

Town Administrator Report
May 28, 2019

The following is a summary of the major activities of the Office of the Town Administrator for the previous week.

- 1. OPEB Policy** -As you know one of the major remaining financial challenges of our Town is the development of a strategy for dealing with the massive unfunded liability for paying future health insurance costs for retirees, know as OPEB. According to the latest actuarial valuation performed as of June 30, 2018, the total unfunded liability stands at \$31,943,483. There are many ways that the Town can work to address this unfunded liability, but there is currently no established framework to address this problem. Applying sound financial management principles, I have developed the attached Contingent (Unfunded) Liabilities Policy that is designed to address this problem moving forward in a way that does not jeopardize the stability of the Town's general fund, nor does it create substantial hardship or inconvenience for current taxpayers in meeting future Town obligations. The policy takes advantage of compounding interest based on long-term financial planning as well as coordinated management not only of OPEB, but of all of the Town's unfunded liabilities. The basic strategy involves ramping up an annual budgetary contribution for OPEB into the Town's established OPEB Trust Fund until the Town becomes eligible by having a fund balance sufficient to recalculate the liability using an equities-based discount rate that accounts for the actual expected rate of return on amounts invested in the Trust Fund. In three to four years this will enable the Town, in 2019 figures, to increase our expected rate of return by over 100% from 3.58% to 7.5%. Recalculating the liability with the new rate of return will compound over time to reduce the total liability by half. Following this, our unfunded liability for the Retirement system is scheduled to be paid off in 2030. After this our retirement costs are scheduled to decrease by 66%, which will represent approximately \$1 million dollars annually which may be shifted toward the OPEB liability. In this way the forces of compound interest can work with overall management of the liabilities to create a funding schedule that will significantly reduce and ultimately retire the OPEB Liability in a reasonable period of time. I have shared this policy with the Finance Committee for their review, and implementation has already begun with the appropriation made to the FY 2020 budget.
- 2. Wayfinding Update** –Attached please find the Wayfinding Master Plan Revised Design dated March 27, 2019. Our Streetscape Wayfinding Committee of stakeholders has completed its review and we are ready to fabricate and install the signs in accordance with the sign location plan in the design report. We have worked with the designer to refine and the wayfinding signage design in a Victorian style using the unique icons of Oak Bluffs as design elements to truly reflect our wonderful sense of place here in Oak Bluffs and to provide visitors with a quality experience that accentuates the attractions our Town has to offer. The signs include two different sized pedestrian directional signs that include a map showing attractions within a reasonable walking distance, as well as smaller pedestrian directional signs and vehicle directional signs in the same attractive motif. Together the signage creates a balanced and attractive signage system that reflects

the quality of the community and helps to build anticipation in the experience of visitors. We are proud of the design effort and we hope to move forward with the Board's approval to fabricate and install the signs. Funding is currently in place.

- 3. Emergency Communications Center Update.** -On Wednesday, May 22, I attended a meeting of the Island Town Administrators to discuss issues related to the Sheriff's operation of emergency communications on the Island. While we are all hopeful with the increased quality of our new system funded by the State, the management of the quality of the operation of the system, as well as new increased costs to the Towns, is of paramount concern to the Towns. Along with providing funding for the maintenance of the system, each of the Towns has demanded a reasonable system of oversight of the Town funds used to support the system as well as the overall operation of the system to meet Town needs. To that end, the Town Administrators are working to create an agreement for the Towns to create and formalize a system to provide reasonable oversight for the Towns. We are in the process of putting forth a draft document that will create a combination public safety and financial advisory committee that will, 1) give the Island's public safety chiefs a formal mechanism to provide operation advice and comments to the Sheriff's office designed to communicate with the Sheriff and to assist the system in best meeting the needs of the Town; and 2) give the Towns a regional committee that can review and make recommendations on the amounts and uses of funds requested from the Towns and periodically review the apportionments of such funding. We have our next meeting scheduled for early June and we hope to prepare a draft for the Towns and the Sheriff's office to review that will enable the parties to move forward with greater confidence and trust as we embark on our new era of enhanced emergency communications here on the Island.
- 4. North Bluff Beach Nourishment II Permitting Update-**We are one step closer to permitting for the North Bluff Beach Nourishment II Project. Finally, the Army Corps. of Engineers has advertised the project for public notice which is necessary for the issuance of a permit. The comment period has closed, and the Corps. has issued its attached final notice of additional information needed to process the permit. Please note the positive comments submitted from the Oak Bluffs School as part of their community leadership program. In requesting the additional information, the Corps. Regulatory Division has continued its adversarial approach to permitting this project by requiring restating and resubmission of materials covered in previous submissions, and continues to add expense and time to the project through an overly officious review. It is a positive step however to list all remaining issues which our engineers will resubmit in hopes to complete the permitting as soon as possible. Through the comments it is clear that in Massachusetts beach nourishment has not received the regulatory support that it has in other coastal areas of our nation. As sea level rise continues to increase this will be an increasingly vexing problem as we deal with the effects of beach erosion.
- 5. Cape Cod Health Group-**I am scheduled for a meeting of the CCMHG Steering Committee on May 28 with some of the major agenda issues including a comprehensive review of our member agreement as well as rates for reinsurance which will impact the costs of all members. Attached is a copy of the agenda.

6. CONTINGENT (UNFUNDED) LIABILITIES POLICY

INTRODUCTION & SUMMARY

Defined as “the actuarial calculation of the value of future benefits payable less the net assets available at a given date,” unfunded liabilities represent a significant obligation of governments across the country. For the Town of Oak Bluffs, there are currently two primary unfunded liabilities: 1. Pension benefits and 2. Other Post-Employment Benefits (OPEB).

Pension: the Town participates in the Dukes County Retirement Association (DCRA) in order to administer public employee pensions as required by law. DCRA operates the system in accordance with Massachusetts General Laws and regulations promulgated by the Public Employee Retirement Administration Commission (PERAC). The Association provides for a biennial actuarial valuation to determine the Town's share of its unfunded pension liability. Under current law, the DCRA has adopted a funding schedule, which is paid by annual assessments to its members, to achieve full funding by the year 2030.

OPEB: consists of the Town's obligation to provide post-employment health insurance to retired employees, currently and in the future. The Town contributes 75% funding to retiree health insurance costs, currently on a pay-as-you go basis. The Town provides for a biennial actuarial valuation to estimate the value of its OPEB liability and has established an OPEB Trust Fund to accumulate assets to pay for these obligations, similar to the pension fund. Although there is no current requirement to fully fund this liability the Town has set aside funds both from one-time sources and from a continuing appropriation line item in the annual budget.

UNFUNDED LIABILITIES POLICIES

1. The Town will continue to follow the Commonwealth funding policy of providing for a pension funding schedule through the County retirement association to achieve full funding by the year 2030. This funding will be provided in each annual budget authorization within the fiscal years levy limitations. After fiscal year 2030, the Dukes County Retirement system shows a 66% reduction in the annual funding schedule for the member Towns. Upon full funding of the Retirement System in 2030, the Town adopts the goal of diverting the reduction in the annual funding of the retirement system to increasing the annual appropriation for OPEB. In this manner, the Town anticipates utilizing levy capacity that becomes available from achieving full funding status of the Retirement System's unfunded liability, to increase the levy funding of the OPEB unfunded liability.
2. The Town's 5 year operating budget projection and annual budget authorizations will attempt to provide for increasing OPEB funding with the short-term goal of achieving an annual appropriation of \$200,000 per year, within the levy, to narrow the gap between the Town's annual pay-as-you go amount and its actuarially determined calculation. In addition, the Town will seek to fully fund all retiree health insurance costs on an annual pay-as-you go basis.

- 3. Upon investing sufficient funds in the Town's OPEB Trust to exceed the Town's annual Expected Benefits Payments, estimated to be \$700,894 for fiscal year 2019, the Town will seek to recalculate its Total Actuarial OPEB Liability in compliance with GASB Statements 74 and 75 based on the adoption of an approved Long-Term Expected Rate of Return based on capital market expectations, approved at 7.5% in fiscal year 2019 and will no longer use the municipal bond rate, approved at 3.58% in fiscal year 2019. This change will enable the Town to significantly decrease its total OPEB unfunded liability**
- 4. As additional one-time financial resources are available after consideration of the Town's Reserve & Liquidity Policy and other financial needs of the Town, supplemental funding will be provided to contribute to the OPEB Trust Fund.**
- 5. As per the Town Revenue Policy, departmental fees will identify and include OPEB and Pension costs as either direct or indirect cost components to be recovered in the establishment of departmental fees, as appropriate.**



ACTUARIES
LLC

TOWN OF OAK BLUFFS

Participant in the Dukes County Pooled OPEB Trust

OTHER POSTEMPLOYMENT BENEFITS PROGRAM

FINANCIAL REPORTING AND DISCLOSURES

Governmental Accounting Standards Board

Statements 74 and 75

**Disclosures as of
June 30, 2018**

KMS Actuaries, LLC
814 Elm Street, Suite 204
Manchester, NH 03101

November, 2018

EXECUTIVE SUMMARY

This report presents the results of the actuarial valuation of the Town of Oak Bluffs's retiree health care benefits as of July 1, 2016. The valuation was prepared in accordance with, and for the purpose of financial reporting and disclosures as of June 30, 2018, under the following Government Accounting Standards Board (GASB) Statements:

- ◆ GASB Statement No. 74, Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans (GASB 74)
- ◆ GASB Statement No. 75, Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions (GASB 75)

The results as of the measurement date are based on a roll forward of the liabilities developed in the most recent actuarial valuation.

New Accounting Standards

In June 2015, the GASB approved two related Statements that significantly changed the way other postemployment benefits (OPEB) plans and governments account and report OPEB liabilities. Effective for plans with fiscal years beginning after June 15, 2016, GASB Statement No. 74 (GASB 74), *Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans*, replaced the requirements of Statement No. 43 and effective for employers with fiscal years beginning after June 15, 2017, GASB Statement No. 75 (GASB 75), *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*, replaced the requirements of Statement No. 45.

