

MEETING OF JANUARY 28, 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\
Tim Bock
Brian Brynes
Deborah Klughers
Stephen Lester
Sean McCaffrey
Bill Taylor

Not Present: Nathaniel Miller

Also Present: John Courtney, Trustee Attorney
Lori Miller-Carr, Trustee Secretary
Chris Walsh, Star Reporter
Patrick Bistran, Jr.
Billy Mack
Lynn Mendelman
Peter Mendelman
Mr. and Mrs. Mullen
James Walker

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

Susan Brierley of Land Planning Services was present concerning the applications of Bonnie Maslin, Karen Magovern and Ali Fard. The Clerk reported a letter was sent to Land Planning Services regarding the Magovern application but no response has been received to date. Ms. Brierley told the Clerk the engineer is working on answers to her questions and a response will be sent in the near future. The Clerk noted the Maslin application is for a second tier bulkhead and the committee is in the process of reviewing it. She pointed out the photographs which were submitted do not really show a need to disturb the embankment. Mrs. Klughers said she inspected the Fard sand replacement project and it looks good, but a deck was installed at the bottom of the stairway, and this was not approved by the Trustees. She pointed out she is not in favor of installation of a 2nd tier bulkhead. Mr. Brynes said he will inspect the Fard and Maslin properties. It was agreed a letter will be sent to Land Planning Services indicating the deck must be removed or the Trustees will not approve the present application before them. The Clerk asked the Hog Creek Committee to review the Fard files to confirm all conditions of the prior permit issued have been met.

Peter Mendelman was present concerning the application of Harbor Marina to renew the Trustee permit for travel lift repair with dredging. The Clerk pointed out as long as the project description matches that of the prior permit, it should be fine to issue a permit for renewal. A motion

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was made by Mrs. Forsberg to approve renewal of the prior permit issued to Harbor Marina for travel life repair with dredging to May 31, 2014 with the standard conditions. This motion was seconded by Timothy Bock and unanimously approved.

John and Ann Mullen were present concerning an application for a revetment on the beach of Louse Point along with their neighbors, Lynch, Wilder and Clemente. The Clerk said the Board decided to review the properties individually; and there are two new Trustees who are getting familiar with the applications as well. The Clerk pointed out the Wilder application for a revetment on a second parcel has been denied as the conditions on the property have not changed since her prior request. Mrs. Klughers questioned Mr. Mullen about a blow-out in the bluff on his property. He told Mrs. Klughers he thought it was from a faulty sprinkler head. Mrs. Klughers asked if anything has been done to the property since 2000 to mitigate these issues (i.e. sand replenishment, etc...). Mr. Mullen replied a full sand replenishment project was done and planted with grass. He said he gave the Trustees photographs of the finished project. He added it lasted approximately three months, until the next storm. The Clerk said the Trustees have documentation regarding sand placement but no permit was issued by the Trustees at the time. She went on to say, from the Board's perspective, there hasn't been enough done to attempt a soft approach. Mrs. Mullen told the Clerk the bluff is so vertical, that placement of sand won't last. Mr. Mullen pointed out he watched the Hach property and that is the reason he and his neighbors got together to do a similar project. Mr. Taylor asked if the area south of Mr. Mullen is bulkheaded. Mr. Mullen replied it is bulkheaded except for one parcel owned by the Nature Conservancy. The Clerk explained the Trustees are trying to understand what mitigating factors can be put in place to preserve the beach for the public. Mrs. Klughers pointed out there is a lot of scientific data showing these hard structures (revetments) end up causing problems for their neighbors. Mrs. Forsberg stated the Trustees biggest concern is preserving public property. She pointed out a hard structure, over a long period of time, has the potential to cause loss of public access to the beach. The Clerk reminded Mr. Mullen that Mr. Hach and Ms. Wilder haven't abided by the conditions of their permits to replace sand on an annual basis. She added if they had replaced the sand, it would have filtered down to the adjacent properties. Mr. Mullen urged the Trustees not to think of his property as a sacrificial sand pile to feed the beach, because in a sense, that is what it has become. Mrs. Mullen said they were hoping to get sand from the dredging of Accabonac Harbor but it didn't happen. The Clerk added the Trustees will do their best to come to a consensus regarding the Mullen's application.

