

Siasconset Beach Preservation Fund

January 31, 2023

Dear Sconseters,

It has been a few weeks since SBPF announced that we are stepping back from our efforts to protect the Sconset Bluff and Baxter Road. Collectively, we worked hard to take common sense, legally compliant steps to protect ‘Sconset and the historic Baxter Road neighborhood, and it hurts to come up short. The following offers some perspective on why withdrawal seemed the only viable choice, despite clear evidence that the geotubes stopped erosion on Sconset Beach and Bluff with no negative impact on surrounding beaches.

Let me in preface offer a big “thank you” to all Sconseters for your increasingly strong support over these many years. It once seemed impossible that there could be a solution to the severe conditions at our coastline, an elbow of land pointing right into Nor’easter storms in the open Atlantic. As the effectiveness of the geotubes became clear, Sconseters became overwhelmingly supportive. Not only is Sconset a united community, Baxter Road draws visitors near and far – hundreds a day in peak season – to follow the path to Sankaty Light.

Since 2013, following nearly two decades of other efforts to identify mitigation strategies, our community has invested \$15 million over the last 9 years to support the geotubes. The 100% private contributions have funded building, maintaining, monitoring and litigating the effort. While the system has been wildly effective, the opposition of the Conservation Commission (ConCom) – which would clearly prefer no intervention at all – has been unrelenting from the outset. Despite reasonable voices from the Select Board and Town administration interested in a fair resolution, ConCom opposition exists to this day. With no realistic prospect of a favorable vote from the current ConCom, we simply do not have the funding to continue required project maintenance and likely additional litigation.

A decade ago, it was 2013’s winter storms, which caused a major bluff collapse of up to 30 feet along northern Baxter Road, that precipitated a joint agreement between the Town and SBPF. Faced with the imminent need to close Baxter Road for safety reasons, SBPF proposed a 4000-foot rock revetment at the base of the bluff (from the lighthouse to mid-Baxter) that the Town agreed to support; on a parallel track we would develop a cooperative “back-up” plan for road relocation so it could be implemented if bluff protection failed. Faced with apparent ConCom opposition and an approaching storm season, we pivoted in late 2013 to an interim emergency plan—a pilot project made of removable geotubes in the most endangered 900-foot section. This allowed us to test the protection measure and ensure that there was no impact on neighboring beaches. If the pilot performed well, SBPF would pursue expansion in a year or two to protect all the endangered properties.

The ConCom, to both SBPF’s and the Town’s surprise, denied even that emergency permit for a “pilot/test” installation. The State DEP quickly overturned their denial and ConCom relented, approving the emergency permit. Subsequent to the pilot project’s installation however, we entered an endless “groundhog day” period of ConCom efforts to end the project, despite

compliance with state regulations, another State override, and routine efforts to address legitimate concerns.

Time and time again, we have compromised in an attempt to address unfounded ConCom opposition. That included a 2015 agreement to extend the test period for 3 additional years. This left Baxter Road homeowners paying the cost of installation and maintenance of a 900-foot section of Bluff that protected very few homes, but addressed the Town's most critical concern – the imminently threatened section of Town road and utilities. This amounts to a privately funded solution for a public problem, with limited initial direct benefit for most Baxter Road homeowners.

When the extended trial period ended in 2018, SBPF applied as planned for a permit for the full threatened area of 4000 feet. The ConCom denied the permit; SBPF appealed and the State overturned the ConCom denial for a third time. The Select Board subsequently formed a “Working Group” to find a resolution acceptable to all parties. After months of meetings a unanimous compromise was reached and signed by all members, including the ConCom chair. Indeed, she authored a key change to the sacrificial sand provisions. It's telling that ConCom has refused to this day to even discuss this 2020 plan developed by a dozen participants over many months.

