

**MEETING OF JUNE 24, 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  
Bill Taylor

Not Present: Nathaniel Miller

Also Present: John Courtney, Trustee Attorney  
Lori Miller-Carr, Trustee Secretary  
Chris Walsh, Star Reporter  
Ira Barocus  
Barley Dunne, Aquaculture Director  
Juliana Duryea  
George Eldi  
Rona Klopman  
Elaine Jones  
John and Ann Mullen  
Kim Shaw, Natural Resources Director  
Greg Verity  
Diana Walker

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

The Clerk reported six Trustees met with the Supervisor prior to the meeting to discuss the proposed Code Amendment regarding the use of alcohol on Indian Wells and Atlantic Avenue Beaches and agreed on a counter proposal. A motion was made by the Clerk to send a letter to the Town Board in support of the posting of a prohibition of alcohol use 1000' east and west of the road end of Indian Wells Beach only, on weekends and Federal holidays; conditioned on a sunset clause if legally able to do so. This motion was seconded by Mr. Byrnes and approved. Mr. Lester and Mr. Bock were opposed to this motion.

Diana Walker said she felt the Trustees should join the other government entities and have their meetings televised.

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Rona Klopman was present regarding Temple Adas Israel and access over Six Pole Highway. The Clerk told Ms. Klopman she asked the surveyor to stake the portion of Six Pole Highway on which some fencing has encroached. Mr. Courtney told Ms. Klopman the Trustees will need a metes and bounds description and a quit claim deed from Temple Adas Israel for the portion of the road they will use for access. The Clerk will give Ms. Klopman a copy of the access easement form for review.

Elaine Jones stated at the last Trustee Board meeting, she was led to believe the Village of East Hampton doesn't have a ban on alcohol on beaches. She noted Becky Molinari, the Village Administrator, told her the Village does have an alcohol ban on the beaches; and gave her a copy of the Village Code which indicates a ban on public lands. Mr. Courtney pointed out the Village incorporation line ends at the beach grass line; it doesn't include the beach. Mrs. Jones told Mr. Courtney this is a matter of opinion. The Clerk told Mrs. Jones the Village enacted a law, including the beach, believing it was within their jurisdiction and no one to date has challenged it. Mrs. Jones pointed out the ban works in the Village and other towns. She questioned why the Trustees are against it.

Greg Verity, told the Board he has been a commercial digger for five (5) years, and questioned the amount of clams the Aquaculture Department says they seed. He said he hasn't found any notada clams; only natural clams. He went on to say he asked Mr. Dunne where the clams are and got no response. Mrs. Klughers told Mr. Verity there are many variables that affect the seeded clams- natural die off; predators, etc.. and said she felt the Town's Aquaculture Facility is the finest on Long Island. In a lengthy discussion, Dr. Forsberg told Mr. Verity shellfish have been in decline for many years, both locally and globally for a number of reasons. She said for the amount of time Mr. Verity has been shellfishing, she has committed that much of her time studying this problem. Dr. Forsberg pointed out the Trustees started monitoring their waters bi-weekly in 2013 for bacteria, salinity, oxygen, every harmful algal species (red tide, blue/green algae, brown tide, etc...). She said the Trustees did this so they have a baseline and if there is a bloom, there is a team that can determine what can be done. Dr. Forsberg added she didn't feel the Aquaculture Facility should be singled out. Mr. Verity asked why a survivability survey hasn't been done. He said he told the Aquaculture Director, Mr. Dunne several times he would be willing to assist him in a survey. The Clerk told Mr. Verity the Trustees receive an annual report from the Aquaculture Facility. Mr. Verity stated there is no proof of the amount of clams planted. Mr. Dunne pointed out the proof of the number of clams are on the seeding maps and a nursery and field full of clams. He stated the maps are a gift as they are not something the Department is required to do. He went on to say he has worked on other restoration programs and produced shellfish that were seeded. He noted the Facility rely on feedback from the public, both recreational and commercial shellfishers. Mr. Dunne said he would like to do surveys but is busy with 20,000 to 30,000 shellfish that have to be seeded. In conclusion, it was agreed Mr. Verity will give the Trustees a list of the areas he feels should be surveyed. Mr. Dunne said he would do a survey in the fall when he has more time.