Patrick Bistran, Jr. was present concerning the application of STP Hedges, LLC (Singer) for dune restoration. In a discussion, a motion was made by Mrs. Forsberg to approve the application of STP Hedges, LLC to restore the toe of the eroded bluff by placement of 500 cubic yards of sand/fill mix to the shape/profile of the previously completed Fall 2013 project with no expansion seaward and with all the standard conditions (except for condition #10) and the following additional conditions: a) approval of Highway Superintendent for the use of Old House Landing Road end; b) no equipment or materials will be stock piled on the beach or road end; c) submission of a copy of the 2014 East Hampton Contractor's License. This motion was seconded by Mr. McCaffrey and unanimously approved. It was agreed the permit will be valid until May 31, 2014.

Concerning the application of East Hampton 2013 Trust (Jason Liebman), the Clerk said the proposal is for revetment repair along the ocean adjacent to 197 Lily Pond Lane between Main and Georgica Beaches. She noted the proposed project is adjacent to the Sanders property to the east and is

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a pre-existing revetment damaged during the storms. The Clerk pointed out the walkway/stairs along the eastern side of the property line is not part of the permit application. Mr. Bistran said there are no plans to repair the walkway/stairs at this time. The Clerk further noted there are no plantings or shoreline fences proposed but recommended a covenant to the deed be obtained to insure if the revetment is ever exposed in the future, it will be re-covered with sand. Mr. Bistran replied the owner would have no problem with that. A motion was made by Mrs. Klughers to approve the application of East Hampton 2013 Trust (Liebman) for revetment repair with the standard conditions plus additional conditions including submission of a covenant to the deed, the contractor's license, an additional \$25.00 for application fee and approval from East Hampton Village for use of Georgica Beach road end. This motion was seconded by Mrs. Forsberg and unanimously approved.

In a discussion regarding the application of Jeffrey Manheim for revetment repair, Mrs. Klughers recommended the Board table approval pending completion of the Zweig litigation. Mr. Courtney told Mrs. Klughers he would like to talk with Special Counsel, David Eagan about this before the Trustees make a decision. Mr. Bistran pointed out the project is a simple repair which can be done a little bit at a time. Mrs. Forsberg said she doesn't have a problem repairing the existing revetment. Mr. Byrnes stated he doesn't feel Mr. Manheim should suffer because of Zweig. Mr. Bistran agreed Mr. Manheim shouldn't be penalized because of his neighbor. He pointed out the Board approved Liebman, which is less than a half mile to the east and is basically the same job as Manheim. Mr. Courtney said he doesn't want to be put in a situation where the Trustees are prejudicing their own litigation. Mrs. Forsberg pointed out if Mr. Courtney can speak with Mr. Eagan and he feels the Trustees can proceed before the next meeting, they can call a special meeting to approve Manheim, if necessary. Mrs. Klughers asked if Mr. Manheim would be willing to move the revetment landward. Mr. Bistran replied he didn't think it would be feasible as it would become a large scale project. The Clerk said as long as legal counsel has no problem, she has no objection to approving the application. A motion was made by Mrs. Klughers to table approval of the application of Jeffrey Manheim pending special counsel's approval to go forward. This motion was seconded by Mr. McCaffrey. Mr. Byrnes was opposed to this motion.

James Walker of Inter-Science Research Associates was present regarding the application of Devon Yacht Club for repair of 160 linear feet of timber jetty on the northeast and 39 linear feet on the northwest. In a discussion, the Clerk asked Mr. Walker what materials will be used to replace the bulkhead. Mr. Walker replied the bulkhead will be replaced with vinyl sheathing and tropical hardwood pilings. He confirmed the access to the project site is via the beach and Costello Marine is the contractor. Mr. Byrnes told the Clerk he inspected the site and it looks like there is plenty of room to do the project from the beach. Mr. Walker pointed out the jetties are in poor shape and need to be done. A motion was made by Mr. Byrnes to approve the application of Devon Yacht Club for repair of 160 linear feet of jetty on the northeast and 39 linear feet on the northwest with the standard conditions except plantings and the following additional conditions: 1) submission of an additional \$25.00 application fee and the contractor's license for 2014. This motion was seconded by Mr. Bock and unanimously approved.