GASB 74 requires OPEB plans to present a statement of fiduciary net position (OPEB plan assets) and a statement of changes in fiduciary net position. Further, the statement requires that notes to financial statements include descriptive information such as the types of benefits provided, the classes of plan members covered and the authority under which benefit terms are established or may be amended. Finally, GASB 74 requires OPEB plans to present in required supplementary information the sources of the changes in the net OPEB liability and information about the actuarially determined contributions compared with the actual contributions made to the plan and related ratios.

GASB 74 and GASB 75 require projected benefit payments be discounted to their actuarial present value using the single rate that reflects:

- (1) a long-term expected rate of return on OPEB plan investments *to the extent that the OPEB plan's assets are sufficient to pay benefits and OPEB plan assets are expected to be invested using a strategy to achieve that return and*
- (2) a tax-exempt, high-quality municipal bond rate *to the extent that the conditions for use of the long-term expected rate of return are not met.*

GASB 75 establishes standards for measuring and recognizing liabilities, deferred outflows of resources, deferred inflows of resources and OPEB expense by state and local governments.

EXECUTIVE SUMMARY

Town of Oak Bluffs Other Postemployment Benefits Program

The effective date for GASB 74 is for plan years beginning after June 15, 2016, which is the fiscal year ending June 30, 2017 for the Town of Oak Bluffs. The effective date for GASB 75 is for fiscal years beginning after June 15, 2017, which is the fiscal year ending June 30, 2018 for the Town of Oak Bluffs.

Summary of Results

A summary of principal results from the current and prior measurement dates follows:

Measurement Date	<u>June 30, 2018</u>	<u>June 30, 2017</u>	<u>Increase/ (Decrease)</u>
Valuation Date	July 1, 2016	July 1, 2016	
Membership Data			
Active Plan Members	180	160	12.5%
Inactive Plan Members	70	70	0.0%
Total Plan Members	250	230	8.7%
 Covered Payroll	 11,853,400	 10,905,737	 8.7%
Valuation Results (GASB 74)			
Discount rate	3.87%	3.58%	
Total OPEB Liability	\$32,483,306	\$32,027,089	1.4%
Fiduciary Net Position	\$190,699	\$83,606	128.1%
Net OPEB Liability	\$32,292,607	\$31,943,483	1.1%
Funded Ratio	0.6%	0.3%	100.0%
Valuation Results (GASB 75)			
OPEB Expense	\$2,605,414	N/A	
Deferred Outflows	\$2,342	N/A	
Deferred Inflows	\$1,457,738	N/A	
Valuation Results (GASB 45)			
Actuarial Accrued Liability	N/A	27,797,897	
Market Value of Assets	N/A	83,606	
Unfunded Actuarial Accrued Liability	N/A	27,714,291	
Funded Ratio	N/A	0.3%	
 Annual Required Contribution	 N/A	 \$2,401,728	
Net OPEB Obligation	N/A	\$15,937,314	

Town of Oak Bluffs Postemployment Benefits Other Than Pensions
Financial Reporting and Disclosures Under GASB 74 and GASB 75 as of June 30, 2018

EXECUTIVE SUMMARY

Experience Gain and Loss

In developing the Total OPEB Liability, various assumptions are made regarding future premium rates, mortality, retirement, disability and turnover rates. A comparison of the results of the current and prior measurements is made to determine how closely actual experience relates to expected. For the current measurement period, there is no experience gain or loss as the Total OPEB liability was developed from a roll forward of results of the most recent valuation.

Changes of Assumptions

The discount rate changed from 3.58% as of June 30, 2017 to 3.87% as of June 30, 2018. All other assumptions were the same as those used in the previous measurement. The Actuarial Assumptions and Methods used in the valuation are summarized in Section 6.

Changes of Benefit Terms

The Patient Protection and Affordable Care Act (PPACA) applies a 40% excise tax, commonly referred to as the "Cadillac Tax", to the cost of plan benefits in excess of statutory thresholds beginning in 2022. Previously, the tax was effective beginning in 2020. All other benefit terms are the same as those used in the prior valuation. A Summary of the Principal Plan Provisions is provided in Section 5.

Total OPEB Liability

The Total OPEB Liability as of the current measurement date, June 30, 2018, is \$32,483,306. The Total OPEB Liability as of the prior measurement date, June 30, 2017, was \$32,027,089. The development of the Total OPEB Liability for the current measurement date is shown in Section 1, Exhibit 1.2.

Fiduciary Net Position

The Fiduciary Net Position is equal to the market value of assets and as of the current measurement date, June 30, 2018, is \$190,699. The Fiduciary Net Position as of the prior measurement date, June 30, 2017, was \$83,606. The Fiduciary Net Position is shown in Section 1, Exhibit 1.1.

Employer Future Period Contributions

The Town currently does not have a formal funding policy for contributing to the OPEB trust.

Discount Rate

As of the June 30, 2018 measurement date, the OPEB plan's fiduciary net position was projected to be insufficient to make all projected benefit payments of current plan members. Therefore, the 3.87% municipal bond rate was applied to all periods to determine the total OPEB liability.

OPEB Expense

The OPEB Expense as of the current measurement date, June 30, 2018, is \$2,605,414. The development of the OPEB expense for the current measurement date is shown in Section 4, Exhibit 4.2.



DUKES COUNTY CONTRIBUTORY RETIREMENT SYSTEM

ACTUARIAL VALUATION

as of

January 1, 2018

Prepared by:

KMS Actuaries, LLC
814 Elm Street, Suite 204
Manchester, NH 03101

January, 2019

SECTION 1 - SUMMARY

Background

We have completed the Actuarial Valuation of the Dukes County Contributory Retirement System as of January 1, 2018. This valuation is based upon census data provided by the Retirement Board and asset information reported to the Public Employee Retirement Administration Commission (PERAC) by the Dukes County Contributory Retirement Board. Information for the prior valuation completed as of January 1, 2016 was obtained from the valuation report prepared by KMS Actuaries, LLC.

Massachusetts General Laws

The valuation was prepared in accordance with Chapter 32 of the Massachusetts General Laws ("M.G.L."). The results are based on the active, inactive and retired members and beneficiaries as of January 1, 2018, the assets as of December 31, 2017 and assumptions regarding investment returns, salary increases, death, turnover, disability and retirement.

The valuation does not take into consideration:

- Changes in the law after the valuation date,
- Transfers between retirement systems pursuant to Section 3(8)(c) of Chapter 32,
- State-mandated benefits and
- Cost-of-living increases granted to members in pay status between 1982 and 1997.

GASB Statement Numbers 67 and 68

In June 2012, the GASB approved two related Statements that significantly changed the way pension plans and governments account and report pension liabilities. Effective for plans with fiscal years beginning after June 15, 2013, GASB Statement No. 67, Financial Reporting for Pension Plans, replaced the requirements of Statement No. 25 and effective for employers with fiscal years beginning after June 15, 2014, GASB Statement No. 68, Accounting and Financial Reporting for Pensions, replaced the requirements of Statement No. 27.

The new pension standards reflect changes from those previously in place regarding how governments calculate total pension liability and pension expense. Further, the new standards contain requirements for disclosing information in the notes to financial statements and presenting required supplementary information following the notes.

The required disclosures and notes under the new GASB Statements for the fiscal year ending December 31, 2017 are provided in a separate report.

SECTION 1 - SUMMARY

Actuarial Valuation

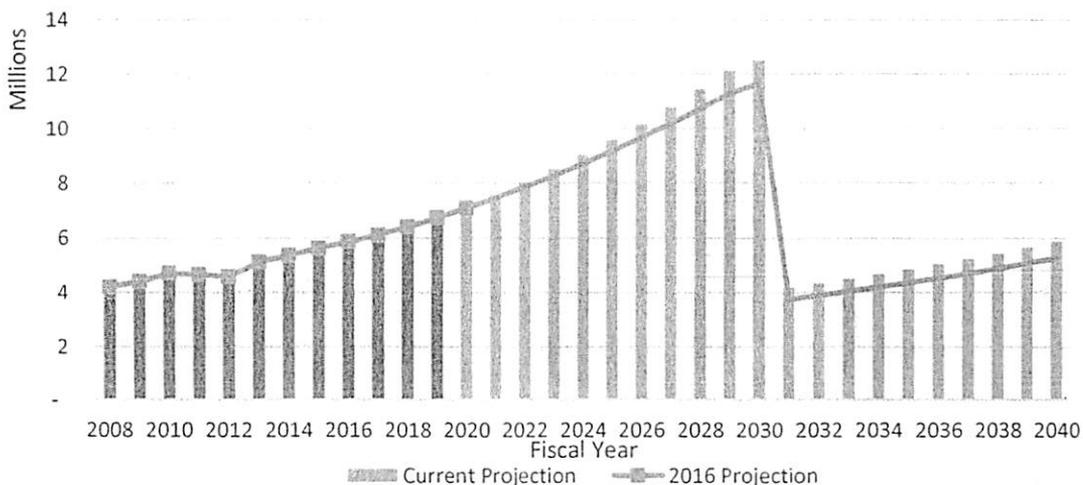
During the two years since the last valuation, the total unfunded actuarial accrued liability of the System was expected to decrease from \$46,029,551 as of January 1, 2016 to \$42,563,423 as of January 1, 2018, for a total decrease of \$3,466,128. The actual unfunded actuarial accrued liability, before any assumption or plan changes, was \$40,561,267, resulting in an actuarial gain of \$2,002,156. The actuarial gain was primarily due to an asset gain of \$4,104,179 and a demographic experience loss of \$2,102,023. The details of the gain and loss analysis are provided in Exhibit 2.6.

Appropriations

The funding appropriation for each year is computed as the sum of the normal cost, net 3(8)(c) transfers and an amortization payment to pay off the Unfunded Actuarial Liability, adjusted for semi-annual payments of the appropriation made July 1 and January 1. The appropriation calculated as of the January 1, 2018 valuation is \$7,004,459, and is made up of a normal cost payment of \$2,355,103, net 3(8)(c) transfers of \$189,472, and an amortization payment of \$4,459,884. The amortization method is an increasing amortization of the unfunded actuarial accrued liability at 4.5% over 12 years and is expected to fully pay the unfunded actuarial accrued liability by the year 2030. The development of the appropriation as of January 1, 2018 is presented in Exhibit 3.1.