Kim Shaw and Juliana Duryea were present regarding the installation of plover fencing. The Clerk said she felt there has been a disconnect between what the Trustees would like to see

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done with plover management and what is being done. She noted the plan drafted in the 1990's specifies distances from nests, etc... and the Trustees were always trying to get to know exactly where the nests are located to determine if an access point is impacted. The Clerk pointed out she understands the Natural Resources Department is trying to follow Federal guidelines, but the Trustees are following a management plan that has met Federal guidelines. Mrs. Shaw said she has been involved with plover management since 1993 and is very familiar with the rules and regulations. She noted she and Ms. Duryea have had a lot of training and experience; and are trying to implement the Federal guidelines. She went on to say she feels they have improved the program; as they have mapping and GPS of every nest; and every egg is counted. She pointed out they never had that at the Town level before. Ms. Duryea handed out a list and maps of all the plover nesting locations in the Town. Mrs. Shaw explained they are doing the least amount of fencing compared to what U.S. Fish and Wildlife Service actually wants. She stated U.S. Fish and Wildlife wants the beaches shut down to driving, but the Natural Resources Department tries to work with the Trustees to minimize the fencing. Mrs. Shaw said the Village is one of the most difficult areas to work with; but Ms. Duryea trained the TCO's in plover monitoring. She pointed out the survival and hatchery rate has improved a lot this year. The Clerk agreed the data collected is much more precise, but the problem is there are no maps to show the exact location of nests and fences. Ms. Duryea replied getting the maps done takes time, and she only works 20 hours a week. She said she has to monitor every single beach in that time. The Clerk pointed out this is the first time they have received a package with maps. Mrs. Shaw said she will try to get someone from the Planning Department to assist them and get a package to the Trustees on a weekly basis. Dr. Forsberg said she understands the time limit, but it is frustrating when the Trustees get notification that a large fence is blocking a beach access. The Clerk stated she feels it can't be implied that one user group is being restricted more than another. Again, Ms. Duryea said they are following the Federal guidelines. The Clerk pointed out the Trustees supersede the Feds. In conclusion, it was agreed the Clerk will meet with Mrs. Shaw and Ms. Duryea to compare the guidelines.

Concerning the proposed dredging of Napeague Harbor, Mrs. Shaw reported the Supervisor sent a letter to Suffolk County Department of Public Works withdrawing the original request for surplus material to be placed at Bayview Avenue and Mulford Lane. She said she has been working with the Nature Conservancy for a grant to acquire some of the properties at Bayview and Mulford. The Clerk said some of the Lazy Point residents are not in support of dredging the west channel. She noted they did find out there will be funds available in 2017 to excavate the east channel. Mrs. Shaw pointed out Legislator Schneiderman got 200,000.00 put in the Capital Budget for a feasibility study as the east channel is no longer considered a channel as it is totally shoaled in. The Clerk went on to say as the excavation permit expired last year, is there any chance it could be renewed without a study? Mrs. Shaw replied a circulation study was done two years ago; and she didn't want to rule out, in the future, the possibility of re-opening the east channel. However, the decision was made without and now the Town is stuck as Suffolk County regulations permit only one entrance to a harbor. The Clerk told Mrs. Shaw the Trustees wanted the east channel dredged yet SCDPW insisted on the west channel as it is less expensive. Mrs. Shaw pointed out because the east channel is closed, the DEC will consider it brand new excavation. She said her office can put an application in to the Dredge Screening Committee but

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suggested meeting with the DEC to discuss this matter. The Clerk said her concern is the DEC wants the Town to a hold harmless agreement and if the homeowners at Lazy Point experience any more erosion after the dredging, they will likely take the issue to court. Mrs. Shaw said the problem is compounded by the launching ramp location. Mr. Courtney told Mrs. Shaw that when the Town installed the ramp, the Trustees objected to its placement. Mrs. Shaw stated the Town needed the ramp to justify the dredging of the west channel. The Clerk noted there is \$200,000.00 in the Town's Capital Budget for repair of launching ramps. She added she sent information to the Highway Superintendent regarding this. She asked Mrs. Shaw if the Trustees agree to the placement of sand from Trustee bottomland onto Trustee property; can the Trustees relocate the sand as they choose. Mrs. Shaw replied she thought so, as long as the Trustees obtain a DEC permit.

