



**MEETING OF OCTOBER 25, 2021**  
**OF THE TRUSTEES OF THE FREEHOLDERS AND COMMONALTY**  
**OF THE TOWN OF EAST HAMPTON – HELD REMOTELY VIA ZOOM**

Present: Francis J. Bock, Trustee Clerk  
James C. Grimes, Deputy Clerk  
William F. Taylor, Deputy Clerk  
John Aldred  
Ben Dollinger  
Rick Drew  
Tim Garneau  
Susan McGraw-Keber

Absent: Mike Martinsen

Present: Christopher A. Carillo, Trustee Attorney  
Arlene Tesar, Trustee Secretary  
Alyson Follenius, Trustee Secretary  
Rick Whalen, Esq.  
Madeline Narvilas, Esq.  
Martha Reichart, Esq.  
John McGinn  
James Walker

**The meeting was opened with the Pledge of Allegiance at approximately 6:30 p.m.**

**The Clerk requested Roll Call:** All trustees were present at roll call except Ben Dollinger and Mike Martinsen. Ben Dollinger arrived late at approximately 6:50 p.m.

**The Clerk transitioned to Public Comment:**

Martha Reichart approached the Board to discuss closing out Trustee Permit #B-3-21 on behalf of the owners at 38 Two Mile Hollow Road, SCTM #301-10-1-32 for construction of sand fencing on the beach in front of the property. Jim Grimes inspected the property with Reichart and Susan McGraw-Keber visited the site later the same day. The sand fencing was constructed in the area described and to the specifications discussed in the application. Jim Grimes made a motion to close permit #B-2-21. Susan McGraw-Keber seconded the motion. Rick Drew chimed in with a question immediately after the motions were made. Drew questioned if the fencing is in place or had been removed. Grimes confirmed the fencing is

in place with no reason to remove it at present. McGraw-Keber took photos while on site and confirmed the fencing was installed exactly as shown on the application. The Board voted unanimously to close out the permit.

Jim Walker appeared before the Board to request closing out Trustee Permit B #3-21 on behalf of the owners at 25 Cove Hollow Farm Rd, SCTM #301-12-10-5. Jim Grimes met with Walker on site earlier in the day. The walkway permitted has been installed. The shoreline plantings were also installed along with the wetland buffer. Grimes commented the Board may need to look deeper into preparation for the wetland buffers. This current job was performed as per the site plans provided by the contractor. Additionally, Grimes commented there appeared to be no site preparation before the planting occurred. The plants were present but were planted with a robust population of invasives (which were located beyond Trustee jurisdiction). It may be important to consider the long-term success of the planting based on the planning and preparation. Grimes made a motion to close the permit out as the project met the conditions as described in the application but felt it fell short of a good installation. Rick Drew questioned what the Board can look out for when evaluating these projects in the future. Grimes clarified this wetland buffer function no matter what it is comprised of. However, it did not provide the level of quality it could with regards to its interaction with wildlife and overall benefit to the environment. The plantings were not organized as would be found in nature and overtime the non-native invasives are going to fill voids faster than native species. Walker forwarded the Trustee comments to the client and suggested the Trustees close out the permit for the walkway and move the phragmites permit into the maintenance program. This would give the applicant time to move the non-native invasive species. Grimes commented that if the Board takes this route, upon renewal the Board should receive a management plan which describes what is intended to be controlled, how it will be controlled and the schedule of operations through the growing season. Rick Drew made a motion to close permit #B-3-21 and move the future activities into the maintenance program. Jim Grimes seconded the motion and it was unanimously approved.

