



MEETING OF APRIL 22, 2019
OF THE TRUSTEES OF THE FREEHOLDERS AND COMMONALTY
OF THE TOWN OF EAST HAMPTON

Present: Francis J. Bock, Trustee Clerk
James Grimes, Deputy Clerk
William F. Taylor, Deputy Clerk
John Aldred
Brian Byrnes
Dell Cullum
Rick Drew
Susan McGraw Keber
Susan Vorpahl

Also Present: Christopher Carillo, Trustee Attorney
Lori Miller-Carr, Trustee Secretary
Steve Boerner
Sara Davison
Elaine Jones
Si Kinsella
Vincent Priore
Rod Richardson
Christopher Walsh, East Hampton Star
Michael Wright, East Hampton Press

The meeting was opened with the pledge of allegiance at approximately 6:30 pm.

A roll call was ordered by Francis Bock, all the Trustees were present.

Sara Davison was present on behalf of the Friends of Georgica Pond (FOGP) to give an overview of the ongoing projects at Georgica Pond which include the following: low-nitrogen septic system upgrades, landscaping practices and buffers, storm-water runoff abatement, dredging and the aquatic weed harvester. She told the Board the FOGP would like to propose two new projects which include an experimental oyster introduction benthic survey and install it in three (3) locations in Georgica Pond (the north end, the mid-reach and the south end). In continuing with the inventory of fish and crabs by Brad Peterson, the second proposal would be to add a vegetation inventory and mapping. A motion was made by Mr. Grimes to extend Brad Peterson's inventory of fish and crabs in Georgica Pond to include submerged vegetation. This motion was seconded by Ms. McGraw-Keber and unanimously

approved. Mr. Byrnes asked Ms. Davison to remind the homeowners around the Pond (and East Hampton Town homeowners) to not over fertilize their properties.

Si Kinsella was present on behalf of the Wainscott Pond Committee's proposal to introduce the Wainscott Pond filtration program. To his knowledge, this type of project has not been done in the United States, but in other countries and has been very successful. He pointed out Wainscott Pond is presently not a healthy pond and has the highest level of blue-green algae on Long Island. In a discussion, Mr. Grimes and Mr. Taylor expressed concern about differentiation of the various types of algae filtered from the Pond and the fact that fish larvae would be filtered out as well. The Clerk told Mr. Kinsella he would like to get Dr. Gobler's opinion concerning this proposal.

Steve Boerner presented a final report on his findings on the land title and foreshore boundaries of Cartwright/Ram Island and Gardiner's Island. His conclusion was that the shoal system on Cartwright/Ram Island belongs to the proprietors of Gardiner's Island and the Public Trust Doctrine is not a universal doctrine across New York State. The right of navigation- which is a Federal right- applies everywhere in the United States. Mr. Carillo pointed out in his research of the Public Trust Doctrine; it states that title to the underwater lands is only to properties that were not granted away by any patent prior to the end of the American Revolution. He added he came to the conclusion that those rights were granted away prior to New York State taking control. Mr. Taylor said he felt this is a well-researched report but it will probably be a matter for the courts to decide.

Mr. Talmage questioned the Board about a special meeting which was held on April 1st at the Trustees office. He felt there was a private meeting prior to the meeting as there was a quorum of Trustees present. He cautioned the Board about abiding by the New York State Open Meetings Law. The Clerk told Mr. Talmage there wasn't a private meeting, the Board was gathering to start the announced meeting. Mr. Grimes said he didn't feel there was any malicious intent. Mr. Talmage also cautioned the Board not to move in haste as far as the proposed thirty-five (35) year Lazy Point lease.

Rod Richardson was present concerning Mr. Boerner's report. He said when he read the preliminary report and saw it was deeply flawed, he asked the Trustees to not release it to the public. He told the Board that because their authority rests upon the Public Trust Doctrine, he asked them to defend the public access rights. He said he would like to have other experts give their opinion and feels it is very prejudicial and misinforms the public if the report is wrong. He asked the Board not to release the final copy of Mr. Boerner's report not be released until he reviews it with his experts. Mr. Grimes told Mr. Richardson if a report has been prepared for the Trustees, the public will have access to it. He pointed out the Trustees represent all the people in the community - and there is no client privilege. He added this is a position paper that Mr. Boerner prepared based on the research he did and the conclusions he reached; and anyone else is more than welcome to hire an additional expert to research the same content matter and come up with their own conclusions. The Board agreed that anyone can submit a report to the Trustees and they will review it. Mr. Boerner's report will be available at the Trustees office for the public's review.

Elaine Jones told the Board she was at the Trustees office on Friday to submit petitions against the proposed thirty-five (35) year Lazy Point leases, but she didn't realize the office was closed at noon. The Clerk said the petitions were received by email that same day and can be submitted into the record. She added she felt the Trustees should hold off on making a decision until they have received all the opinions from the people of East Hampton. The Clerk stated the public has had ample time to make their opinions known. Ms. Jones felt there should be a referendum for this proposal. Mr. Carillo said this proposal does not require a referendum.