John and Ann Mullen were present concerning their property at 78 Louse Point Road. The Clerk said the project site has been staked and some of the Trustees went to inspect it. Mr. Mullen explained there are four stakes- the most seaward stake is at the bottom rock which would be under the sand. He went on to say the second stake landward is where the sand would meet the rock and from there on, it's rock up to the two top stakes which is the line where the top rocks will be. Mr. Mullen pointed out they have owned the property for sixteen (16) years and when his children started having children, they thought about expanding, but built another house more landward instead. He said they built the new house more than 30' back from where the original house was; and have watched the erosion take more of their property since then. Mr. Mullen added they would like very much to do this project with the Trustees approval and ask that all the Trustees look at the stakes.

A motion was made by Mrs. Forsberg to approve payment of the following bills: a) East Hampton Marina- \$8.31; b) TLF Graphics- \$236.85 (kayak stickers); and c) Staples- \$27.25 and \$39.90. This motion was seconded by Mr. McCaffrey and unanimously approved.

The Clerk reported Carolina Schaeffer, from Herzog and Little, recommended the Trustees do a financial report vs. an audit as Ms. Mendelman was very thorough with the monthly inspection of the Trustees finances. Ms. Schaeffer suggested the Trustees have an audit done for 2014, but Herzog & Little cannot audit books they have been reviewing for the last few years. The Clerk added she would like Herzog & Little to go forward with the financial review for 2012 & 2013. The Trustees agreed.

A motion was made by the Clerk to approve the financial report for January to April 2014. This motion was second by Mr. Taylor and unanimously approved.

A motion was made by the Clerk to renew a Certificate of Deposit (account # ending in 7248) at Suffolk County National Bank. This motion was seconded by Mr. Lester and unanimously approved.

The following Mass Gathering Permit Applications for use on beaches were reviewed and found to be acceptable: a) Bamber- 7/26/14; b) Traphagen- 7/11/14; c) Koven- 7/12/14; and d) Castantine- 8/16/14.

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An application was received from Jeffrey Manheim for planting of beach grass west of Georgica Beach road end. The Clerk noted a covenant is required and asked the Beaches Committee to review the application and inspect the site.

An application was received from Sameh Iskander for bulkhead reconstruction at 98 Runnymede Drive. The Clerk asked the Hog Creek Committee to review the application and inspect the site.

The Clerk reported a ZBA hearing notice re: MYSTL, LLC & the Nature Conservancy to install 848 linear foot and 6 foot wide “roll out” wooden boardwalk across the Atlantic Double Dunes was received. She added she sent a memo to the ZBA requesting the hearing be held open to give the Trustees an opportunity to review it.

In response to a letter from the East Hampton Fire Department requesting permission to utilize Main Beach for a fireworks display on August 30<sup>th</sup> (August 31<sup>st</sup> rain date). The Clerk said the letter indicated the set-up would be July 6<sup>th</sup>, and although this is probably a clerical error, she will clarify the date with the chief.

Mr. Courtney asked if a notice was received re: the Devon Fireworks. The Clerk said the Trustees haven’t received any information from Devon but will contact them to find out when the fireworks are.

The Clerk reported a draft proposal was received from Mark Mendelman for working with the marinas on the installation and monitoring of transient moorings. She added she would like to meet with the Mooring Committee to review the proposal.

Concerning repair of the parking lot at Lazy Point, the Clerk said she spoke with Steve Darenberg of William L. Bennett Contracting. She noted Mr. Darenberg wanted more information about the square footage and the materials permitted. Mr. McCaffrey suggested meeting Mr. Darenberg at the site to measure the exact location the Trustees would like repaired. Mr. Byrnes reported someone placed fresh sand in the holes at the parking lot; and although it might not hold up in the rain, at least someone made an effort.

The Clerk reported another package was received from Steve Boerner concerning the delineation line between Gardiner’s and Napeague Bay. She asked the Trustees to make a determination whether they would support it and if so, a letter will be sent to the Coast Guard. She added a copy of the package will be placed the Trustee mailboxes for review.

