at the aerial photos, they will see that a responsible approach is being taken. The Clerk thanked Mr. Terchunian for his presentation and said the Beaches Committee will review the information, and if they have any questions or comments, they can contact him. Mr. Eagan stated there is the issue of the hole which was dug and left on the public beach which should be addressed and he noted it would helpful (in the short term) for the applicant to consider sand replenishment for protection. Mr. Angel stated there is an April 1st deadline (which is the beginning of plover season) and realistically if the project is not done in four weeks, it will not happen. He pointed out the application presented to the Trustees, is the same application which was presented to the DEC and the Village of East Hampton. He added they are not amending application in any way; that is the application they have approval for, and that is the application they would like the Trustees to hopefully, promptly make a determination on.

The Clerk reported the Trustees, at their last meeting, discussed a change to the Mass Gathering Permit which led to a discussion regarding the Three Mile Harbor Fireworks and a determination has not been made. She said Mr. Perchik saw a report of the Trustees discussion at the last meeting in a local newspaper and became concerned. She stated Mr. Perchik submitted a letter to Trustees which she felt was not appropriate. Mr. Perchik told the Clerk he disagreed with the article he read which indicated Three Mile Harbor is closed for ten days after the fireworks. He stated Three Mile Harbor is not closed that long. The Clerk stated the Trustees know what the entire DEC procedure is. Mr. Perchik replied he wasn't at the meeting, so he doesn't know for sure what was said. He pointed out the water quality tests came back negative on Sunday, the day after the fireworks last year, and added this is just a DEC procedural process. The Clerk told Mr. Perchik the Trustees want to know why the DEC is closing the harbor, and added perhaps their protocol is wrong. She said it is not a criticism of the fireworks, it's a DEC issue. Mr. Taylor pointed out Three Mile Harbor has come back clean every time it has been tested but the DEC has a procedure in place and are looking at this to guarantee the shellfish are fit for human consumption. Mr. Taylor noted he brought in Federal standards for the Trustees to review. He said they had discussed the possibility of mitigating the size of closure area but the probability of the DEC doing away with closure is most likely unfeasible. Mr. Taylor said they will try to make arrangements to do testing expeditiously this year. He went on to say he submitted a foil request to the DEC for all the tests that have ever been done the day after the Boys Harbor Fireworks

2/26/14

and is waiting for the data. In a discussion, the Board agreed advertisements for the fireworks can be worded in a way that any testing done is a preventative process. Mrs. Klughers stated the Trustees have to inform the public there is no history of pollution occurring in conjunction with the Three Mile Harbor fireworks.

Tom Knobel told the Board he read in the newspaper about the Southampton Town Trustees injunction and the takeover of their funds by the Southampton Town Board. He pointed out several years ago, he had mentioned his concern to the Board about the selling of beach sand because when monies are involved a great jeopardy to the Trustees could exist. He noted when dealing with the aspects of New York State law, there is always the possibility the Board could be placed jeopardy because the NYS doesn't recognize the Trustees authority. He went on to say the fact that the Trustees are not entirely defined by state- but by Patents, could cause problems in the future. Mr. Knobel stated the question remains- is the Town providing a public benefit to a private entity? He pointed out perhaps it's time the Trustees come up with a policy for their own protection. He said he realizes the East Hampton Trustees may be a little more secure in the way they run their business than Southampton Trustees- as East Hampton Town Trustees are not considered a department of government. Mr. Courtney said he wrote to the Comptroller several years ago, and asked for an opinion as to whether the Trustees are supposed to be complying, but never received a response.

Lynn Mendelman told the Board there was an error in either the November 12th or the 26th minutes during a discussion of the Peconic Estuary as it was written "shove" ready but should be "shovel" ready projects. The Clerk replied the correction would be made to the minutes. Concerning the closures in Three Mile Harbor, Ms. Mendelman pointed out the DEC closes areas 500' in the vicinity of boating. She pointed out by having a demarcated mooring area, she is worried the DEC will close those areas for the summer. Ms. Mendelman noted shellfishing is done in shallow areas and not in areas where one would typically see a boat. She went on to say if the Trustees demarcate the shellfishing areas, especially the northern portion of Three Mile Harbor, they could say no boats should be permitted within 500' of these areas. Mr. Taylor said the current mathematical formula is for every 10' of water, one boat utilizes an acre to meet the dilution factor. He noted a person can harvest shellfish within 500' of an active marina. Mr. Taylor added the areas should be modified to conform to DEC regulations.

