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Agreement reached between SBPF, property owners for alternate access to Baxter Road

By Lindsay Pykosz

lpkosz@inkym.com After a year of negotiations, the Sconset Beach Preservation Fund has entered into an agreement with property owners on and around Baxter Road for an alternative access in the event the road becomes impassable due to erosion. The Memorandum of Understanding, agreed upon last night by the Board of Selectmen, is between the SBPF, Baxter Road residents Patrick Ryan and Ann Furrow, Sankaty Head Golf Club, the Sconset Trust and the Town of Nantucket.

The most fragile part of the bluff at the base of Baxter Road is currently being protected by three geotextile tubes, installed by SBPF, that are filled with sand and meant to prevent further erosion.

In the event of a breach, the MOU states that the town will give up ownership from the breach to the north but will retain easement rights for pedestrian and walking use.

"This is a very long-running saga," said Josh Posner, president of SBPF. "The Sconset Beach Preservation Fund agreed to work cooperatively with the town in an MOU back in June or July of 2013, amended in the fall, and one of the features of that was that we would do our best to work out cooperatively with the neighborhood an alternative access plan on a back-up basis so that if our project failed, if the road had to be closed because it failed or even, ultimately, if we didn't maintain it properly or we didn't ever get it permitted, if at the end of the day the law said you can't have this, that there would be a back-up route."

The Selectmen received the MOU from the SBPF last year and have been meeting in executive session since to iron out the details.

Last night, vice chairman Bob DeCosta commended the work of all parties.

"It's important to note that we're being proactive here," he said. "We hope that the road never breaches. God forbid that it ever does, this would prevent twice as big of an ordeal if we were in a hurry."

In the MOU, Ryan, Furrow, Sankaty and the Sconset Trust "propose to provide limited access as described herein (in the event Baxter Road becomes impassable as a result of advancing coastal erosion) to themselves and to those owners of certain private property located on Baxter Road," situated between 86 and 122 Baxter Road.

The town will be responsible for the initial construction of the alternative access.

Highlights of the MOU include:

- For the Ryan and Furrow easement, a 10-foot wide gravel access within a 20-foot easement shall be granted between the Ryan property at 110 Baxter Road and the Furrow Property at 112 Baxter Road to the road over their respective land.
- The Ryan/Furrow access will have limitations, and will be fully open to members of the public who wish to visit the lighthouse only on Father's Day and the Saturday of Columbus Day weekend; no buses will be allowed to use this access; and the Sconset Trust may use this particular access at its discretion, including emergency vehicles, but not for public access.

Over its land at 125 Sankaty Road, the Sankaty Head Golf Club easements will provide:

- A 20-foot-wide asphalt access within a 40-foot-wide easement with possible temporary construction easements
- A 10-foot-wide gravel easement on the Sankaty land running north from the Sankaty access to the property of Richard and Linda Mackay at 120 Baxter Road, transitioning to a four-foot gravel pedestrian path to the lighthouse property. This will allow for access to the Furrow and Mackay properties, as well as those of Stephen B. Cohen at 116 Baxter Road and Rick Hinchey, 114 Baxter Road, in addition to pedestrian and bicycle access to the lighthouse.

- A limited access easement to the Sconset Trust over existing driveways on its properties to the lighthouse for

emergency and routine maintenance

- An easement for a sixspace parking area for members of the public visiting the lighthouse
- An easement for a small turn-around where the alternative access transitions from 20 feet to 10 feet. Posts and signs will discourage parking beyond this point.
- In consideration of payments made by the town pursuant to the MOU, the golf club, Ryan and Furrow must grant appropriate easements for the alternative access “to the town for emergency and other official vehicles, the Wannacomet Water Company, and other public utilities for the installation, repair, maintenance, and replacement of underground utility services, as well as a temporary construction easement to construct the Alternative Access,” the MOU states.
- In lieu of damages, the town will pay a total of \$250,000 each to Ryan and Furrow, only if Baxter Road has been deemed unsafe, the appropriation has been approved at Town Meeting and all easements have been granted.
- A series of Baxter Road homeowners on the east side, labeled as the “Baxter Neighbors,” have also agreed to execute a One Big Beach easement to the town over their properties. This is the responsibility of SBPF.

The intention of this alternative access is for it to be used as a last resort, and it will be made available as deemed by three licensed civic engineers from the state, one by the town, one by the other parties and one designated by the two other engineers.

The town will also make available an easement over Baxter Road for pedestrian access which must be labeled safe by town manager Libby Gibson, in conjunction with Department of Public Works director Kara Buzanoski, police chief Bill Pittman and fire chief Mark McDougall.

The homeowners will be responsible for the maintenance and upkeep of the access after the town fills their responsibility of completing the initial construction, with the exception of the Sankaty Access which will remain under the purview of the town.

Posner said the hope is that this alternative access will never have to be used because the system at the base of the bluff will protect it from erosion, thus keeping Baxter Road open. However, he is confident that if it does need to be utilized, the best route has been decided.

“There were a few different possible routes, and this seemed like a route that was the least bad,” he said. “It’s not necessarily great, but the least bad. And I think that we feel good about the way our community has stepped up and done something that is pretty hard and could potentially be very divisive, and we looked at all the alternatives and figured out a way that would work for the town and for us. We’re very hopeful and confident that what we’re going to do is to work, and we think it’s legitimate. There should be some kind of backup plan and we’ve done it.”