Vincent Priore, a resident of Lazy Point, said he felt the Trustees are not breaking new ground with the proposal for a thirty-five (35) year lease. The Town of East Hampton has already given 99 year leases to residents through affordable housing projects. He pointed out the Lazy Point residents are looking for a level of security, not “McMansions”. He noted anyone who is looking to make improvements to their house cannot get a mortgage with five or ten year lease. He added a good relationship between the Trustees and the Lazy Point tenants is crucial in order to succeed.

A motion was made by Mr. Grimes to accept the proposal for a thirty-five (35) year lease with Lazy Point residents. This motion was seconded by Mr. Taylor and approved. In a vote among the Board, Mr. Aldred, Mr. Bock, Mr. Byrnes, Mr. Grimes and Ms. McGraw-Keber voted in favor; Mr. Drew recused himself; and Mr. Collum and Ms. Vorpahl abstained. Mr. Carillo stated he would like to update the language in the recent draft of the proposal **to not** allow the tenant upon assignment to enter into a **new** thirty-five (35) year lease. He said the lessee would assume the remainder of the time period of that lease. A motion was made to extend the renewal of the Lazy Point leases from April 29th to May 29th to allow review of the amendments made to the Rules and Regulations in reference to inclusion of a thirty-five (35) year lease. This motion was seconded by Ms. McGraw-Keber and unanimously approved.

A motion was made by Mr. Aldred to approve the application of Jerome Griffith for bluff restoration at 60 Hedges Banks Drive with the standard conditions including that the Trustee permit shall not be issued until all the Trustees are in receipt of copies of permits that are required from other agencies (i.e. DEC and Town). This motion was seconded by Mr. Drew and unanimously approved.

A motion was made by Mr. Grimes to accept a proposal from Dr. Christopher Gobler for Water Quality Assessment of East Hampton Town Trustee Waters from April 2019 through October 2019. This motion was seconded by Mr. Drew and unanimously approved. The Board agreed that Ms. McGraw-Keber will contact Dr. Gobler to set up a meeting with the Trustees to discuss the proposal and the addition of three (3) more testing sites. Testing sites being considered for DNA testing are the north end of Accabonac Harbor, Pussy’s Pond and possibly a location in Three Mile Harbor.

Mr. Drew reported he was approached by the members of the Harbor Management Committee of Sag Harbor. He told the Board that the Committee is planning to continue testing on the western side of Northwest Harbor, inside the breakwater and the Cove. He said they were wondering if the Trustees would consider continuing participating in this effort. Mr. Grimes asked if the Committee have considered the Trustees suggestions from last year. Mr. Drew replied he felt this is a good opportunity to revisit that discussion.

Concerning a request from James Walker of Inter-Science Research Associates to close out the permit issued to Devon Yacht Club for maintenance dredging, Mr. Grimes reported he still has to meet at the site with Mr. Walker. He noted from the photographs that were submitted, it looks as though the project has been completed according to the Trustee permit. He will report back to Board at the meeting of May 13th.

The Clerk reported a letter of appreciation was received from Christopher Kohen on behalf of the Board of Trustees of the Art Barge for the Trustees support on the historic designation of the Victor D’Amico Institute of Art.

Mr. Cullum reported he went to call regarding a deer that was injured on the beach at 199 Lily Pond Lane. He told the Board the tow of the bluff was 15’ from the water; but the problem was the fencing was so far out onto the beach and the deer was running and hit the fence so hard that he broke

his neck and flipped over it. He added it seemed as if the fence was a bit excessive; although he realized the beach is bound to be shortened going through a first storm, but it saddened him.

A motion was made by Mr. Aldred to approve payment of the following bills: a) East Hampton Star- \$85.03; b) Ready Fresh- \$4.90; c) First Coastal Corporation- \$800.00 (opening of Georgica Pond) and \$6,000.00 (dredging fee); and d) Steve Boerner- \$500.00 (balance for research of Cartwright Island). This motion was seconded by Mr. Taylor and unanimously approved.

The Trustees agreed to table the minutes of February 25, 2019 and March 25, 2019 for further review.

Ms. McGraw-Keber reported the Education Committee along with a representative from the Shellfish Hatchery will meet at the Amagansett Public School at the end of the month. She reminded the Trustees that the East Hampton High School Scholarship applications have been received and are available for review at the office. The name of the student scholarship award winner is to be given to the East Hampton High School Principal's Secretary, Joan Cangelosi by May 10, 2019.

A motion was made by Mr. Grimes to adjourn the meeting at approximately 9:45 p.m. This motion was seconded by Mr. Cullum and unanimously approved.