**The Clerk transitioned to the Old Business portion of the meeting:**

***New Dock Application at 275 Three Mile Harbor- Hog Creek Rd:***

Rick Whalen and Madeline Narvilas approached the Board on behalf of John McGinn and Carey Davis, owners of 275 Three Mile Harbor-Hog Creek Rd, SCTM #300-75-1-32.2 to request a vote on their application for construction of a floating dock. Whalen provided a summary of the application and reminded the Board about the length of time the application has been in front of them for review. The project has received both DEC and Army Corps of Engineers permits. The Department of State and the East Hampton Town Natural Resources Department were awaiting the Board's decision. Whalen re-stated his case as to why the Trustees should approve the application for a new dock construction. Rick Drew asked Whalen to confirm the applicant would still offer the mitigation conditions as part of the application. The conditions offered would be to impose a covenant on their adjacent property so no dock may ever be built on that parcel; they would participate in the oyster growing program, and participate in a program to offer seeding of additional shell fish in an effort to increase shell fish populations. Whalen confirmed these three components were on offer as part of the application. There was discussion about the proposed dock plans, the number of pilings associated with it and whether the pilings would be removed with the floating dock in the winter. Tim Garneau voiced his strong opposition to this project sharing Three Mile Harbor is one of the most pristine harbors around and mentioning the dock moratorium set in place by the Trustees in 1984. Garneau stated there are plenty of marinas in the harbor and there is also an option to utilize a mooring. Garneau felt there was not a need to disturb the harbor for a dock when other options exist. Jim Grimes countered stating in 1987 the Trustees made the rules with which the Board abides by. There has been and there is not currently a ban on docks in this portion of the harbor. Grimes opined the fact there have been no new docks since 1987 does not equate to a moratorium. Grimes added the offerings from the applicant to sterilize his neighboring property is an important piece of

this application. Grimes felt that even if this Board chooses to ban new docks moving forward, future boards would still have the ability to undo that work. However, they would not have the ability to change a covenant attached to the northern property. Additionally, Grimes felt approving this dock would not lead to a proliferation of docks because a dock would require a minimum of three feet of water beneath it at low tide and the majority of properties in the harbor would not meet that requirement. Grimes felt the applicant had done their due diligence and the mitigation offered was more than adequate. Rick Drew added the dock would be out of the harbor and the northern property could be eligible for a dock. By sterilizing the property, the Board would, in his opinion, be protecting the harbor on a permanent basis which provides value. Drew favored the idea of providing shell fish for the public as part of the plan. Additionally, Drew voiced the Board has supported high profile projects in the past where mitigation efforts were part of the process. Bill Taylor offered his view that the applicant has done everything the Board has requested and understood this board has had a lot of concern with homeowners doing things and asking for permission later. He was in favor of approving this project because of this fact and believed if there was to be a moratorium on future docks that needs to be treated as a separate issue. Susan McGraw-Keber added her opinion to the discussion. McGraw-Keber agreed the applicant had jumped through hoops and provided a thorough application. However, she felt that as a steward of the environment and as Trustees who own the bottom lands it was incumbent upon her as a Trustee to protect the waterways. An eighty-foot dock with pilings would exist permanently and be another obstruction in the harbor, despite the benefit of the applicant wishing to support the Hatchery and oyster growing. McGraw-Keber opined the property is already bulkheaded and the addition of the dock would block access. As a Trustee, McGraw-Keber stated she is all for public access. McGraw-Keber shared a picture of the applicant's properties on screen and stated it is located very close to a marina. The cost of the project itself would be significant, she did not know if the applicant had a boat but opined that a marina would be a perfect place to put a boat. Additionally, she noted the shoaling on the property to the north and was not confident that northern property would ever be granted a dock as they may not have the three feet of water necessary. Therefore, sterilization of the property would be an easy offer for the applicant. McGraw-Keber offered her responsibility is to the oath she took to preserve and protect the waterways and to help in keeping access open to the public.