For fiscal year 2019, we show the actual appropriation developed under the previous funding schedule and reported on the PERAC "Required Fiscal Year 2019 Appropriation" letter dated December 4, 2017 of \$6,720,539. For fiscal year 2020, we developed an annual appropriation of \$7,130,492, which is made up of a normal cost of \$2,585,405, net 3(8)(c) transfers of \$200,000 and payment toward the unfunded actuarial accrued liability (including payments for the Early Retirement Incentives) of \$4,345,087. The unfunded actuarial accrued liability is expected to be fully paid by 2030. The Board adopted a schedule that limits the annual increase in appropriation to 6.1% for each year. The current funding schedule is shown in Exhibit 3.2.

The chart below shows the historical (orange bars) and projected (yellow bars) annual appropriations compared to the projected amounts shown in the prior valuation and funding schedule (green line).

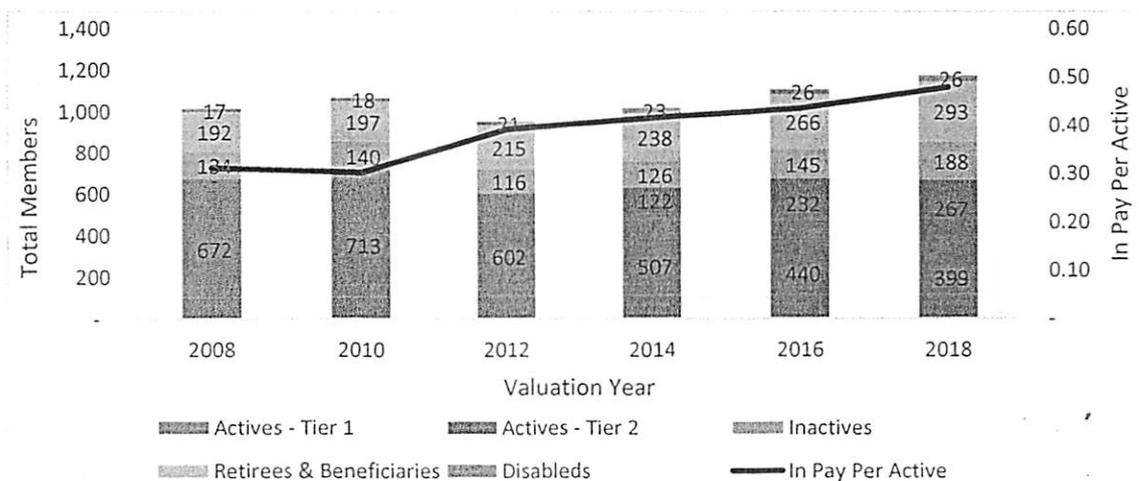


Dukes County Contributory Retirement System
Actuarial Valuation as of January 1, 2018

SECTION 1 - SUMMARY

A summary of principal valuation results from the current valuation and the prior valuation follows. Changes in actuarial assumptions and methods and Plan provisions are discussed below, as well as changes in census data and asset information.

Valuation Date	<u>1/1/2018</u>	<u>1/1/2016</u>	<u>Increase/ (Decrease)</u>
Summary of Member Data			
Active Members	666	672	(0.9%)
Average Age	49.2	48.7	1.1%
Average Service	10.9	10.8	0.6%
Valuation Salary	\$41,262,496	\$37,993,450	8.6%
Average Salary	\$61,956	\$56,538	9.6%
Retired Members and Beneficiaries			
Retired Members and Beneficiaries	293	266	10.2%
Average Age	71.6	71.0	0.8%
Total Annual Retirement Allowance	\$7,130,536	\$5,943,040	20.0%
Average Annual Retirement Allowance	\$24,336	\$22,342	8.9%
State Reimbursed COLAs	\$17,621	\$22,923	(23.1%)
Total System-Funded Retirement Allowance	\$7,112,915	\$5,920,117	20.1%
Disabled Members			
Disabled Members	26	26	0.0%
Average Age	62.1	63.0	(1.5%)
Total Annual Retirement Allowance	\$1,045,966	\$982,480	6.5%
Average Annual Retirement Allowance	\$40,229	\$37,788	6.5%
State Reimbursed COLAs	\$990	\$1,344	(26.3%)
Total System-Funded Retirement Allowance	\$1,044,976	\$981,136	6.5%
Inactive Members			
Inactive Members	188	145	29.7%
Annuity Savings Fund	\$2,283,407	\$1,790,199	27.6%



Dukes County Contributory Retirement System
Actuarial Valuation as of January 1, 2018

SECTION 1 - SUMMARY

Valuation Date	<u>1/1/2018</u>	<u>1/1/2016</u>	<u>Increase/ (Decrease)</u>
Funded Status - Market Value of Assets			
Actuarial Accrued Liability (AAL)	\$193,470,945	\$167,672,546	15.4%
Market Value of Assets (MVA)	\$155,586,109	\$121,844,510	27.7%
Unfunded Accrued Liability	\$37,884,836	\$45,828,036	(17.3%)
Funded Status	80.4%	72.7%	10.6%
Funded Status - Actuarial Value of Assets			
Actuarial Accrued Liability (AAL)	\$193,470,945	\$167,672,546	15.4%
Actuarial Value of Assets (AVA)	147,758,673	\$121,642,995	21.5%
Unfunded Accrued Liability	\$45,712,272	\$46,029,551	(0.7%)
Funded Status	76.4%	72.5%	5.4%
Normal Cost			
Total Normal Cost	\$5,918,030	\$5,203,131	13.7%
Employee Normal Cost	3,937,927	3,602,882	9.3%
Administrative Expenses	375,000	350,000	7.1%
Net Employer Normal Cost	\$2,355,103	\$1,950,249	20.8%
Appropriations			
Fiscal Year 2018	N/A	\$6,400,513	N/A
Fiscal Year 2019	\$6,720,539	\$6,720,539	0.0%
Fiscal Year 2020	\$7,130,492	\$7,078,252	0.7%
Fiscal Year 2021	\$7,565,452	\$7,455,007	1.5%

Actuarial Assumptions and Methods

Some Actuarial Assumptions and Methods used in this valuation have changed since the last valuation, including increasing the administrative expense assumption from \$350,000 to \$375,000, increasing the 3(8)(c) net transfer assumption from \$175,000 to \$200,000 and reducing the investment return rate from 7.75% to 7.5%. Changing these assumptions resulted in a net increase in the unfunded actuarial accrued liability of \$5,151,005 and an increase in the employer normal cost of \$277,294. The Actuarial Assumptions and Methods utilized in this valuation are detailed in Section 6, Actuarial Assumptions and Methods.

Plan Provisions

All Plan provisions used in this valuation are the same as those used in the prior valuation and are summarized in Section 5, Summary of Plan Provisions.

SECTION 1 - SUMMARY

Census Data

As of January 1, 2018, there are 666 active members who may be eligible for benefits in the future, 293 retirees and beneficiaries, 188 inactives and 26 disabled retirees. Summaries of the active, retired and disabled employees are included in Section 7, Demographic Information.

Assets

This valuation is based upon asset information reported to the Public Employee Retirement Administration Commission (PERAC) by the Dukes County Contributory Retirement Board. The market value of assets increased from \$121,844,510 as of December 31, 2015 to \$155,586,109 as of December 31, 2017. During the plan years ended 2016 and 2017, the market value rates of return were 7.94% and 17.50%, respectively.

The actuarial value of assets increased from \$121,642,995 as of January 1, 2016 to \$147,758,673 as of January 1, 2018. During the plan years ended 2016 and 2017, the rates of return on the actuarial value of assets were 8.64% and 9.94%, respectively.

TOWN OF OAK BLUFFS, MA

WAYFINDING MASTER PLAN

REVISED DESIGN

MARCH 27, 2019

prepared by:

surfaceMATTER DESIGN

111 Chestnut Street, 2nd Floor
Providence, RI 02903
T 617.513.4651

PROJECT PURPOSE / OBJECTIVES:

Purpose

The purpose of the Oak Bluffs Wayfinding Master Plan is to establish a comprehensive sign identification and wayfinding system for Oak Bluffs, Marthas Vineyard. The Master Plan outlines the recommended sign types and locations to establish a clear sense of arrival and place for island visitors and residents alike.

Project Goals

- establish a clear sense of arrival for visitors
- create a strong identity at perimeter and edges of Oak Bluffs
- enhance the visitor experience with key placement of identification, direction, information signs, and streetscape elements
- establish a consistent hierarchy of sign types and messages
- establish consistent signage (style, typography, color, scale, materials)
- use appropriate scale and sign location to maximize identity and legibility
- design a flexible system to facilitate maintenance, repair, replacement, etc.
- design all signage to meet all ADA, local, state, and federal codes

Process

Phase I: Schematic Design/Master Plan

- site visit to Oak Bluffs
- photodocument site conditions
- provide location plans
- illustrate key sign types
- create image boards to discuss design vocabulary
- present conceptual approaches for wayfinding sign types
- submit final Phase I: Wayfinding Master Plan

Phase II: Design Development

- refine the chosen design concept from Phase I: Master Plan
- update location plans and sign types
- provide preliminary pricing
- create sign message schedule
- finalize approved design
- create sign specification drawings for bid
- Update fabrication budget