A motion was made by Mrs. Forsberg to approve payment of a bill in the amount of \$44,328.53 from David Eagan (\$68.75 for Young/Lemieux and \$44,259.78 for Zweig). This motion was seconded by Mr. Bock and unanimously approved.

The Clerk reported the Trustees "Legal" Certificate of Deposit is due for renewal. She added if the Trustees need to utilize funds from this account for legal fees, it is available.

Concerning the application of Bonnie Maslin and two applications for Ali Fard, for second tier bulkheads, Mr. Byrnes informed the Clerk he spoke with Laurie Wiltshire and has made arrangements to meet her at the sites for inspection along with Mrs. Klughers and Mr. Bock.

The Clerk said she sent a request to Land Planning Services for additional information on the Magovern application for bulkhead repair. She added she received a response and will draft a permit to be approved at next meeting.

2/26/14

A motion was made by Mrs. Forsberg to approve the application of Ingalls Road Property Owners Association for installation of 46 linear feet of (3) 12” diameter bio-logs backfilled with +/- 30 yards of clean fill with the following standard conditions: a) copies of applications and permits acquired from other agencies are to be submitted to the Trustees; b) written notification 48 hours prior to start; c) a valid as-built survey of the permitted activities will be submitted to this Board upon completion of the project; d) if the beach is to be used as access to the project site, it shall be left in the same condition upon completion of the project as at the start; e) no equipment shall be left on the beach overnight; f) access along the beach for the public shall not be impeded; g) only clean beach compatible sand shall be used; h) plantings shall be 12” on center, in staggered rows; i) submission of color photographs at the start and upon completion of the project; and j) no treated material. In addition a signed and notarized verification form from a representative of the Association is to be submitted to the Trustees. This motion was seconded by Mr. McCaffrey and unanimously approved.

A motion was made by Mrs. Klughers to approve the application of Clearwater Beach Property Owners Association for maintenance dredging of the Hog Creek Inlet with the standard conditions. This motion was seconded by Mr. Miller and unanimously approved.

A motion was made by Mrs. Klughers to approve the application of Katharina Hach for revetment maintenance- placement of 400 cubic yards of sand and planting of beach grass with the standard conditions in addition to no blocking of the beach access or staging of equipment during the project. This motion was seconded by Mr. Miller and unanimously approved.

The Clerk reported a letter was received from the Barnes Landing Association concerning vehicles on the beach. She noted the Supervisor received the same letter and responded he was referring the matter to the Trustees. She added she will draft a response for approval by next meeting.

A new application was received from David Seeler for re-vegetation on Lot 38N at Lazy Point. The Clerk asked the Lazy Point/Napeague Harbor Committee to review the application and inspect the site.

The Clerk reported an application was received Amagansett Beach Association for renewal of their Trustee permit for sand replenishment. She added they applied to the Trustees for the past two years but didn’t have to utilize the permit.

An application was received from Bruce Horwith on behalf of Mast One, LLC for phragmite removal in Georgica Pond. The Clerk asked the Georgica Pond Committee to review the application and inspect the site.

Concerning the application of Terry and Barbara Feeney for renewal of their Trustee permit for dock repair in Three Mile Harbor, the Clerk asked the Committee to review the application and inspect the site.

The Clerk reported she drafted a memo to the ZBA concerning construction of a swimming pool, patios, walkways, pergolas, window well and a driveway with a retaining wall on Breeze Hill Road. She added she requested the record be kept open for the Trustees determination of jurisdiction and/or comment as adjacent property owners.

2/26/14

Mr. Courtney reported he has been in contact with Dianne LeVerrier regarding SPB Development (Stephen Lloyd) and access from Six Pole Highway.

The Clerk noted Mr. Courtney is reviewing the verbiage of the recent amendment to Mass Gathering Permit Application pertaining to the requirement of signature by the property owner.