The Trustees received a copy of a letter Suffolk County Department Public Works sent to the Supervisor regarding the proposal to dredge the west channel. The Clerk pointed out some of the Lazy Point homeowners are not in favor of dredging the west channel. Mr. Byrnes said he didn’t understand why the Supervisor dictates where the material goes if it is the Trustees responsibility. The Clerk told Mr. Byrnes that as the Trustees don’t recognize the DEC, so the

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Natural Resources Department acts on behalf of the Trustees to apply for the permit. Therefore the DEC contacts the Town (Supervisor) regarding the project. She said the Trustees used to get notified ahead of time, but there is a new Natural Resources Department and Town Board and new employees, so inconsistencies occur. Mr. Byrnes said he felt the Supervisor should check with the Trustees before responding to the DEC or SCDPW. In a brief discussion concerning the placement of sand, the Clerk noted the Supervisor is waiting for the Trustees approval before he draws up a resolution. Mr. Taylor said he felt the argument is going to be with the DEC, not the Town. The Clerk added she will contact Mrs. Shaw.

The Clerk reported an Expedited Administrative Natural Resources Special Permit was received concerning the applications of Kevin Abernathy and 31 Waters, LLC for installation of two rows of coir fiber logs; sand and vegetation behind an existing rock revetment along Water's Edge. Mrs. Klughers noted there is an open application to install a bulkhead. The Clerk said they would like to install the coir fiber logs now instead of the bulkhead. She went on to say if the bulkhead permit expires and if the soft solution is working, the Trustees don't have to renew the bulkhead permit. Mrs. Klughers questioned if the Trustees need an easement for a public right-of-way. Mr. Courtney said he drafted a "Passing Way Easement" for these properties. The Clerk asked the Trustees to review the easement for approval at the meeting of July 8<sup>th</sup>.

A memo was received from the Building Inspector asking if the conditions of the Trustee permit issued to Robert Lang for bulkhead and stairway repair have been met for issuance of a Certificate of Occupancy. The Clerk said she will review the file and if all is in order, will send a response to the Building Inspector.

Concerning water quality monitoring, Dr. Forsberg reported two residents of Georgica Pond were complaining of green water. She said with Trustee McCaffrey's assistance, a water sample was taken and she will take it to Stony Brook to be tested at Dr. Gobler's lab. She added a week ago, a sample taken from Georgica Pond revealed green algae not blue/green algae; which is not harmful to people or pets.

The Clerk reported an as-built survey was received for the second parcel of the Nedenia Hartley dune restoration project. She added she reviewed it and the project is complete.

The Clerk reported a letter was received from Mako Lane Association in response to a letter she sent requesting removal of the portion of the walkway constructed with treated materials. She said they appealed to the Board to allow the whole walkway to remain in place for the summer season. It was agreed the Clerk will send a response indicating the property north of the beach grass line is the Town's jurisdiction and south is Trustee jurisdiction. The portion on Trustee beach should be removed.

Concerning the application of Ralf Lange for a shoreline fence at 123 Marine Boulevard, the Clerk noted the fence was installed prior to 2009 without a permit. She noted each time it was repaired or replaced during a storm, an application was submitted and when the applicants

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are asked for a current survey or other documentation, it is not forwarded and the applicant installs the fence without a Trustee or Town permit. The Clerk pointed out in 2011, the matter was referred to Ordinance Enforcement but the Trustees file does not contain any correspondence indicating the issue was resolved. The Board agreed a letter which the Clerk drafted to the attorney, Karen Hoeg concerning this matter, should be sent.

A motion was made by Mr. McCaffrey to approve the application of Cranberry Dune, LLC for installation of 592' of shoreline fence along the length of the property using wooden posts with the following 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 of project and continuous communication between the contractor and Trustee office of the project's progress until completion; c) a valid as-built survey of the permitted activities will be submitted to this Board upon completion of the project as at the start; 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) submission of color photographs at the start and upon completion of project. In addition, a) fence will be located at the toe of the current dune, not 10' seaward of it; b) fence will meet all other requirement of Town Code Chapter 155-70-4; c) fence is installed for erosion control purposes, not to delineate private property; and d) line of fence to be flagged for inspection by the Beaches Committee prior to installation. This motion was seconded by Mrs. Klughers and unanimously approved.

