

**MINUTES OF ANNUAL MEETING
ASSOCIATION OF OWNERS OF LOWLANDS AND
MEADOWS AROUND CHILMARK POND
JULY 28, 2013**

Officers Present:

Joan Malkin, President
Steve Lewenberg, Treasurer and
Commissioner
Steve Asher, Clerk

Martha Cottle, Commissioner
Bill Randol, Commissioner

Call to order

President Joan Malkin declared a quorum and called the meeting to order at approximately 4:00pm. She welcomed representatives of the Abel's Hill Association and a reporter from the *Vineyard Gazette*.

Minutes

The minutes of the 2012 annual meeting were approved as submitted to members with the notice of Annual Meeting and the President's Report.

Annual administrative agenda

Ms. Malkin opened the meeting by suggesting that the members pass the annual resolutions regarding the election of officers and Commissioners and emergency borrowing before opening the floor discussion. She stated that the Executive Committee had recommended the re-election of all Commissioners and officers and open the floor for nominations. She also noted that although in past years there had been a historical pattern of Presidents serving for two years, adherence to those term limits could cause a loss of institutional memory that could be disadvantageous to the Association, due to the increasing legal and scientific complexity of the matters relevant to the Association. There being no further nominations, upon motion duly made and seconded, it was unanimously

VOTED: That Martha Cottle, Stephen Lewenberg, and William Randol be and each hereby is elected as a Commissioner of the Association.

VOTED: That each of the following persons be and hereby is elected to the office set forth next to his or her name:

Joan Malkin, President
Peter Bruce, Vice-President
Steve Lewenberg, Treasurer
Steve Asher, Clerk

VOTED: That the President and Treasurer be and they hereby are authorized on behalf of the Association to borrow up to \$25,000 for emergency purposes.

Commissioners' report

The annual report of the Commissioners was presented in writing at the meeting and is included below:

The details of the 2012/2013 pond openings were detailed in the President's Report except for the most recent one. The pond was opened on June 10th because it was extremely high after the spring rain, and also due to the fact that there had not been a good flushing since the opening of September 2012. We were able to co-ordinate with Biodiversity Works to avoid any disturbance to the birds. There was a small window of time in which to get it done, and they were very helpful in this regard. This opening lasted for slightly more than three weeks, closing on July 3rd. The height of the pond level prior to the opening, along with favorable winds, tides & lack of storms combined to allow for an extremely successful flush of sea water into the pond and fresh water into the ocean.

In the fall, we will address methods of improving future openings in the hopes of preventing failed ones. This will take some research into what methods would work best and what is allowed by the various agencies with authority over the pond & barrier beach.

Respectfully Submitted,

Martha Cottle
Stephen Lewenberg
William Randol

Pond openings

Ms. Malkin then referred to her report, which had previously been sent to members with the notice of the Annual Meeting and opened the discussion by referring to a letter sent from the Commonwealth on July 15, 2013 to the Board of Selectmen of West Tisbury, regarding the practice of opening great ponds such as Chilmark, Tisbury Great, and Edgartown Great Ponds. The issue is whether the approval of Chilmark Conservation Commission, state environmental agencies, and/or Army Corps of Engineers is needed to open a pond. In over a century of continual pond openings on the island, no one had ever sought a permit and no regulator had ever sought to stop such openings.

The July 15 letter from the Division of Marine Fisheries was a response to an inquiry from the Tisbury Great Pond Association (TPGA) drawing the Commonwealth's attention to the importance of regular openings of Tisbury Great Pond to the various fisheries (including shellfish) of that Pond, including alewives and eel. The Division of Marine Fisheries did not take a position on the need for state permits for pond openings but did recommend an operations plan for the native fisheries. The TGPA intends to prepare such a plan under the direction of Kent Healy. Ms. Malkin said that she intended to confer with Kent Healy to learn more about the practices of the TGPA. Discussion followed during which members recalled that at various points in the past including as far back as colonial times clams, oysters, eels, and crabs had been raised or caught in Chilmark Pond.

Steve Krause asked if there was evidence that opening Chilmark Pond improved the health of

the Pond. Ms. Malkin responded that among the recommendations of the Mass. Estuaries Project for remedying excessive nitrogen levels was flushing ponds. She said based on past testing by the Woods Hole Group a successful opening can both reduce nitrogen levels and increase salinity, both of which tend to improve the health of the Pond and its ecosystems.

