

## Receiving Care by Giving Care

By WENDY ARNELL BROPHY

THERE AREN'T TOO MANY MEN WHO GO INTO HOME health care, but Hank Sjostrom (pronounced Sjerstrom) has been in it since the 1960s, helping people and in turn helping himself.

Hank comes from a Swedish family where his mother was a health care aide, and so it was a natural for him to seek out the very people he had heard stories about throughout his youth — the older folks. He enjoys listening to the tales, the adventures people have had, so he makes the perfect companion, sometimes learning more about a person than what their families know! He doesn't mind if it's an old story, he has no judgment about its accuracy; he can go with the flow, enjoy the anecdote and wait for the succeeding one to take him to the next escapade.

Hank sees himself as an adventurer and punster. He began life in Canada and came to the U.S. to attend Augustana College in Rock Island, Ill., an evangelical Lutheran college. He received his degree in geology, and although that is of interest to him it was his roommate's parents' care that lured him into the health care field.

His first clients were on-Island, a wealthy couple that needed help with their daily routine. With them he traveled a good deal and begin to fill out the adventures his spirit sought. Working to make a better life for this elderly couple set the stage for Hank's true vocation. "I should have become a nurse or worked in a psychiatric hospital," he said but has no regrets about his chosen field; he just feels he could have been an even better caregiver in one of those disciplines.

An accident almost brought things to a disastrous halt early on in his career. Before there was safety glass in shower stalls he fell against the door and it shattered. Had it not been for his girlfriend he would have quickly bled out and died — his left arm is a mass of scars. To this day he thanks the woman who saved his life and later became his wife in 1966. They were divorced on 9/11 — a momentous day in many ways.

Speaking about his Swedish heritage, he feels that his political leanings are socialist in that everyone receives health care. "Sure, there are higher taxes, but you don't need as much money when you don't have to pay for medical bills," he said.

Hank Sjostrom received the home health care aide of the year award after 20 years of service. For medical reasons he stopped working full-time, but he continues to be one of the most sought-after unofficial aides at Island Elderly Housing. He can always be counted on to pick someone up for a ride to dinner or to an appointment. He is the all-around good guy. He runs the movies on Thursday evenings at the community dinner — which he loves since he doesn't cook; he wouldn't mind if the community dinner was every night — his favorite movie is Every Which Way But Loose.

A big Red Sox and Blue Jays fan, Hank is always happy



HANK SJOSTROM.

no matter who wins; baseball is his favorite sport. He's not a fisherman, but loves the rural setting and the isolation of the Vineyard. What he doesn't like is the summer traffic and the rudeness he encounters.

He has been sober for 15 years and has not smoked in seven years. "When the world gets too small, I know it's time to go to a meeting!" he said.

Hank's favorite game is recalling a smell and then describing it. His choice? The smell of gingersnap cookies baking in his mother's oven, very early on Christmas morning.

*Donations to Island Elderly Housing Inc. help support community dinners and the Blueberry Van for Island elderly and disabled family members. They may be sent to Island Elderly Housing Inc., 60B Village Road, Vineyard Haven, MA 02568.*

## The Soulful Flight of an Earthly Life

By JOAN BOWMAN

IT APPEARED OUT OF NOWHERE ON A CALM, CLEAR morning last July — the largest seagull I have ever seen, with a black back and a bright orange beak — sitting motionless on the verdant front lawn of our rental overlooking Stonewall Beach.

We were on the Island for our twenty-third consecutive summer — my four older children, ages 54 to 49, with assorted spouses, grandchildren and step-grandchildren. My youngest son Jonathan, age 37, was joining us in a few days. This was our first July on the Island since the sudden and senseless death of his brother Bo at age 39 at St. Vincent's Hospital in New York city the previous July, 2008. Bo was an artist, poet, dancer, stand-up comic — a creative genius whose dazzling smile charmed the world. Everybody loved Bo. And Bo loved the Vineyard.

Now, a year after his death, each one of us returning to the house on Stonewall has brought shared memories of past summers and unshared fears regarding this one. Without Bo, would the Island hold the same magic?

When I looked again, the gull was hopping toward the house on one leg, his huge right wing drooping to the ground. Clearly the bird was seriously injured. I consulted with Teke, my 49-year-old son, here from Dallas, and Lisa, 51, my only daughter, here from Pittsburgh. Should we leave this giant seagull alone or try to rescue it? We agreed that I should make some calls.

The first one, to the local police, was fruitless. "I'm so sorry," I was told. "We do not rescue birds here in Chilmark."

My second call was also fruitless. I phoned Gus Ben David, owner of the World of Reptiles and Bird Park in Edgartown, former director of Mass Audubon's Felix Neck Wildlife Sanctuary. Gus is legendary in the world of naturalists; his knowledge and love of birds is profound. I was certain he could help in some way. Unfortunately, I got his answering machine, but I left a long message.