Concerning a proposal from Clearwater Beach Property Owners Association to dredge Hog Creek, Mr. Walker told the Board he has just started reviewing Drew Bennett's plans and has recently made preliminary contact with the other regulatory agencies. The Clerk informed Mr. Walker that Mr. Bennett did not apply for a ten (10) year maintenance permit. She noted the last application, which was approved by the Trustees, has been completed as per all the conditions. She pointed out the Trustees

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are not in the habit of issuing ten (10) year maintenance permits and doesn't advise they do so in this case. She stated only annual agreements/permits will be acceptable. Mr. Walker added he doesn't presently have anything new to report but it seems like there have had a lot of problems between Clearwater Beach Property Owners Association and the Trustees. The Clerk added the dredging of the inlet has never been an issue with the Trustees; occasionally the Association balked at the dredge spoil fee, but it was worked out. Mrs. Klughers asked Mr. Walker who the president of the Association is at this time. Mr. Walker replied the president is David Wagner.

A motion was made by Mrs. Forsberg to approve the following minutes with minor clerical amendments: a) September 10, 2013 with amendments; b) September 24, 2013 with amendments; c) October 8, 2013 and d) October 22, 2013. This motion was seconded by Mrs. Klughers and unanimously approved.

A motion was made by Mrs. Forsberg to approve payment of the following bills: a) Allstate Sign & Plague- \$193.10; b) Staples- \$31.80 and c) Travel Expense Reimbursement to Lynn Mendelman- \$114.70. This motion was seconded by Mr. Bock and unanimously approved.

The Clerk reported two Certificate of Deposit accounts have been renewed at Suffolk County National Bank.

A 2013 Town Budget report has been received. The Clerk noted the Trustees used 96.9% of their budgeted funds.

Concerning the application of Mako Lane Association for a walkway, the Clerk reported a letter was sent to the Association in December requesting the portion of the walkway built with CCA be changed to a roll-out walkway. She added no response has been received. A motion was made by Mr. Lester to deny the application of Mako Lane Association for a walkway to the beach. This motion was seconded by Mrs. Klughers and unanimously approved. It was agreed a certified letter will be sent to the applicant requesting removal of the walkway.

A motion was made by Mr. McCaffrey to approve the application of Jane Weprin for installation of a shoreline fence with the standard conditions. This motion was seconded by Mrs. Klughers and unanimously approved.

A motion was made by Mr. Lester to deny the application of David Seeler for re-vegetation on Lot 38N at Lazy Point. This motion was seconded by Mr. Taylor and unanimously approved. The Clerk noted this has been an on-going issue with Mr. Seeler as he has done projects in the past without a Trustee permit. Mr. Seeler has indicated to Kim Shaw, Director of Natural Resources that Larry Penny gave him permission to clear and re-vegetate in the past. Mr. Taylor pointed out since the Trustees are the property owners, they should ask Mr. Seeler to submit a re-vegetation plan for Trustee approval and inform him renewal of his lease is subject to submission of that plan.

Concerning the application of Loida Lewis for dune restoration on Lily Pond Lane, Mr. Courtney advised the Board Mrs. Lewis is his client, and if the Board needs legal advice, they should contact Special Counsel, David Eagan. In a discussion, the Clerk pointed out the contractor for Mrs. Lewis has not met the conditions of other permits issued. She asked if the Trustees should consider another application submitted by the same contractor. Mrs. Klughers said she didn't think the Trustees

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can hold up an application just because the contractor hasn't met his obligations on another project. She said there are things the Town can do to contractors who don't abide by the rules via the Licensing Review Board. The Clerk pointed out this is a very simple application, to place 3,000 cubic yards of sand to restore an eroded dune and the Trustees have approved many of these applications. She noted an additional \$25.00 for the permit fee is required as well as a copy of the Contractor's license and permission from East Hampton Village to utilize the beach road end. It was agreed a letter will be sent to the contractor to this effect.