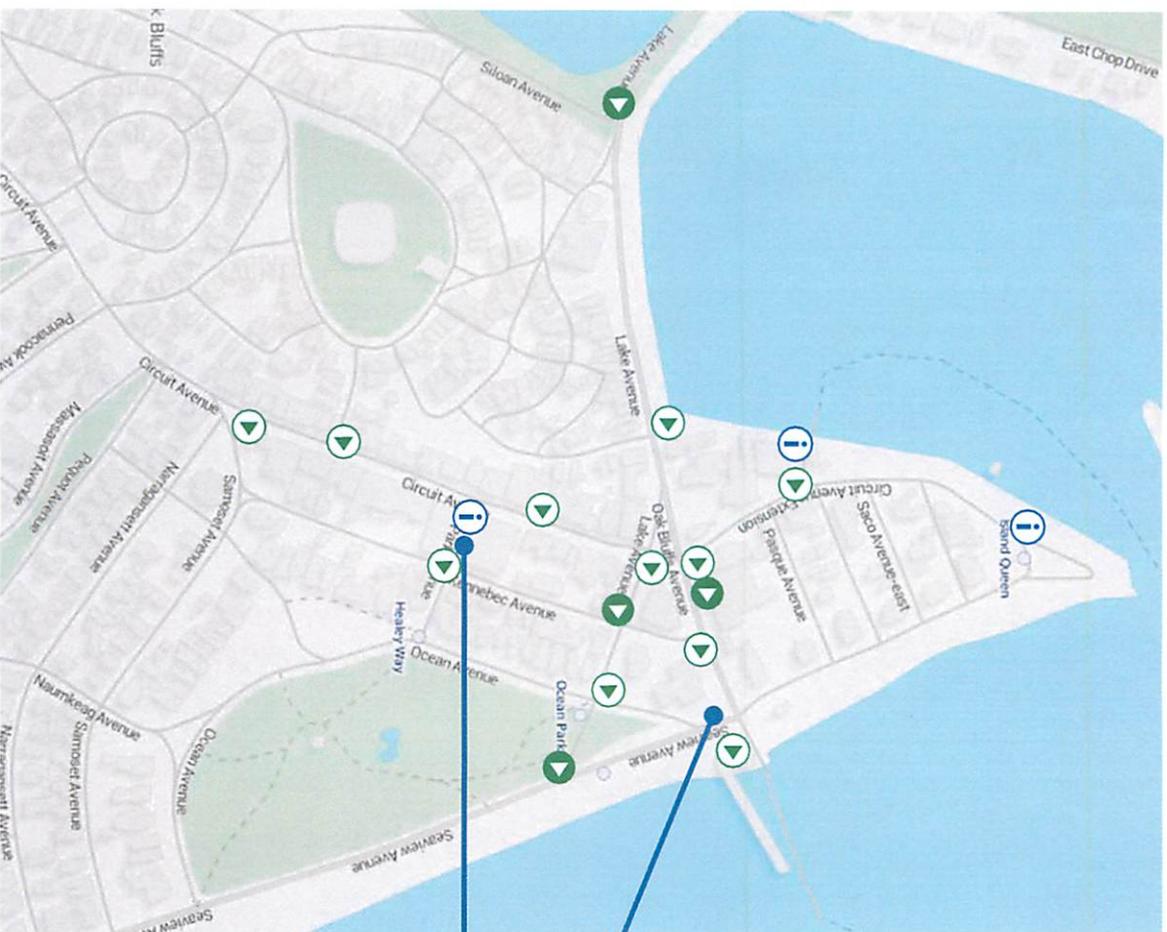
Phase III: Implementation/Construction Services

- coordinate with approved fabricator on all details through installation
- review material/color samples and prototypes provided by fabricator
- create sign installation punch list

SIGN LOCATION PLAN

SIGN TYPE LEGEND

-  **PRIMARY MAP/INFORMATION**
-  **SECONDARY MAP/INFORMATION**
-  **VEHICLE DIRECTION SIGN**
-  **PEDESTRIAN DIRECTION SIGN**

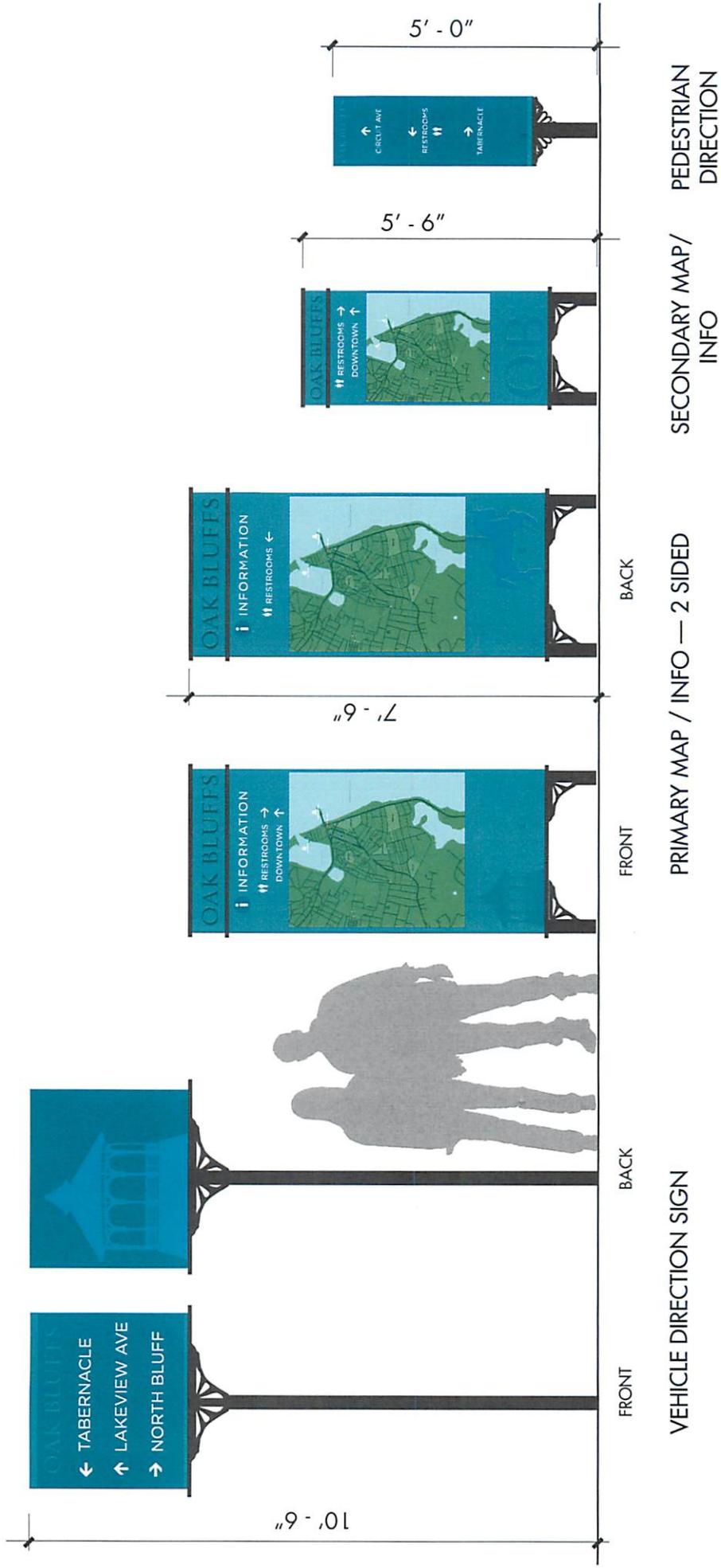


 **PRIMARY MAP LOCATION
(POLICE STATION)**

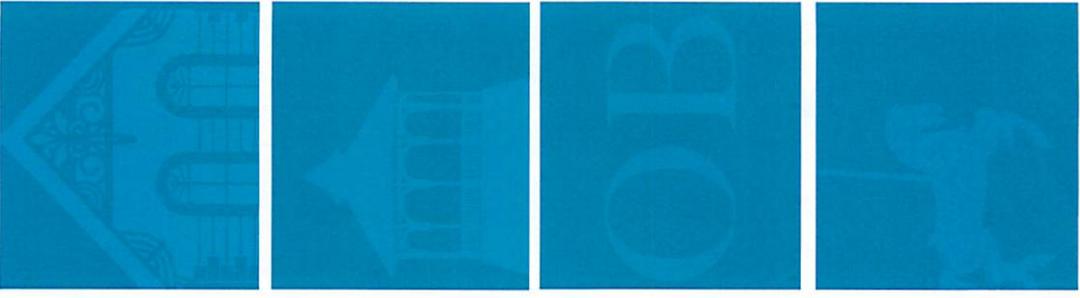
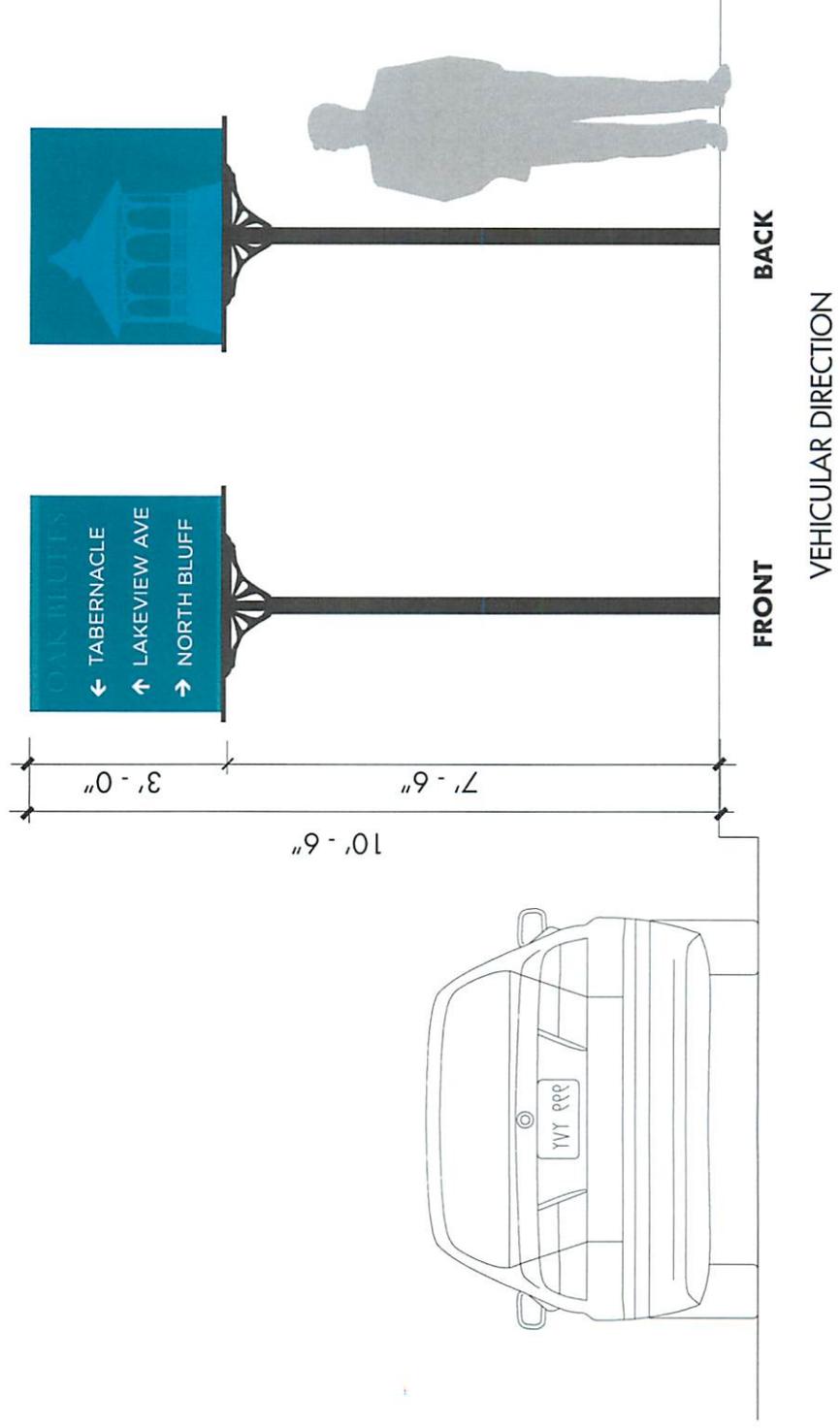
HEALEY WAY