Meanwhile the huge gull had made its way up onto our deck, then slowly and painstakingly hopped back

down onto the lawn. "Don't get too close!" I warned Teke's son Cruz, my sweet-natured, tousled-haired five-year-old grandson. "Seagulls can bite."

Within the hour, Gus called back; I described the gull's injuries. "There is no hope," he told me. "But if you're willing to bring the bird to me, I will euthanize it. Otherwise, if you leave it alone, it will eventually die, probably in the bushes on your property."

Teke, Lisa and I agreed to capture the bird for transport to the World of Reptiles in Edgartown. Gus had instructed me well. We found a box with a lid in the garage; Teke threw a beach towel over the bird, gathered it up, put it in the box and sealed the lid with tape. "You don't want that gull jumping out of the box and menacing everyone while you're driving," Gus had warned me.

Teke drove his van to Edgartown with me in the passenger seat, Cruz in his car seat in the back, the seagull in his box in the way back. Gus greeted us when we got to the park. He snatched the bird deftly from the box, tucking it under his arm. "That's a great black-backed gull — the largest species of seagull. But this poor bird is nothing but feather and bone. He's starving to death — was probably injured three weeks ago." Then he spread out the injured wing. "You can see how the muscle has already necrotized," he commented.

A shudder passed through my body when I heard the word "necrotized." Bo had died of necrotizing fasciitis, commonly known as the flesh-eating disease — a virulent form of strep that usually enters the body through a cut or blister. Initially it attacks a muscle, liquefying it and often necessitating an amputation. If it's not caught in time — as in Bo's case — it rapidly attacks all vital organs. By the time the doctors recognized it, it was too late. In all my 76 years, I had never heard that word before his death. And now, from Gus, I've heard it again.

Gus whisked the bird off into his basement, returning to show us around. Cruz was fascinated by the exotic collection. Huge snakes curled around themselves in their terrariums; rare birds fluttered in their cages on the property; a huge tortoise basked

in his pen. Soon it was time to drive home for lunch. On the way back to Chilmark we were silent, each reviewing the events of the morning in our minds. Suddenly Cruz piped up from the back seat: "Daddy, why did the seagull have to die?"

I thought back to the day of Bo's death a year ago in July 2008, when sweet Cruz had asked the very same question: "Daddy, why did Uncle Bo have to die?" Then it occurred to me that for two consecutive summers on this magical Island, my innocent five-year-old grandson had been brushed by death. Back at the house, he was his usual carefree self, sprinting around the lawn with his soccer ball.

I don't know why that gigantic, wounded bird showed up on our property last summer. Lately I've learned that numerous myths have linked birds to the journeys undertaken by human souls after death. Birds appear in Hindu mythology as symbols of the soul or as forms taken by the soul between earthly lives. The Greeks and Celts believed the dead could reappear as birds. Recently, during our Sunday morning phone calls, I asked Lisa and Teke for their recollections of the day of the seagull. "That was so bizarre," Lisa told me. "In all the years we've been coming here, we've never before encountered an injured animal." Teke found it "eerie and disturbing . . . the timing so poignant just two weeks after the first anniversary of Bo's death."

This summer, 2010, back again on Stonewall, I'll be slowing down — living off the land and the sea, living closer to nature, living one day, sometimes one hour, at a time. I'll be thinking about Bo — I still miss him terribly. A friend who knew and loved him told me that his spirit is all around us, even if we don't recognize it, touching us in different ways. I'll be waiting, watching, listening . . . hoping to find him again on this Island that he loved beyond reason.

*Joan Bowman lives in Short Hills, N.J., and Chilmark and contributes regularly to the Gazette Commentary Page.*

## A Cape Wind Dissent by Justice Marshall

By MARGARET MARSHALL

**Editor's Note:** A divided Massachusetts Supreme Judicial Court this week ruled, four to two, that the State Energy Facilities Siting Board had the power to overrule the Cape Cod Commission and grant a so-called super permit to the developers of the controversial Cape Wind project. Chief Justice Margaret H. Marshall wrote a dissenting opinion, alongside Associate Justice Francis X. Spina. What follows is an excerpted text of the dissent by Chief Justice Marshall. A longtime seasonal resident of West Tisbury, the chief justice will retire this fall.

THE DEVELOPMENT OF CLEAN ENERGY RESOURCES is an important national and state policy. The offshore wind-powered energy generating facility (wind farm) that Cape Wind proposes to construct in Nantucket Sound may further that policy by providing clean energy for the commonwealth. It is not our role, however, to evaluate whether as a matter of sound policy the project should be constructed. Rather, we must determine whether the approval process of the Cape Wind project comports with the laws of the commonwealth. It does not. Today's decision that the certificate . . . issued by the Energy Facilities Siting Board was proper is contrary to existing law and seriously undermines the public trust doctrine, which for centuries has protected the rights of the people of Massachusetts in commonwealth tidelands.