The Clerk reported a letter was received from the Clamshell Foundation regarding the 2014 Sandcastle Contest and the Three Mile Harbor Fireworks. A motion was made by the Clerk to approve the request from the Clamshell Foundation to utilize Atlantic Avenue Beach for the 2014 SandCastle Contest on August 2, 2014 (rain date of August 3rd) with the same permit and conditions as in the past and in addition the tent being installed and removed the day of the contest. This motion was seconded by Mrs. Forsberg and unanimously approved. Concerning the Three Mile Harbor Fireworks, which are scheduled for July 19th (rain date of July 20th), the Clerk noted the Trustees asked for data on water quality last year but didn't receive it. Mr. Taylor pointed out water quality is a DEC issue and is based on having a certain number of boats in the harbor. He noted the DEC's mission is to guarantee the shellfish will be safe and their position is that somebody could discharge a toilet. The Clerk replied the Trustees have done a lot to try and improve water quality yet the DEC is still basing shellfish closures on the number of boats in the harbor. She pointed out Three Mile Harbor is a Federally declared "No Discharge" Zone which the DEC won't recognize as nobody can implement or enforce it. Mr. Taylor said he thinks the DEC follows a Federal standard. The Clerk replied she feels some of their standards are questionable. Mr. Taylor stated he has dealt with the DEC for many years and if they feel there is potential for pollution, they will close the harbor. Mrs. Forsberg pointed out the Board needs to know if there is a threat of pollution, perhaps the fireworks could be relocated to an area outside Three Mile Harbor. Mr. Taylor suggested obtaining the water quality data from the DEC from 2013.

Mrs. Klughers reported the Litter Committee is planning a beach clean-up (Shoreline Sweep 2014) on February 8th from Wainscott and to Montauk. She noted the clean-up is dependent upon public support. She wanted to know if the Trustees would want to be involved and if the Trustee truck could be utilized to carry garbage. The Clerk said the Trustees have not allowed their truck to be loaned out, so a Trustee would need to participate if the truck is to be utilized. She told Mrs. Klughers she would like to know what the press release for the event will say. Mrs. Klughers replied she will send the Clerk a draft copy of the press release.

Mr. Lester asked if the Trustees were invited to participate in the St. Patrick's Parade in Montauk. Mr. Courtney said the parade is scheduled for Sunday, March 23rd. The Clerk noted she will contact Joe Bloecker, President of the Montauk Friends of Erin, to get further information.

Mr. Byrnes reported the Accabonac Harbor Culvert is closed and asked if it will be opened in the Spring. The Clerk replied Kim Shaw, Director of the Natural Resources holds the permit for the opening of the culvert. She said as has been done in the past, the Trustees can make a recommendation it be opened. It was agreed a letter will be sent to Mrs. Shaw.

Mr. Byrnes said there is a hole in the parking lot near the Lazy Point launching ramp that needs to be filled in. The Clerk suggested getting an estimate from a couple of contractors to do the work in the Spring. The Board agreed.

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The Clerk reported she sent a letter to the Village ZBA regarding the proposed Maidstone Club Irrigation Project. She said the hearing was left open for further comment. Mr. Klughers said she and Mr. Bock read the letter and feel it needs to be stronger and address the many variances required. The Clerk said she wasn't sure exactly what the variances are, but what she read was in regard to water quality. Mrs. Klughers pointed out it looks as though ZBA the approval will be given, but the Trustees should still express that they aren't in favor of the project. The Clerk noted Mrs. James is in the process of hiring a consultant to come up with a plan to restore Hook Pond; and asked if the Board would join them when they meet. Mr. Byrnes said it is strange to him that David Eagan represents the Maidstone Club and also represents the Trustees concerning Zweig. Mrs. Klughers told Mr. Byrnes the Trustees hired Mr. Eagan over a year ago. Mr. Courtney stated a lawyer, in this situation, has to do the best he/she can for the client who is presently before him. Mrs. Klughers pointed out the Trustees don't have any permitting authority in the irrigation project, but they have 100% right to comment as adjacent property owners. It was agreed a revised letter will be sent to the ZBA requesting sufficient water quality monitoring of the Pond and that the results be forwarded to the Trustees. A draft of said letter will be forwarded to the Trustees for their review and comments.