SIGN TYPES – REVISED DESIGN

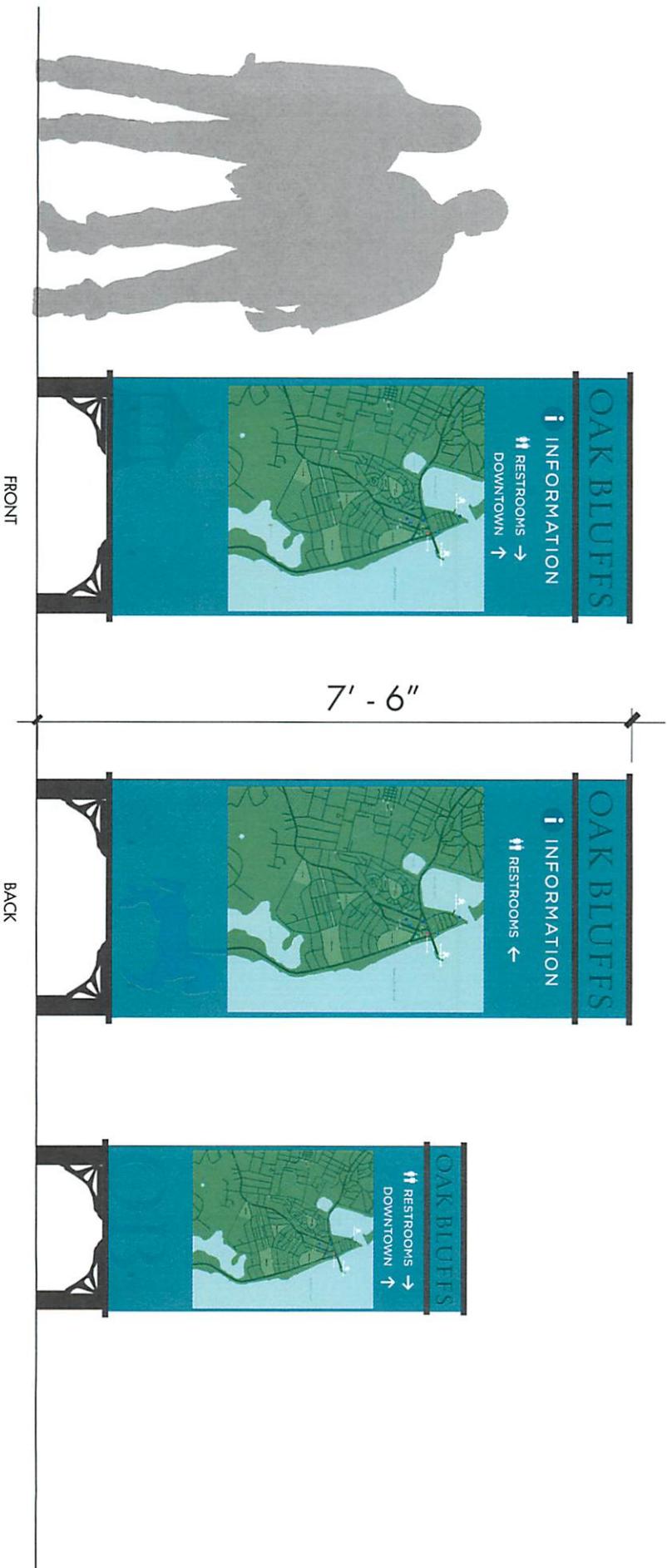
SIGN TYPE FAMILY — VICTORIAN STYLE W/ OAK BLUFF ICONS



SIGN TYPE FAMILY — VEHICLE DIRECTION SIGN

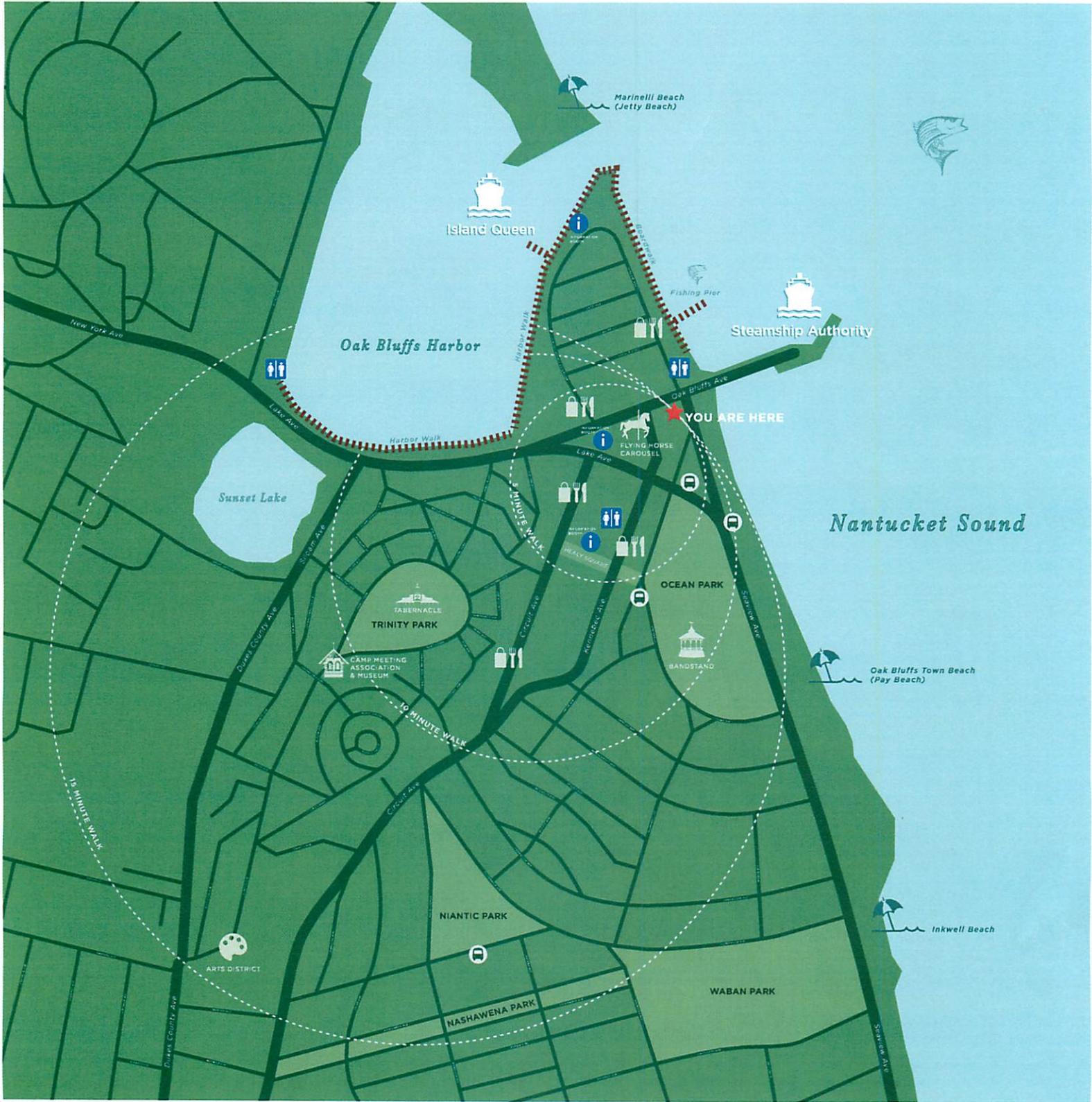


SIGN TYPE FAMILY — PRIMARY/SECONDARY INFORMATION MAPS



PRIMARY MAP / INFO — 2 SIDED

SECONDARY MAP / INFO — 2 SIDED



Marinelli Beach
(Jetty Beach)

Island Queen

Oak Bluffs Harbor

Steamsnip Authority

YOU ARE HERE

Nantucket Sound

Sunset Lake

TRINITY PARK

OCEAN PARK

Oak Bluffs Town Beach
(Pay Beach)

CAMP MEETING
ASSOCIATION
& MUSEUM

BANDSTAND

Inkwell Beach

NIANTIC PARK

ARTS DISTRICT

NASHAWENA PARK

WABAN PARK

New York Ave

Lake Ave

Harbor Walk

15 MINUTE WALK

15 MINUTE WALK

15 MINUTE WALK

15 MINUTE WALK

Dukes County Ave

South Ave

Circle Ave

15 MINUTE WALK

Oak Bluffs Ave

Lake Ave

15 MINUTE WALK



Robert Whritenour

From: Helms, Joshua M CIV USARMY CENAE (US) <Joshua.M.Helms@usace.army.mil>
Sent: Thursday, May 23, 2019 10:49 AM
To: Count, Michael E; Player, Christine
Cc: Newman, Barbara H CIV CENAE CENAD (US); Robert Whritenour
Subject: Oak Bluffs Public Notice Comments Received and Additional Information Needed to process permit
Attachments: NAE-2016-00293 Town of Oak Bluffs to ACOE 5-10-19.pdf; NMFS EFH JH comments5-8-19.pdf; Oak Bluffs Beach Nourishment, Groins, and Jetties NAE-2016-60293 5-16-19 - signed.pdf

To Whom it May Concern,

The public notice period for this project has concluded. In order continue to review the project, the Town of Oak Bluffs must respond to the comments raised by the regulatory agencies and provide the additional information outlined below.