The Clerk reported she spoke with Scott Dobriner concerning the application of OGP, LLC for removal of phragmites. She noted Mr. Dobriner informed her he will stake the seaward line of the project and meet the Beaches Committee on site. Mr. McCaffrey will contact Mr. Dobriner.

A letter was received from Billy Hajek for Land Marks regarding commencement of the Springmark, LLC (Zbar) bulkhead construction project at 100 Runnymede Drive. The Clerk asked the Hog Creek Committee to inspect the project.

Concerning the report of a derelict boat on a private road at Napeague, the Clerk said she is waiting for a report from Mr. Miller.

The Clerk reported she sent letters to those leaseholders who requested transfers/additions advising them what documentation is required in order to process their requests. She noted she advised two of the leaseholders to place the notice in the East Hampton Star. She said the Trustees have received a request from Mark Webb to add his partner to Lots 24N & 25N. The Clerk added Mr. Webb has submitted all the documentation required; therefore she will advise him to place a notice in the East Hampton Star.

A motion was made by the Clerk to approve a resolution making an exception to Paragraph V. B) vi) New Leases, of the Trustees Rules and Regulations for Lazy Point and

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approve the addition of the two sons, Allen B. Bennett, Jr. and Steven J. Bennett, of Carol and Allen Bennett to the lease of Lots 48S and 49S at Lazy Point. This motion was seconded by Mr. Bock and unanimously approved.

Mr. Byrnes expressed his appreciation to Mrs. Klughers, Mr. Bock and the Clerk for meeting with the new Lazy Point Association. He said he felt the meeting was very well attended and productive. He added a meeting is scheduled for September 13, 2014.

Mr. Byrnes told the Board the Devon Yacht Club has completed their bulkhead project.

Mr. Byrnes reported he has inspected all the kayaks and tagged a few which didn't have permits. He added the owners came to the office and got their replacement stickers.

Mr. Byrnes said he would like get a consensus of the Trustees who plan to participate in the Amagansett Fire Department's 100<sup>th</sup> Anniversary parade.

The Clerk noted Mr. Seeler has not yet submitted a re-vegetation plan to the Trustees. She said she spoke with Kim Shaw, Director of Natural Resources, who informed her she hasn't heard from Mr. Seeler, and will send him another copy of the Voluntary Compliance Form/Letter.

The Clerk reported a copy of the minutes of the May 8, 2014 meeting of the Nature Preserve Committee were received. She added a meeting was held on June 12<sup>th</sup> but she could not be present.

An estimate was received from L.A. Management (DBA Marine Boatbuilders Co.) in the amount of \$3,954.00 for an electric skid mount pump with accessories for the Montauk pump-out boat. A motion was made by Dr. Forsberg to approve purchase in the amount of \$3,945.00 for an electric skid mount pump with accessories. This motion was seconded by Mrs. Klughers and unanimously approved.

An as-built survey was received from the Ingalls Road Property Owners Association for installation of bio-logs. The Clerk asked the Three Mile Harbor Committee to review the as-built survey.

A motion was made by the Clerk to expend up to \$500.00 for "No Swimming in Channel" buoys and labels from Freeport Marine. This motion was seconded by Dr. Forsberg and unanimously approved.

The Clerk reported Harbormaster Michels asked if a permit would be required from the Trustees for the addition of a finger pier onto the dock area at Gann Road. She noted they are purchasing a new boat and need the extra pier. Dr. Forsberg said her only concern is whether the pier would interfere with the Hatchery's outflow pipe. It was agreed the Clerk will contact Chief Michels and ask him to submit a description of the project for Trustee review.

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The Clerk reported she received a telephone call from Fred Weinberg concerning the Lenehan bulkhead project. She noted Mr. Weinberg and his neighbors, Mr. Lenehan and Mr. Connolly received Trustee permits for bulkhead repair along Kings Point Road. Mr. Weinberg told her Mr. Lenehan is not conforming to the conditions of the permit for replacement of sand and vegetation. He said when it rains, sand runs down the bluff and he is very concerned. The Clerk asked the Hog Creek Committee to inspect the Lenehan property; and if they determine Mr. Lenehan has not abided by the permit, she will contact Ordinance Enforcement.

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

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