Jim Grimes made a motion to approve the application as it stands. Bill Taylor seconded the motion. Clerk Francis Bock requested a roll call vote. The Trustee Secretary went through a Roll call vote. John Aldred voted No. Francis Bock took time to explain his conclusion. Bock stated that for the past 35 plus years there has not been a ban on docks in this area and any board could have banned new docks. Additionally, Bock felt that if the board wanted a dock ban, it was incumbent on the present board to do so. The applicant had agreed to sterilize his neighboring property. Bock voted yes and added that if the Board wants to stop new docks from being constructed it needs to come up with a plan for next meeting. John Aldred requested a moment to provide his rationale for his "No" vote as he was the only member who had not shared his opinion. Aldred shared he had been skeptical about this project from the beginning primarily because this is an area typically seeded by the shellfish hatchery and has been harvested for approximately eleven years. Aldred felt that if the Board could not say no to a dock in a viable shell fish area, he believed the board would have difficulty saying no to any dock in Three Mile Harbor in the future. Aldred agreed it may create a precedent because of this issue. A future board would not be able to remove a dock and therefore it would be here in perpetuity. He felt it may be seen by the public as a privatization of the general area and the task of the board is to stewards of the harbor for the entire community. The roll call vote continued. Rick Drew shared he had also gone back and forth about the project. But ultimately, thought the board needed to be consistent. Drew stated he had voiced strong opposition to a high-profile project in the past because he believed it would cause harm to the environment but the board approved the installation of fifteen monopile turbine basins at Cox's Ledge with a permanent scour area of 300 acres. Which was approximately the size of Three Mile Harbor. The reef, he believed would be permanently scarred. Drew stated it is difficult for him to argue about stewarding the environment when the board had approved an environmentally sensitive project. The severity of the impact of that project did not equate to the same for the current project. He felt this project would be an opportunity to partner with the

homeowner with regard to shell fish production. Rick Drew voted yes. Susan McGraw-Keber disagreed with Drew and stated there was a vast difference between the project at Cox's Ledge, which every board member voted in favor of, and the current matter. McGraw-Keber stated that habitats are created on the turbines and marine life grows there as well. McGraw-Keber affirmed that as a scuba diver she had witnessed marine life laying eggs on piers and submerged structures such as artificial reefs. She provided the old Tappan Zee Bridge, which was sunk in the Shinnecock Canal, as an example. Rick Drew contended McGraw-Keber was "out of her league" and suggested she "speak to scientists at NOAA who are currently discussing this matter." The vote continued. Tim Garneau voted no. Ben Dollinger arrived just before the vote and was added to the roll call vote. Ben Dollinger voted yes. Jim Grimes voted yes. Susan McGraw-Keber voted no. Bill Taylor voted yes. The result of the vote was five to three in favor of approving the dock. John McGinn made a statement after the vote thanking the Board for the work they do and that it is a testament to how beautiful the area is. The Board decided upon the Harbor Management Committee which includes John Aldred, Jim Grimes and Rick Drew and will add Bill Taylor to form the committee to discuss the dock matters.

***Roll Call Vote:***

Francis Bock – Yes  
Bill Taylor – Yes  
Jim Grimes – Yes  
Ben Dollinger – Yes  
Rick Drew – Yes

John Aldred – No  
Tim Garneau – No  
Susan McGraw-Keber – No

Francis Bock reiterated that if the Board wanted to see a ban put on new docks in Three Mile Harbor, the work is cut out and the Board needs to get to work. There was discussion about forming a committee and statements made that there is still work to do regarding the conditions of the permit for the above application approval.

***Powering Soft Clams Resolution:***

John Aldred wrote the resolution dated Oct. 25, 2021 regarding permitting the taking of soft clams by the method known as powering, year-round by commercial shell fish licensees. John Aldred made a motion to approve the resolution. Aldred read the resolution into record. The resolution provided commercial shell fish license holders approval to power for soft clams year-round by a special Trustee permit. The special permit would be valid for a one-year trial period. The resolution provided permission for clams to be harvested by this method, sunrise to sunset, Mondays through Fridays beginning Monday, November 8, 2021 and ending Friday, October 28, 2022 in all Trustee waters certified for shell fishing. The same conditions would apply to this special permit as do other soft clam powering and shell fish permits and licenses. Additionally, the resolution requires permit holders to maintain a record of the quantity of soft clams harvested by location and date. The records must be submitted to the Trustee office for quarterly periods no later than the following dates: January 31, 2022, April 30, 2022, July 31, 2022 and October 31, 2022. Any person holding a valid East Hampton Commercial Shell Fish license within East Hampton town may apply for the special permit at the Trustee office between Tuesday, October 26, 2021 and Friday November, 5, 2021 during normal business hours. Bill Taylor seconded the motion and it was unanimously approved.