Steve Lewenberg noted that the real challenge for a successful opening is the shoaling at the area of the cut, which tends to reduce the effectiveness of the flush. The June opening was the first real good flush in the last several years, probably because the water level was so high, which allowed for enough water to flow out to cut a channel that permitted a good flush. Previous openings have closed after pond water drained but ocean water didn't come back in. He said the Executive Committee feels a need for deepening the channel at the cut. Such a project might cost upwards of \$60,000 depending on the regulatory hurdles. He advocated talking to State Sen. Dan Wolf, whose district includes the Vineyard, to persuade him to help the Association get through the regulatory red tape. He said the Association is essentially maintaining the Commonwealth's property and the costs are borne by the riparian owners, and that this meeting is essentially the Town Meeting.

Ms. Malkin said that our plan for the next year is to understand what the TGPA is doing with respect to applicable regulators and then figure out what the Association would need to do to protect our Pond, including any projects to improve flushing through the cut.

Steve Cohen said that the Association used to do regular testing of coliform counts, and that coliform levels would drop after an opening and flush, resolving the health concerns that arise when swimming in water with high coliform levels.

Steve Krause said that if dredging helped flush Pond waters and reduce high nitrogen and bacteria levels, the Association should consider dredging Doctor's and Intern's Creeks. Steve Cohen said that if Intern's Creek closes off due to silting, it could be the death of the Pond, because it is the route by which fresh water reaches the lower Pond.

Alan Parks said that if the Association moved the cut there might not be a need to dredge the buildup of sand at the sight of the present cut. Martha Cottle said that she understood that the Association could not dig a cut through dunes as a legal matter.

Steve Lewenberg said that at one point the Commissioner had considered leasing "Nessie," the floating barge used by the Edgartown Great Pond Association for a major dredging project, but such a project was estimated to cost approximately \$1 million and was thus not practical. However, the short-term project could be accomplished by Dale McClure with his current equipment and would provide a solution for between two and ten years.

Alan Dworsky said that when similar projects to improve the Pond flush had been done in the past, no one had thought that any permits were required. He said that he had spoken to "Nessie's" operator about some dredging work and was told that the permitting process was not simple.

Richard Hall suggested posting on the Association's website when the Pond has been opened and closed.

Steve Krause asked if any sand dredged could be used to reinforce the dunes, which have been seriously harmed by Hurricane Sandy and other storms, and if such a request could be included

in any permit application. Ms. Malkin said that it was much cheaper to place dredged sand near the site of the work rather than transport it to rebuild dunes elsewhere and that Intern's Creek appeared to be flowing adequately at this time.

Marianne Krause said that the Upper Ponds have been dying. The Upper and Upper-upper Ponds were shallower and infinitely smaller. Mr. Lewenberg said that the Town of Chilmark had been concerned about Lucy Vincent Beach after Hurricane Sandy breached at the Upper-upper Pond. The Association and the Town commissioned a study, half (\$3,000) paid by the Association. The study concluded that there was nothing that could be done, because the state would not allow dune replenishment projects such as hay bales and snow fencing. The state wants beaches left alone, even though it is moving north and encroaching on the Pond at up to four feet a year.

Matt Feinberg said he felt that the sense of the meeting was that the members wanted the Executive Committee and the Commissioners to do whatever it takes to flush the Pond successfully, including any necessary incidental dredging. The members expressed their support of that position. After discussion about the possible cost of dredging including any needed permits, upon motion duly made and seconded, it was

VOTED: That the Executive Committee and the Commissioners be and they hereby are authorized to spend up to \$75,000 to develop and execute a project intended to improve the flush of the Pond when opened, including obtaining any needed permits from relevant authorities.

Other matters

Alan Dworsky said that he was in the process of buying an electric motor for his boat and would report back on how it worked out. Martha Cottle reminded the members that the Association had previously stipulated that in Upper Chilmark Pond, only electric motors were allowed but that in the Lower Pond boats with gasoline engines of up to 5 horsepower were allowed.

There being no further business to come before the meeting, upon motion duly made and seconded it was unanimously

VOTED: To adjourn.

Adjourned.

A True Record.

Attest:

Steven Asher
Clerk