As a result, at the end of 2020, with the deadlock continuing and no path forward, SBPF notified the Town that it needed to terminate its operation of the pilot project. We could not continue maintaining the project's sacrificial sand requirement -- nearly twice the scientifically-based level normally required by the state and Nantucket. The Town responded by asking us to change our mind and continue while they implemented a plan to hire an outside expert (Arcadis) that would do an independent assessment leading to resolution of the impasse.

In response to their request, we clearly communicated that the system would fall behind in the amount of sand replenishment included in the permit, even though there was more than enough to meet actual project needs. We even voiced concerns that the ConCom might use that violation as grounds for removal. The Town said they would “work with the parties” to put all actions on hold awaiting the Arcadis report. We reluctantly agreed. (In retrospect this was a mistake; we should have insisted that they provide the “stand-still” agreement in writing as a condition of staying involved.) The rest is well known. Despite the Select Board's requests, the ConCom ordered the geotubes removal less than a week before Arcadis delivered its report. As expected, that report confirmed that expansion of the geotubes was the most promising defense for Baxter Road. Arcadis stressed that the existing installation should not be removed until appropriate relocation work had been completed and the geotubes stopped working.

That is the short version of how we have gotten to this point. The geotubes have been effective, supported by law, and to this point entirely privately funded. Extensive, professional monitoring data and the opinion of world-renowned experts shows that it is not hurting neighboring beaches, despite false claims to the contrary which our experts have regularly debunked. There is a constructive path forward here as outlined in the working group recommendations over two years ago and supported by Arcadis' work. These recommendations form the core of the new Notice of Intent application recently submitted by the Town and SBPF, and just withdrawn. But

politically savvy opponents have been highly effective in using disinformation and the support of a ConCom that opposes all intervention to keep any compromise from moving forward.

Maintaining the protection of Baxter Road on a sustainable basis requires significantly greater Select Board and town manager action than we have seen to date. The slow-moving process is particularly challenging – time is costly, both in terms of additional impact on the bluff and the cost to maintain the current project and litigate baseless denials. Unfortunately, all roads to permit approval lead through the ConCom. Despite repeated State confirmation that our plan meets regulatory requirements, their longstanding history of denial and the fact that the project is not currently in compliance means that – at this time – the chances of overcoming the ConCom are too remote.

Our decision to walk away is not some carefully calculated strategic move. With no realistic path to a sustainable project, we simply don't have the financing to keep at this and frankly are exhausted by how difficult it has been to do something that clearly benefits the Town and its taxpayers.

Perhaps as all of Nantucket begins to experience the impacts of climate change and extreme weather, the ConCom will evolve to understand that there are environmentally sound solutions to protect our community. And at that time, perhaps a version of this project can successfully move forward. But that time is not now.

If this plays out as seems most likely, the waterside homes north of the existing installation will be isolated and then lost when the northern end of Baxter Road is closed. The Town will face considerable loss of assessed value and taxes and will incur a multimillion dollar outlay for takings and relocation expense for those homes that remain. Access to the Lighthouse will be significantly limited and a historic neighborhood will be no more. It will be a true calamity for Nantucket and for the historic Sconset community made worse because it is demonstrably avoidable.

We wish it were otherwise, but that seems to be where we are headed. I hope each of you knows that your support has been tremendous and that there is truly nothing more that private citizens can do at this time.

Thank you for your support.

Josh Posner
President, Siasconset Beach Preservation Fund

P.S. We will continue monitoring town activities and keep you posted; if you received this letter from a third party and aren't already on our list, send us your email address at sconsetbeachpreservationfund@gmail.com and we will include you in future updates.

P.P.S. The Attachment below is a series of our frequently stated responses to some common misperceptions about this project.

ATTACHMENT

We know there are some common misperceptions about this project; the following provides our frequently and publicly stated answers.