Mrs. Forsberg reported Dr. Gobler is scheduled to give a brief presentation at the meeting of March 11th on the water quality results for 2013 and the goal for 2014. She added the public presentation will be held on Wednesday, March 19th from 6:00 p.m. to 8:00 p.m. at the East Hampton Town Hall.

For Education, Mrs. Forsberg reported she spoke with Girl Scout Troop 419, which consists of 15 girls, regarding which endangered species they would like to work with. She noted each Girl Scout will be choosing their own endangered species. She added she volunteered to mentor the Troop and will refer them to the Trustees, also.

Mrs. Klughers reported a couple of years ago, the Trustees sent a letter in support of an eelgrass restoration project by Cornell Cooperative Extension, and noted CCE recently received a grant thru the Atlantic Coastal Fish and Habitat Program. She said part of the grass was to restore eelgrass meadows in Napeague Harbor. Mrs. Klughers said they would like to schedule an eelgrass weaving and planting workshop on May 18th in Napeague Harbor in the same vicinity as in the past. The Clerk said she would like to read the grant to insure there are no negative implications to the Trustees as far as participation. Mrs. Klughers told the Clerk this isn't the recent grant; it is a continuation of the grant from a couple of years ago.

Mrs. Klughers reported the Shoreline Sweep was held on Saturday, February 22nd and was very successful. She said she, Mr. Miller, Mr. Brynes and Mr. McCaffrey were present to assist in carting garbage bags in the Trustee truck. She stated thousands of pounds of garbage was picked up by approximately 100 participants from Wainscott to Montauk. Mrs. Klughers added a reception was held at St. Luke's Church afterward with food and a band.

The Clerk reported a letter was sent to Arleen Rivkind requesting submission of an application for shoreline stabilization in Georgica Pond.

A notice of commencement was received regarding the Reiss bulkhead project in Hog Creek.

No new information has been received from Ordinance Enforcement concerning the Salter bulkhead in Hog Creek.

The Clerk reported she is waiting for estimates to be received for repair of the parking lot in the vicinity of the launching ramp at Lazy Point.

Mr. Byrnes said he and Mr. Miller discussed the storage of large boats on some of the lots at Lazy Point. He stated if there is a fire at one of these residences, it will be a safety issue. It was agreed Mr. Byrnes will draft verbiage in regard to storage of boats at Lazy Point for Trustee review which will be included in the Lazy Point Rules and Regulations.

2/26/14

Mr. Byrnes reported the road end by Susan Knobel's house is in need of repair. It was agreed the Clerk will send a memo to the Highway Department requesting repair of the road and perhaps installation of a split rail fence.

The Clerk asked the Three Mile Harbor Committee to continue review of the applications of Schenck, Landey and Osborne for bulkhead repair.

Notification of completion of the Spiegel/Berliner bluff restoration project and the Welsch bluff restoration project was received. The Clerk asked the Three Mile Harbor Committee to inspect the areas of the completed projects.

The Clerk reported she sent a letter to Kim Shaw, Director of Natural Resources, indicating although there were some concerns regarding the shoreline and meadow, the Trustees feel there are far more benefits to the opening of the Accabonac Culvert than allowing it to remain closed.

The Clerk reported a meeting was held today with the Supervisor and the Chief of Police concerning Indian Wells Beach. She noted the Indian Wells Committee will meet again on Monday, February 24th and to discuss the relocation of upland portion of the sidewalk and roadway. She said as far as the issue regarding alcohol, no consensus was reached but it was discussed. She added the Trustees will continue to have dialog with the Supervisor. Mr. Taylor said he had suggested they consider a "family friendly" beach. The Clerk said she asked the Supervisor if a Piping Plover meeting could be scheduled. She added that same day, a memo was received from the Supervisor advising a meeting was scheduled.

A participation form was received concerning the annual Friends of Erin Parade which is scheduled for March 23rd beginning at 11:00 a.m. The Clerk said she if the Trustees had no objection, she would complete the form indicating the Trustees will participate in the parade. She noted Michael Bye will paint the bottom of the Trustee pump-out boat and get it ready for the parade.

The Clerk reported an amendment which was made to the ZBA application omitted some of the Trustee waterways. She said she will re-type it, include all the waterways, and send it back to the ZBA attorney.

The meeting was adjourned at approximately 8:30 p.m. by the Clerk.

2/26/14