The court concludes that the commonwealth has fulfilled its fiduciary obligation to the people of Massachusetts because the siting board has issued a certificate to Cape Wind . . . authorizing transmission cables to traverse commonwealth tidelands . . . The siting board, however, does not have, and was not intended by the legislature to have, the right to act as fiduciary on behalf of the people with regard to commonwealth tidelands or to approve energy projects up and down the coastline of Massachusetts in commonwealth tidelands. It may be that the legislature or the legislature's expressly authorized designee, exercising its responsibility as fiduciary, would conclude that transmission cables stretching across commonwealth tidelands from the shore to the commonwealth's seaward boundary should be approved. But that authorization has not occurred. The court's ruling to the contrary establishes a dangerous and unwise precedent, which has far-reaching consequences. A wind farm today may be a drilling rig or nuclear power plant tomorrow.

The court also concludes that the siting board acted appropriately by granting the certificate without considering any of the in-state impacts of the wind farm. Centuries of legislation and jurisprudence concerning the paramount rights of the people of the commonwealth to the use of the sea and shore lead me to disagree. The stakes are high. As we have recently seen in the Gulf of Mexico, the failure to take into account in-state consequences of federally authorized energy projects in federal waters can have catastrophic effects on state tidelands and coastal areas, and on all who depend on them.

The public trust doctrine stands as a covenant between the people of the commonwealth and their government, a covenant to safeguard our tidelands for all generations for the use of the people, traditionally for fishing, fowling, and navigation . . . The doctrine, and with it the public's trust in government, once undermined is not easily restored. The court's judgment, I fear, is a step in the wrong direction. I respectfully dissent.

The court acknowledges, as it must, that only the commonwealth, or an entity to which the legislature "properly has delegated authority," may administer public trust rights. I cannot agree with the court's conclusion that the legislature has delegated such authority to the siting board . . . only the commonwealth or an "entity to which the commonwealth has delegated authority expressly may administer public trust rights . . . The siting board's enabling legislation provides for no such express delegation.

The requirement that any delegation by the legislature of authority to administer public trust rights

"express" is rooted in the "history of the origins of the commonwealth's public trust obligations and authority, as well as jurisprudence and legislation spanning two centuries." That history, jurisprudence and legislation has been recounted frequently and at length elsewhere . . . Briefly, as protector of the public trust, the commonwealth sits "in a fiduciary relation" to the people. Commonwealth tidelands are "impressed with a public trust, which gives the public's representatives an interest and responsibility" in their development.

The commonwealth may delegate, and of course has delegated, the responsibility, or some of it, to administer its tidelands to a state agency. As noted, that delegation, when it occurs, must be explicit. Thus . . . the Department of Environmental Protection (DEP) may issue licenses for the construction of structures "in or over tide water" or cables "under tide water." The legislature has been unmistakably clear . . .

*"The court's ruling . . . establishes a dangerous and unwise precedent, which has far-reaching consequences. A wind farm today may be a drilling rig or nuclear power plant tomorrow."*

The court reasons that . . . the siting board [has the authority] to "stand in the shoes" of DEP . . . I cannot agree. The siting board cannot "stand in the shoes" of DEP with respect to the administration of public trust rights unless the legislature has expressly authorized it to do so.

The court supports its conclusion by pointing to language . . . authorizing the siting board, in certain circumstances, to issue a certificate with respect to a proposed energy facility that "shall be in the form of a composite of all individual permits, approvals or authorizations which would otherwise be necessary for the construction or operation of the facility." That language . . . makes no reference to tidelands and lacks any recognition of public trust rights, and, contrary to the court's conclusion, the legislature has not "expressly vested authority" in the siting board to act with respect to public trust rights. The court cites no precedent supporting its "reading" of the statute, and there is none.

Were the siting board statute itself and the case law not sufficiently clear to require a different outcome of this case, and they are, the legislative history of the creation of the siting board confirms that the legislature did not in fact delegate authority to the siting board to administer public trust rights. In 1971, in the face of a looming energy crisis of proportion equal to any today, the legislature created an Electric Power Plant Siting Commission . . . to make "an investigation and study of the regulatory procedures employed by the commonwealth and by its political subdivisions relative to the location and operation of electric utility generation and transmission facilities." The legislature directed the commission to consider "the adequacy of existing state and municipal regulatory procedures to permit the furnishing of a sufficient supply of electric energy while, at the same time, preserving and protecting land, air and water resources" . . . In particular, the commission was directed to consider the "feasibility of a comprehensive state regulatory jurisdiction over the siting of electric generating plants and routing of major transmission facilities" . . . Nowhere in the commission's charge did the legislature address expressly, or by implication, public trust rights in the commonwealth's tidelands.