1. **SBPF agreed to the sand volume in the permit and then violated it. This is correct, but complicated.** As noted above, we were clear from the outset that the volume required in the permit was excessive and unsustainable. Because the pilot was planned to be replaced in a year or two, and in order to demonstrate that the larger sand requirement was excessive, we agreed to it. As a "year or two" turned into many more, this became a significant problem. As described in the letter, in late 2020, with no path to a sustainable system, we told the town that we could no longer operate the project. Interestingly, because the volume of sand required by the permit is nearly twice the amount that has historically eroded from the bluff and that State guidelines and similar projects require, there was never a shortfall in the amount of sand actually needed for the continued protection of nearby beaches. When we told the town in late 2020 that we couldn't continue, the sand shortfall related to the amount required for permit reasons, not what was actually needed for effective protection.
2. **Both SBPF and the opponents are dug in, unwilling to compromise. Sadly, inaccurate for SBFP.** We have consistently compromised to show that this project could be effective as a protection measure without impact on nearby beaches. Doing so (by our count, at least 5 separate times since our initial filing) has meant that many of our homes and neighbors continue to be unprotected.

Most recently, the 2020 Working Group proposal shared with the ConCom (but never addressed by them) included significant compromises agreed to by SBPF as part of the process led by the Select Board and town manager. Opponents have been disinterested in any compromise. They want one thing: retreat and the closure of Baxter Road.

3. **The ConCom has rejected the project because it does not and cannot comply with the law. The opposite is actually true.** On three separate occasions, the State Department of Environmental Protection overturned the ConCom's erroneous decisions each of the times we appealed. The law is on our side.
4. **SBPF lost the court case this summer and was ordered to remove the geotubes. Not really.** The court recently ruled that the ConCom had the right to order removal based on the permit (sand replenishment) violation; we don't disagree that the ConCom can do so. But our goal in that case was to make clear there is no requirement that the ConCom force removal and that is what the court also said. In yet another effort to compromise and support the protection of Baxter Road until agreement could be reached, SBPF agreed to a plan to bring the project into compliance that was nearly identical to one proposed by the Nantucket Land Council, one of the project's most committed

opponents. The ConCom is not interested. They want the geotubes removed regardless of the consequences.

- 5. Arcadis says that the geotubes should only be kept in place until an alternative route for Baxter Road can be installed. False.** Arcadis supports expanding the geotube project and keeping it in place for as long as it is working and remains in compliance with the terms of a new permit. They are working on a plan to provide needed access to homes in the event that Baxter Road needs to be closed. We have agreed to cooperate with this as long as it is recognized to be on a “back-up plan” basis. Sadly, if the geotubes are moved, this “back up” plan is likely to be necessary in the very near term, a fate that could otherwise be decades away if the geotube project is expanded and made sustainable.
- 6. There is a better, less harmful way to protect against erosion. Not that we know of.** For over 30 years, we have tried many approaches and studied many others. Nothing really worked until we got to the geotubes. We are thrilled to have found this system that can be managed in a way that does no harm to neighboring beaches while still protecting the bluff and the homes and infrastructure behind it.
- 7. Data now shows that the geotubes are indeed harming others’ beaches. False.** Recently, a local landowner hired engineers to make the case that erosion a mile away was caused by the geotubes; the argument is not accurate and the engineer appears to have stopped making this case. An alternative argument has emerged that the coastline will continue to move landward over time, and as we have stated previously, this may well be true depending on future conditions. At the current rate we could have some problems walking in front of the geotubes during winter high tides in 20 years. However, this is a challenge that could be addressed by monitoring and updating the project along the way, not stopping it wholesale today.
- 8. The ConCom has not voted on the new NOI and might have voted for it. Why not try and see if the votes are there?** The ConCom majority has made itself very clear that they oppose geotubes. They are focused exclusively on removal. They demand their own lawyer so they can do battle with the Town. Meanwhile, we are expected to continue to spend \$1-2 million per year protecting vacant lots and the Town road while this goes on and on with no resolution in sight. That’s why we threw in the towel.
- 9. Removing the geotubes will protect the public beach. Nope.** If Bluff retreat continues, there will no longer be any publicly-owned beach in that part of Sconset. What beach then exists will have migrated west and be on private property.