There were three comments received from private citizens as a part of the public notice. No response is required. A summary of the comments can be seen below.

Comment 1: An elementary school teacher expressed her support for the project.

Comment 2: An Elementary school student expressed her support for the project.

Comment 3: The Oak Bluffs Shellfish Constable expressed support for the project.

The following comments and additional attached comments were received from agencies as a result of the public notice or through consultation that occurred during the public notice period.

NMFS- See Attached and respond to the comments that have been highlighted on the document

DMF- See Attached and respond to the questions below

- Please explain why you have not proposed mitigation for permanent impacts associated with encroachment into the water body and beach nourishment.

- Was a shellfish survey completed? Will shellfish be removed prior to beach nourishment? Will the area be seeded with shellfish?

- I spoke with DMF after receiving these comments, and they have concerns that the previous nourishment activities resulted in the loss of eelgrass as shown in the surveys provided.

MA CZM- Please address CZM's questions in the attached letter.

EPA- EPA shares NMFS concerns about repeated non-compliance by the Town with respect to conditions of Corps permits or failure to obtain required permits. EPA stated that "EPA concurs with the NMFS request for an expanded EFH assessment and alternatives analysis in order to adequately evaluate the potential impacts of the project. We concur with their comments and will defer to their expertise for appropriate permit conditions, eel grass monitoring and beach fill compatibility and source issues."

DEP - As we have previously discussed, there is no 401 WQC issued for the seawall, revetment, and walkway to the water. DEP is determining the need to complete a 401 WQC for this area. Previous MEPA documents note that a 401

was needed to complete these activities and DEP does not have any record of the modifications that the Town of Oak Bluffs made to the project including the sheet pile wall, walkway, boardwalk, and other temporary impacts that were associated with the project during construction. Please note that since this work is being reviewed as part of the individual permit, a 401 needs to be issued or waived by DEP in order for the Corps to issue a permit. Please reach out to DEP to determine if an application is required. A 401 WQC needs to cover all activities under an IP unless a waiver is issued.

USFWS- Consultation is on-going. USFWS has expressed that they do not have concerns with the plans, but would like to ensure that plover monitoring agreements are in place. Can you provide a copy of the most recent agreement or explain who will complete monitoring.

There are still some outstanding items that were previously requested by the Corps during prior meetings.

- An updated 404 B alternatives analysis that explains why the project is the LEDPA and explains why other projects were not chosen. Please review the alternatives discussed in the public notice and explain why these options were not chosen as previously requested.

- The project must be the Least Environmentally Damaging Practicable Alternatives as required under the Clean Water Act's 404(b)(1) Guidelines (see link below). <https://www.epa.gov/cwa-404/section-404b1-guidelines-40-cfr-230>

- Please ensure that the alternatives analysis for these projects is able to explain why the preferred alternatives are the least environmentally damaging. This may include elaborating upon the alternatives analysis provided (previously requested by the Corps). Please explain why some projects were not considered. For each project explain the following;

- What are the environmental impacts?

- Are the impacts more or less damaging than the other practicable alternatives?

- Is the alternative technically feasible (can it be constructed in this area)?

- Does the alternative meet the project purpose?

- Is the alternative cost prohibitive (too expensive)?

- Were some alternatives not considered due to regulatory/statutory concerns (can't be permitted)?

- Were there other constraints including in the decision making process (did the

- You are able group alternatives together if they were/were not considered for the same reasons.

- Please review the link below that demonstrates how an alternatives analysis should be completed.

https://www.swf.usace.army.mil/Portals/47/docs/regulatory/Handouts/Preparing_An_Alternatives_%20Analysis.FINAL.pdf

- The Corps can not issue a permit for the project if it does not meet the 404 b 1 guidelines.

Additionally, the Corps can not issue a permit if the project is contrary to the public interest. The Corps must complete a public interest review as required in the regulations (33 CFR 320.4(a-r)). Information regarding the public interest review can be seen below. Please provide some discussion on how about the public interest review factors; specifically, please provide comments on the following topics:

<https://www.lrl.usace.army.mil/Portals/64/docs/regulatory/Permitting/PermittingProcessInformation.pdf>

Aesthetics

- Please respond to the public notice comments submitted that state that the project will be detrimental to the current aesthetics of the area Erosion and Accretion

- Please respond to the public comments related to sediment transport and discuss how the project will reduce erosion in this area and avoid impacts downstream.

Recreation

- Please discuss how this project will improve recreation Economics

- Please discuss how the project will affect the local economy (taxes, tourism, etc.) General Environmental concerns

- Discuss how the project will avoid environmental impacts Fish and wildlife values
- Discuss how the project will avoid impacts to fish and wildlife The needs and welfare of the people
- Please discuss how the project will impact human life in the area.

Flood Hazards

- Please discuss how the project is expected to avoid and minimize flood hazards Historic Properties-
- Please discuss how this project will impacts any historic properties and cultural resources nearby

Safety-

- Please discuss how this project will help impact or improve safety

Navigation-

- Please discuss how this project will help impact navigation or will cause safety issues

If you would like to schedule a meeting to discuss the information, we are available at any time. We can also set up a meeting with any regulatory agencies in order to better understand the information that is required to complete their reviews. A site visit and meeting may help to resolve some of the issues discussed above.

Do not hesitate to contact me with any questions, comments, or concerns.

Regards,

Josh

Josh Helms
Project Manager
U.S. Army Corps of Engineers
New England District
Regulatory Division
696 Virginia Road
Concord, MA 01742-2751
978-318-8211



David E. Pierce, PhD.
Director

Commonwealth of Massachusetts

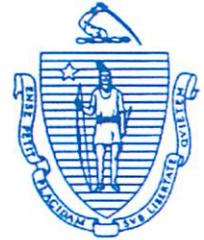
Division of Marine Fisheries

251 Causeway Street, Suite 400

Boston, Massachusetts 02114

(617) 626-1520

fax (617) 626-1509



Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor
Kathleen Theoharides
Secretary

Ronald S. Amidon
Commissioner
Mary-Lee King
Deputy Commissioner

May 14, 2019

Ms. Barbara H. Newman
Chief of Permits Branch A
Regulatory Division
US Army Corps of Engineers
696 Virginia Road
Concord, MA 01742
ATTN: Josh Helms

Re: NAE-2016-00293

Dear Ms. Newman:

The Division of Marine Fisheries (MA DMF) has reviewed the Public Notice by the Town of Oak Bluffs for proposed after-the-fact permitting for the installation of shoreline structures as well as permitting of future beach nourishment and groin maintenance in the Town of Oak Bluffs. The after-the-fact permitting component (Phase 1) is for work done in 2016 including the installation of a 1,055 square foot sheet pile bulkhead across 550 linear feet of shoreline as well as an additional 120 linear foot section of sheet pile associated with an ADA accessible ramp. Additional unpermitted construction included installation of 560 linear feet of wooden boardwalk on top of a seawall, 250 square feet of stairway and landing, and reconstruction of an existing 760 linear foot stone revetment. Proposed new work (Phase 2) consists of nourishment at Jetty, North Bluff, Pay, and Inkwell Beaches and reconstruction of seven existing timber groins. Total proposed nourishment would consist of 34,975 cubic yards of sand over a 283,261 square foot area across a 3,950 linear foot total section of shoreline. The Public Notice and attached eelgrass and beach monitoring plans were reviewed with respect to potential impacts to marine fisheries resources and habitat.

The project sites lie within or adjacent to mapped shellfish habitat for bay scallop (*Argopecten irradians*), quahog (*Mercenaria mercenaria*), and blue mussel (*Mytilus edulis*). Waters within and adjacent to the project site have habitat characteristics suitable for these species. Land containing shellfish is deemed significant to the interest of the Wetlands Protection Act (310 CMR 10.34) and the protection of marine fisheries.

Several areas of shoreline bordering the proposed nourishment sites are mapped by the Massachusetts Department of Environmental Protection (MA DEP) as eelgrass (*Zostera marina*) meadows. In-water surveys by CLE Engineering as recently as September 2016 have confirmed the presence of eelgrass in these nearshore waters. Eelgrass beds provide one of the most

productive habitats for numerous marine species (Jackson et al. 2001; Heck et al. 2008) and are designated “special aquatic sites” under the Federal Clean Water Act 404(b) (1) guidelines.

MA DMF offers the following comments for your consideration:

Phase 1:

- Unpermitted activities include the installation of hardened shoreline structures in sandy habitat. As this represents habitat conversion, all such work expanding beyond any previously permitted footprints below MHW should be considered assessable for In Lieu Fee (ILF) mitigation.

Phase 2:

- The eelgrass monitoring plan dated 4-18-19 and included with the Public Notice filing lacks much of the information needed to assess any impacts of previous nourishment activities on bordering eelgrass meadows. An earlier 2010 monitoring report provided details of methods and results for both video transect as well as diver data performed both pre-nourishment (September 2010) and post-nourishment (September 2011) surrounding an April 2011 nourishment of Inkwell (2,500 cubic yards) and Pay Beach (7,500 cubic yards). Such details for subsequent nourishment events are lacking in the most recent survey report. The updated report should include survey results for all eelgrass surveys performed at these sites to date (September prior to and following each dredging event to capture pre-and post-nourishment eelgrass conditions during the growing season as well as spring survey data one and five years post-nourishment) as outlined in the 2010 monitoring report. The 2010 monitoring report also described diver survey methods and results for the 2010-2011 monitoring effort. No additional diver data are provided in the most recent survey report. While the data provided in the Public Notice provide some useful information delineating the proposed buffer between the seaward extent of the nourishment footprint and the landward edge of surveyed beds, the report lacks the prior survey data needed to determine if the current bed edge may have contracted seaward due to prior nourishment activities. Finally, the monitoring report does not describe what mitigation measures would be implemented if bed loss associated with nourishment is detected in survey results.
- As noted in the eelgrass monitoring plan, the seaward extent of the nourishment footprint should be at least 100 feet from the landward edge of any bordering eelgrass based on bed delineations conducted during the growing season prior to nourishment. The landward edge of any existing beds should also be marked with buoys to ensure that this buffer is maintained during nourishment activities.
- The Public Notice included nourishment source material potentially both from offshore dredging and upland sources. As noted in the Public Notice, any barge used in the construction process should be staged to avoid grounding at all times. To avoid damage to eelgrass during operation in shallow water, beds should be avoided by any work barges during transit, anchoring should not occur within any existing beds, and bed edges should be marked with buoys to assist in avoidance.