The Clerk reported a public notice was received from the Army Corp of Engineers advising of review of an application to dredge Napeague Harbor. In a discussion, Mr. Taylor pointed out the sand/spoil is supposed to be placed along Lazy Point Beach. He said they should be sure some of it is placed on the lot leased by Susan Knobel. In review of the channel proposal, the Clerk asked if there is any way, in nature, a channel would stay in this configuration. She also questioned how the dredging will affect erosion. Mr. Taylor replied the channel is far enough off-shore and if sand can be placed on the Trustee land between the launching ramp and adjacent properties; it will give the Trustees temporary mitigation. The Clerk added the Trustees have until February 13th to submit comments to the Army Corps of Engineers.

The Clerk reported Kim Shaw, Director of Natural Resources has advised her the DEC will not renew the permit to dredge Georgica Pond. She said the DEC has indicated they want a management plan for the Pond prior to issuance of a permit. Mrs. Shaw will find out what type of details they require. The Clerk added she has started compiling some of the Trustee policies and the reasoning behind them for the Pond; which she will forward to Mrs. Shaw. She added it is imperative the DEC understand the Trustees control of the Georgica inlet.

The Clerk reported she received a telephone call from Beth Baldwin, Town Attorney indicating she spoke with the ZBA and their application will be amended to include properties within Trustee jurisdiction as adjacent property owners.

An Operation and Maintenance grant in the amount of \$10,000.00 was received from the Clean Vessel Assistance Program for reimbursement of 2013 expenses for on the pump-out boats.

A meeting of the East End Trustees is scheduled for Wednesday, February 5th at Southampton Town Hall at 6:30 p.m. The Clerk asked the Board members to advise her if they plan to attend.

The Clerk reported she attended a meeting at Town Hall concerning Indian Wells Beach. She reminded the Board there were some issues regarding problems on the beach and parking. She said everyone present thought things were much better in 2013 than the year before. The Clerk noted the Town will modify the area for parallel parking on the west side of the road and also install a sidewalk

on the west side; therefore, all pedestrian traffic will be located on one side of the road. Concerning signage, the Supervisor said he would like to consolidate information necessary to make the public aware of the rules and regulations. The Clerk said the Parks Department mentioned the Trustees had problem with the verbiage on the signs last year. She noted the Supervisor said as far as he knew, the signs didn't belong to Trustees. She added he also brought up the idea of banning alcohol on the beach during the day in the summer and asked her to get the Trustees opinion on his proposal. Mrs. Klughers asked if the Town Board is aware if they pass a law and the Trustees don't, it won't be binding. The Clerk replied she brought up enforcement and was also advised it is not a Trustee issue. She added there will be another meeting in early February.

Mr. McCaffrey reported the scallop sanctuary buoys in Three Mile Harbor have been taken away by ice.

Concerning the algae and water quality project, Mrs. Forsberg reported all the results and final reports are being worked on. She noted a public presentation will be given to the Town Board by Dr. Gobler in late February and to the public in early March on the results. She added she is in the process of planning the 2014 monitoring program which could start as early as April.

Mr. Byrnes reported there are a few old, rusted trailers in the area of the launching ramp at Lazy Point. The Clerk pointed out this is an issue the Trustees have been working on for a while. She added they can tag the trailers, in the same manner as the non-motorized boats on the beach to allow time for removal. If the trailers are not removed, the Trustees will have to pay for removal. Mr. Byrnes added he knows someone who might be interested in removing the trailers, if need be.

The meeting was adjourned at approximately 8:50 p.m. by the Clerk.

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