**The Clerk transitioned to Committee Reports:**

**Aquaculture:**

John Aldred and Susan McGraw-Keber joined John “Barley” Dunne of the Shell Fish Hatchery, the East Hampton Middle School’s Surfrider Club and Paddle Diva (who supplied the paddle boards for the students) for the annual seeding of 25,000 Oysters seedlings on the flat in Northwest Harbor. It was a fun, warm fall day for the event. McGraw-Keber thanked all who were involved.

**Education:**

Susan McGraw-Keber thanked Francis Bock, Jim Grimes and John Aldred for their help and support during the Fall Festival hosted by the East Hampton Village Chamber of Commerce on October 23, 2021. Trustee merchandise was sold to raise money for the Capt. Rysam Scholarship Fund. The total amount raised was \$427. The Largest Clam Contest brought in \$1,452 earlier this month. Making the total raised this month, \$1,879.

**Georgica:**

Regarding the dewatering project for 19 Chauncey Close, Rick Drew had previously spoken with Rich Brierley, project manager to get an update. Drew noted the team is waiting on the engineering report from PW Grocer. The report is to detail how much water will need to be directly pumped into Georgica Pond. Drew spoke with members of Friends of Georgica Pond (FGP) who are concerned about how much water will be put directly into the pond in addition to the levels of nitrogen and phosphorus in the water. Friends of Georgica Pond recommended some type of treatment to be part of the system. Drew had not yet received an update from Brierley. Jim Grimes gave an update noting he spoke with Brierley this past Friday. At the time of the meeting, the engineers were putting together the engineering package. Grimes updated the Board that the team made some updates to the dewatering set up the other day. The team found that algae was clogging the filters. It was forming in the open top settling tank. The team shut the system down and drained the tank and pressure washed it. The tank was covered to block any light which has proved successful in stopping overflow from the settling pond. When the pumps clog, the pipes cannot carry the water fast enough which causes the pumps adding water to the settling tank to outpace the rate the water is pumped out of the system. John Aldred also took a look at the site this week. The basement was dry and it appeared that only a small amount of water was running through the pumps. Grimes clarified the flow rate is fairly low but the volume of water is less. The current volume of water being pumped out is 550 gallons a minute. The Board will wait for the engineering report.

**Harbor Management:**

There was a brief discussion on the status of the Sag Harbor Water Quality Initiative with regards to the inter-agency agreement. The documents need to be signed and funds from each agency’s commitment received in order to disperse the funds to Dr. Gobler and the SUNY Research Foundation. Sag Harbor has sent their portion of the funds to the Trustees. Ann Welker of the Southampton Town Trustees had reached out to the office and requested the agreement as well as information as to how to send their portion of funds. Alyson Follenius, will reach out to the Southampton Town Board to get an update on when they will send their portion of the committed funds.

**The Deputy Clerk transitioned to the administrative portion of the meeting:**

The following bills needed to be paid: Montauk Anglers Club & Marina, LLC - \$99.94 for Gas and Supplies and \$664.08 for a 100-hour service to the Yamaha engine. Tim Garneau made a motion to pay the bills. John Aldred seconded the motion and it was unanimously approved.

The financials for the month ending September 30, 2021 were on the table for approval. The Board tabled the matter for further review.

The minutes for August 9, 2021, September 27, 2021 and October 15, 2021 were tabled for approval until the next meeting.

**The Deputy Clerk transitioned to the Report of the Clerk:**

The Clerk brought the conversation back to the committee formed around the reviewing docks. Bock requested the committee meet before the next meeting. The committee will provide a report/update at the November 8, 2021 meeting.

**Additional Comments:**

Rick Drew commented that members of the public have been having difficulty finding the opening date for scallop season and requested the Board announce it. Additionally, the public has been asking when the pump out boat will finish operations for the season. The beginning of Scallop season is November 7, 2021 and the pump out boats will conclude operations for the season on Sunday, October 31, 2021.

Tim Garneau made a motion to close. Susan McGraw-Keber seconded the motion and it was unanimously approved.

**The meeting closed at 7:50 p.m.**