Questions regarding this review may be directed to John Logan in our New Bedford office at (508) 742-9722.

Sincerely,



David E. Pierce, Ph.D.
Director

cc: Oak Bluffs Conservation Commission
David Grunden, Oak Bluffs Shellfish Constable
Michael Johnson, NMFS
Kathryn Ford, Ryan Nuttall, Neil Churchill, Tom Shields, DMF

References

- Heck, K.L., Jr., T.J.B. Carruthers, C.M. Duarte, A.R. Hughes, G. Kendrick, R.J. Orth, and S.W. Williams. 2008. Trophic transfers from seagrass meadows subsidize diverse marine and terrestrial consumers. *Ecosystems* 11: 1198–1210.
- Jackson, E.L., A.A. Rowden, M.J. Attrill, S.J. Bossey, and M.B. Jones. 2001. The importance of seagrass beds as a habitat for fishery species. *Oceanography and Marine Biology: An Annual Review* 39: 269–303.

DP/JL/sd



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930-2276

APR 30 2019

Barbara Newman
Chief, Permits and Enforcement Branch
Regulatory Division
U.S. Army Corps of Engineers
New England District
696 Virginia Road
Concord, Massachusetts 01742-2751

Re: Town of Oak Bluffs, Shoreline Stabilization and Beach Nourishment, NAE-2016-00293

Dear Ms. Newman:

We have reviewed the public notice and the Essential Fish Habitat (EFH) assessment for proposed shoreline stabilization and beach nourishment project for beaches within the Town of Oak Bluffs, Martha's Vineyard, Massachusetts. According to the public notice, the work associated with this permit involves two phases. Phase 1 involves "after-the-fact" authorization of work completed by the applicant between January and July of 2016, including the construction of a 550-foot long sheet pile bulkhead seaward of an existing concrete seawall, reconstruction of an existing stone revetment, and the construction of a stairway to provide public access to the beach. Phase 2 involves the reconstruction of two existing stone jetties, six existing timber groins, retaining one existing timber groin, reconstruction and extension of an existing stone groin, construction of a set of stairs at one beach, and the placement of sand to re-nourish Jetty, North Bluff, Inkwell, and Pay beaches. Approximately 216,676 square feet of intertidal and subtidal habitats would be impacted by the proposed beach nourishment.

As you are aware, the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Fish and Wildlife Coordination Act require Federal agencies to consult with one another on projects such as this. Insofar as a project involves EFH, as this project does, this process is guided by the requirements of our EFH regulation at 50 CFR 600.905, which mandates the preparation of EFH assessments and generally outlines each agency's obligations in this consultation procedure.

Although some information regarding the project-related effects to aquatic resources was included in the Public Notice and EFH assessment, we find that these documents are lacking adequate and specific information regarding the project and the potential impacts to our trust resources. Based on the limited information provided, we anticipate substantial adverse impacts to EFH may result from this project. However, the lack of information has hampered our ability to adequately assess impacts from the proposed project on our trust resources and, at this time, we are unable to provide appropriate conservation recommendations. Therefore, we request that you conduct an expanded EFH consultation pursuant to 50 CFR 600.920(i)(1), and we seek to



extend the consultation process pursuant to 50 CFR 600.920(1)(5) so that you may provide us with additional information to complete the EFH consultation and allow us to develop EFH conservation recommendations, as necessary. We are providing comments on the Public Notice and EFH assessment, and are requesting additional information as discussed below.

General Comments

The Oak Bluffs beaches and nearshore areas, and the Nantucket Sound serve as habitat for a range of fishery resources including, but not limited to Atlantic cod, winter flounder, summer flounder, black sea bass, scup, Atlantic surf clam, and soft shell clam. The nearshore areas of Nantucket Sound and Oak Bluffs contain sand, cobble/gravel, and eelgrass habitats, which serve as habitat for many of these fish and shellfish species. In particular, the New England Fishery Management Council and our agency has identified cobble/gravel and eelgrass habitats as important post-settlement habitat for juvenile Atlantic cod. The project area is also within the Habitat Area of Particular Concern (HAPC) for inshore juvenile cod in the Gulf of Maine and Southern New England, which occurs from mean high water to water depths of 20 meters (NEFMC 2018). Inshore waters are deemed a HAPC for juvenile cod because the area meets a number of criteria, including important ecological functions, sensitivity to anthropogenic stressors, and the presence of current or future stresses.

Public Notice Comments and Information Needs

- Pages 3 and 4 contain a list of thirteen alternatives considered by the applicant to meet the project goals. However, information was not provided regarding which of these alternatives have been rejected and which are proposed. We request clarification for which of these alternatives have been rejected, and why the applicant determined they did not meet project goals.
- Pages 4 through 6 of the Public Notice includes a list of “avoidance and minimization” measures. This list includes a time-of-year (TOY) restriction proposed from February 1-September 30 for silt-producing work. However, the Public Notice states two exceptions to the TOY restriction (work will be completed at low tide, and a silt curtain is to be installed at the seaward limit of work to isolate silt-producing activities from adjoining waters). The Public Notice did not include any explanations as to how these conditions could be met, which is concerning as neither of these conditions appear feasible nor likely to minimize turbidity at the project site. The toe of fill of the beach nourishment and the reconstruction of the jetties and groins extend well beyond the existing mean low water line, and elevated turbidity would occur in nearshore waters where EFH for federally-managed species and other trust resources are present. In addition, installing a silt curtain in open waters of Nantucket Sound, which is subject to substantial wave energy and currents under most conditions during the proposed work window, would be logistically challenging, and ineffective at isolating silt-producing activities from nearshore waters. Likewise, should the proposed work occur during the TOY restriction, neither of these conditions would avoid impacts to shellfish that spawn during summer months in the project area. We request additional information on how these two conditions will be met, and how they will avoid the need for implementing a TOY restriction.
- Item 4 of the “avoidance and minimization” measures states the material for beach nourishment may come from both offshore dredging operations authorized under a

separate Chapter 91 permit or from an upland site. It is unclear how this constitutes an avoidance and minimization measure. We request information regarding any authorization for offshore dredging operations pertaining to this proposed project. Chapter 91 is a State of Massachusetts regulatory requirement and is not typically part of an EFH consultation. Any impacts to EFH or other trust resources associated with mining sand in tidal waters for this project should be evaluated as part of this EFH consultation. The source of material used for the proposed beach nourishment is an integral component of this project because there is an interdependency of the material used for the beach nourishment. Therefore, we request information related to any mining in nearshore or offshore waters that may be proposed for the purposes of nourishment of Oak Bluffs beaches.

Eelgrass Survey Comments and Information Needs

- Items 5 through 7 of the “avoidance and minimization” section of the Public Notice relates to pre- and post-construction eelgrass surveys. The Public Notice states that an eelgrass survey will be conducted to at least 50 feet beyond the seaward limit of the proposed beach nourishment footprint. While it is unclear how the “footprint” will be determined for the purposes of eelgrass surveys, a 50-foot long survey transect would not be adequate to assess impacts to eelgrass beds identified in the 2016 survey. The 2010 Eelgrass Survey Monitoring Plan calls for the seaward limit of transects to extend offshore to the limit of existing eelgrass beds. The 2016 survey identified eelgrass beds from approximately 300 feet to over 500 feet seaward of the mean low water line, according to the plan view drawings provided in the Public Notice and EFH assessment. Pre- and post-construction survey transects extending from the existing mean low water line out to the seaward extent of eelgrass beds would be necessary to evaluate impacts.
- As discussed above, the Public Notice indicates pre- and post-construction eelgrass monitoring will be conducted for the proposed project, following the specification of the 2010 Eelgrass Monitoring Plan. The EFH assessment states that eelgrass surveys conducted during previous nourishment events have confirmed that impacts to eelgrass beds have been avoided, and the proposed nourishment would likewise avoid all impacts to eelgrass. We have considerable concerns regarding the cumulative loss of eelgrass beds offshore of these beaches, and the efficacy of the existing eelgrass monitoring plan to identify impacts associated with beach nourishment activities. For the following reasons, we cannot agree at this time that the information provided in the Public Notice and EFH assessment confirms eelgrass beds have been avoided in previous nourishment events.
 - The last nourishment event was reported to have occurred between January and July 2016. According to the 2010 Eelgrass Monitoring Plan, a pre-construction eelgrass survey should have been conducted during the previous year’s growing season (approximately June to September 2015 for the 2016 beach nourishment). However, the eelgrass delineations shown on the plan view drawings show only one set of eelgrass surveys for 2008, 2011, and 2016, which we assume represents post-construction surveys. This discrepancy is not merely an issue of the Town of Oak Bluffs not adhering to the 2010 Eelgrass Monitoring Plan that was a condition of previous Corps authorizations. The failure to conduct pre-construction surveys, which is a condition of the 2010 Eelgrass Monitoring Plan,

severely hampers the ability to identify project-related impacts to eelgrass beds. We request you provide copies of the pre- and post-construction monitoring results for all nourishment events at the Oak Bluffs beaches, and provide an assessment for potential impacts to eelgrass beds from those activities.

- The eelgrass delineation shown on the plan view drawings indicates the landward edge of the beds have consistently retreated seaward in a chronological pattern from 2008, 2011, and 2016. This can be seen in the plan view drawings, sheets 4 through 7. Specifically, in the plan view drawings the landward edge of 2016 eelgrass beds have moved, in nearly all instances, between 50 feet and 100 feet seaward compared to the 2008 and 2011 surveys. Adequate pre- and post-construction monitoring would be necessary to understand if beach nourishment activities are contributing to this shift in eelgrass distribution further offshore. Nonetheless, the observed pattern of eelgrass distribution from 2008 to 2016 does not support the applicant's determination that eelgrass surveys conducted during previous nourishment events have confirmed impacts to eelgrass beds have been avoided.
- One exception to this pattern is the landward edge of the eelgrass bed identified in the September 2016 survey as being landward of the 2008 and 2011 surveys edge (i.e., Sheet 5 of the Public Notice and EFH assessment). According to the information provided, the eelgrass is located in an area identified as "gravel" on the plan view drawing, but absent north and south of the gravel area. We are requesting information about the nature of the gravel habitat, including the size and characteristics of the gravel substrate and the extent of eelgrass located in this area.
- The 2010 Eelgrass Monitoring Plan clearly states "Prior to and following any beach nourishment project exceeding 2,500 cubic yards, surveys of eelgrass meadows must be conducted in the month of September." In addition, the Plan states "The Town of Oak Bluffs will submit results of yearly eelgrass monitoring events to the Army Corps of Engineers within two (2) weeks of completion." Based on recent discussions with the Corps project manager, it is our understanding that the Corps has not received eelgrass monitoring reports or pre-construction eelgrass survey data for any nourishment events. This suggests either the Town has not conducted the required pre-construction surveys, or they have failed to provide the survey results to the Corps. In either of these cases, the Town has not adhered to the requirements of the 2010 Eelgrass Monitoring Plan and its previous Corps permits. This also raises concerns about the efficacy of the monitoring program in identifying project-related effects. We request you continue to seek these eelgrass monitoring reports from the Town for previous nourishment events, conduct an evaluation of the eelgrass survey results and efficacy of the monitoring program, and communicate those findings to us.

EFH Assessment Comments and Information Needs

- In Step 2 (site characteristic) of the EFH worksheet, gravel bottom habitat (as discussed above) is identified approximately 150 feet from the "project site". While there is no explanation for how "project site" is defined, based on the plan view drawings the gravel habitat appears to be closer than 150 feet of the proposed toe of fill. The correct distance

between the toe of fill and gravel habitat should be clarified. However, our primary concern is the EFH worksheet incorrectly concludes the project area does not contain HAPC. As discussed above cobble/gravel and eelgrass habitats are identified as EFH for post-settlement habitat for juvenile Atlantic cod. Furthermore, the project area is within the HAPC for inshore juvenile cod in the Gulf of Maine and Southern New England, which occurs from mean high water to water depths of 20 meters (NEFMC 2018). This should be corrected in the EFH assessment and impacts to the HAPC should be evaluated.

- The first part of Step 3 (description of impacts) of the worksheet refers to “Supplemental to EFH Assessment Worksheet”, but this supplement appears to be a discussion of the proposed activities associated with reconstruction of structures and beach nourishment and does not describe the nature and duration of impacts to EFH. Furthermore, the second paragraph of this section incorrectly states the operations will be conducted during the TOY when biological activity is considered “dormant”. To clarify, federally-managed species and other trust resources are not dormant during the proposed work window. The intent of a TOY restriction is to minimize the impacts to sensitive life stages (e.g., spawning, and egg and larvae development) in the project area.
- The question in Step 3 regarding impacts to rocky, cobble, gravel should be addressed due to the presence of gravel habitat in the project area, as identified in the plan view drawings provided in the Public Notice and EFH assessment.
- Step 4 (EFH assessment) indicates there will be no impacts to EFH for any life stages of federally-managed species. We disagree with this determination. Most notably, this is inconsistent with page 7 of the Public Notice, which indicates the site-specific impacts to EFH may be substantial.
- The last part of Step 4, which requests information regarding proposed compensatory mitigation to offset any adverse effects to EFH, is marked “yes”. However, the responses provided do not relate to compensatory mitigation, but appear to be a discussion of avoidance and minimization measures by the applicant. In addition, the measures discussed appear to be related to areas of the project landward of the high tide line, and are not relevant to the EFH assessment.
- Step 5 (determination of impact) is marked as “EFH Consultation is not required”, which is clearly incorrect because you are requesting an EFH consultation with us.
- In addition to the questions and comments discussed above, it appears the EFH assessment worksheet was prepared by the Town’s consultants at CLE Engineering. While it may be acceptable to ask the applicant or their agent to submit an EFH assessment on behalf of the Corps, we believe it is inherent that the Corps review assessments and any necessary corrections made prior to requesting an EFH consultation. This will avoid consequential delays in the EFH consultation process for both of our agencies.

After-the-fact Authorizations and Past Permit Violations

We have significant concerns regarding past instances of unauthorized work and permit violations by the Town, including violations of their permit in 2010 associated with dredging the Sengkontacket Pond as a source of material for nourishing Town beaches. These violations included unauthorized excavation of a dune, operating below the high tide line, and improper construction of a detention basin causing water to flow into and out of the dewatering basin. We

request you provide us with an explanation for why placement of considerable fill in intertidal and subtidal habitats on Town beach that occurred three years previously is only now being addressed in this permit.

Lastly, it appears the Town has not adhered to the conditions of the 2010 Eelgrass Monitoring Plan to evaluate project-related impacts to eelgrass. The apparent lack of monitoring reports for previous nourishment events, as well as failure to conduct pre-construction surveys, appears to be violations of those permits. Adherence to the 2010 Eelgrass Monitoring Plan was a condition of authorization to the Town of Oak Bluffs for Corps permits in 2010 (NAE-2009-01128) and 2014 (NAE-2011-01511). We request an evaluation of these previous permit issues prior to consideration of any new permits granted to the Town.

Conclusion

Due to the potential for substantial adverse effects to EFH and other trust resources as a result of this project, we request that you conduct an expanded EFH consultation pursuant to 50 CFR 600.920 (i)(1). Due to the lack of complete and adequate information in the Public Notice and EFH assessment, we seek to extend the comment period and the consultation process pursuant to 50 CFR 600.920 (i)(5) so that you can provide us with the requested information for the development of appropriate EFH conservation recommendations. We look forward to receiving the additional information requested above. If you have any questions regarding this information request and comments, please contact Michael Johnson at 978-281-9130 or at mike.r.johnson@noaa.gov.

Sincerely,



Susan Tuxbury
Acting Field Office Supervisor
for Habitat Conservation

cc: Zach Jylkka, PRD
Ed Reiner, US EPA
Maria Tur, US FWS
Joshua Helms, USACE
Eileen Feeney/John Logan, MA DMF
Robert Boeri, MA CZM
David Wong, MA DEP

References

New England Fishery Management Council (NEFMC). 2018. Final Omnibus Essential Fish Habitat Amendment 2. Volume 2: EFH and HAPC Designation Alternatives and Environmental Impacts. Prepared by the New England Fishery Management Council in cooperation with the National Marine Fisheries Service.
[https://s3.amazonaws.com/nefmc.org/OA2-FEIS Vol 2 FINAL 171025.pdf](https://s3.amazonaws.com/nefmc.org/OA2-FEIS_Vol_2_FINAL_171025.pdf).



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
OFFICE OF COASTAL ZONE MANAGEMENT
251 Causeway Street, Suite 800, Boston, MA 02114-2136
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May 15, 2019

Mr. Joshua Helms
U.S. Army Corps of Engineers
Regulatory Division
696 Virginia Road
Concord, MA 01742-2751

RE: Public Notice NAI-2016-60293, Oak Bluffs Beach Nourishment, Groin and Jetty Rehabilitation

Dear Mr. Helms:

Thank you for the opportunity to comment on the Public Notice for the above-referenced project. CZM has been working with the Town of Oak Bluffs on their efforts to improve coastal resiliency along this stretch of shoreline. We have previously reviewed portions of the proposed work through the Massachusetts Environmental Policy Act public review process. The comments provided below are based on the information contained in the Public Notice dated April 16, 2019.

CZM supports the proposed nourishment and groin rehabilitation to improve coastal resiliency and restore some natural coastal processes functions along the shoreline. The rationale and design are based on recommendations from a detailed sediment transport and modeling study for the entire section of the Oak Bluffs shoreline from East Chop Lighthouse to the Farm Pond Culvert. CZM generally does not advocate the construction or improvement of coastal engineering structures, but recognizes that in some cases maintenance and limited improvements may be necessary. For the USACE permit, the proponent considered an alternative of beach nourishment alone, with no maintenance or rehabilitation. This alternative was evaluated as part of the sediment transport study and associated modeling work, and it was determined that it would not provide a stable, long-term beach profile, and therefore did not meet project goals. CZM's questions regard the differences between the project details described in the Public Notice compared to previous plans we reviewed.

- It was CZM's understanding that the groins were being shortened based on the coastal processes study recommendations. The Public Notice indicates that the stone groin is being extended. Further clarification is needed regarding the existing and proposed length of this structure.
- The reconstruction of the jetties was not included in previous plans we reviewed. The proponent should provide plans showing existing and proposed conditions and a narrative explaining the basis for the design.

The scope of work appears to be beyond what was previously reviewed by CZM for Federal Consistency Review. The Town will need to submit updated plans and project information to CZM for a review of the revised project. If you have questions regarding this process, please contact Robert Boeri at (617) 626-1050. If you have questions regarding the technical comments, please contact Rebecca Haney at (617) 626-1228.



Sincerely,



Lisa Berry Engler
Director

cc: Christine Player, Foth/CLE Engineering
Elizabeth Durkee, Conservation Administrator, Town of Oak Bluffs
Jim Mahala, DEP SERO
Mike Johnson, NOAA National Marine Fisheries Service
Steve McKenna, CZM Cape Cod and Islands Regional Coordinator
Rebecca Haney, CZM Coastal Geologist

Cape Cod Municipal Health Group
Steering Committee Meeting
Tuesday, May 28, 2019 at 9:00 A.M.

Sand Hill Center, 16 Dewey Road
Sandwich, MA

AGENDA

1. Approval of the minutes of the April 24, 2019 meeting
2. Treasurer's report
3. Wellness reports
 - Proposed Cape and Island wellness budgets for FY20
 - Update on guide to wellness programs and other programs
4. GBS reports
5. Health plan proposed Level Monthly Deposits for FY20
6. Joint Purchase Agreement review
7. MMRA meeting and FY20 rates
8. HSAQs – possible access to CanaRx for preventive meds
9. Conflict of interest issue
10. Other business