The commission's reports make clear that, in creating the siting board, the legislature's intent was to ensure that "state and municipal regulatory procedures" balance the need for sufficient electric

energy with "environmental protection, public health and public safety." . . . The extensive legislative history, including three commission reports, multiple drafts of the legislation, amendments in both houses, and memoranda to the governor from various executive agencies, contains no reference to tidelands, tidewaters, tidal flats, land under coastal waters, the public trust, or the traditional rights of navigation, fishing, and fowling. The silence is deafening.

The legislature's decision expressly to exempt issues concerning "offshore energy resources activities and offshore facilities" from its expansion of the commission's scope of study reflects an understanding within the legislature that concerns relating to offshore facilities were not part of the commission's scope of inquiry. This singular indication of the legislature's consideration of issues potentially relevant to public trust rights in relation to the creation of the siting board suggests that the legislature understood that the creation of the siting board would not implicate those rights.

The siting board's authority to grant a composite certificate is broad, but nothing in the statutory language, or its legislative history, indicates that such authority encompasses the power to act with respect to public trust rights. I would reverse on this ground alone.

The siting board's lack of any authority to act with respect to public trust rights is sufficient to overrule its decision to grant the certificate to proceed with the transmission cables in the absence of final approval from DEP. I also dissent for a second, and independent, reason. Even if the siting board had the authority to act with respect to public trust rights, which I do not accept, the siting board's position that it was under no obligation to consider — and indeed could not consider — any in-state impacts of the operation of the wind farm is untenable. What is the role of a state agency if not to safeguard in-state interests?

Procedure does not determine outcome. As noted, no fiduciary acting on behalf of the people could or would ignore the potential impact on the public's rights that might flow from the construction and operation of the wind farm. The court condones the disregard of those fiduciary obligations by concluding that consideration of the in-state impacts would necessarily result in a denial or contingent approval for the transmission cables (and thereby the wind farm). I cannot accept that reasoning. Our role is not to assume the outcome but to ensure that the proper process has been followed.

The question here is whether the commonwealth is required to consider the potential impacts on the commonwealth and its people were it to allow use of its tidelands for the transmission cables. How the siting board or DEP ultimately would respond after considering such impacts is not before us. I am not willing to assume, as the court does, that any action that could possibly result from such consideration would necessarily be preempted by federal law. Nor am I willing to assume that the results of any evaluation of the in-state impact of the wind farm would never be taken into consideration by federal authorities. Comity within our federal system has more meaning than the court's crabbed approach.

The public trust doctrine and government energy policy are not at odds. Indeed, they are complementary. Both express the people's paramount interest in the wise and fruitful use of natural resources. Today's opinion, however, casts these two allies in opposition, and exalts regulatory expediency at the cost of fiduciary obligation.

By issuing a certificate . . . which purports to include the "equivalent" of a . . . tidelands license, the siting board has purported to act as the protector of the public's long-standing rights under the public trust doctrine without the necessary express legislative authority to do so. Its usurpation of the commonwealth's fiduciary responsibility to the people, and DEP's complicit agreement with that usurpation, should not be condoned. Moreover, even if the siting board had the authority to act, it has failed to exercise its role of fiduciary on behalf of the public because it failed to consider the in-state impacts of the wind farm.

For these reasons, I respectfully dissent.

## LETTERS TO THE EDITOR

From Page Fourteen

was present on the property, they were totally controlled by the engagement manager and not available to do David's bidding. This seriously constrained David's ability to handle critical needs, like bird monitoring, when they arose from time to time.

A potentially critical situation became reality when David's request for a staff person to cover a shore bird monitoring need was made to, and de-facto rejected, by the engagement manager. This resulted in an incident where a shorebird was allowed to wander into harm's way, but in fact was not injured. However, this incident was reported to the state a week later. David was wrongly blamed and forced to resign. He thus took the fall for TTOR management's failure to properly staff an increased scope of work which took staff away from David — staff that would have been used to fill the vacant shorebird monitoring post and prevented the shorebird endangerment incident. Despite this shabby treatment, David, a classy stand-up guy, holds no

ill will for TTOR, the organization that stifled him, because he believes in their conservation goals. We, however, see this management structure — like the racehorse designed by a committee — as systemically flawed and worthy as the basis for a business school case study. It demands not improvement, but comprehensive correction.

Ed Trider

Chappaquiddick

JUST AN ABUTTER

Editors, Vineyard Gazette:

To reiterate for the record, the only capacity in which I am acting in regard to the activity at Crow Hollow Farm is as an abutter. There is no involvement on this issue by the West Tisbury conservation commission, as there has been no work proposed in areas subject to the commission's jurisdiction. The commission has neither discussed the issue nor had any reason to take any action on the current work underway at Crow Hollow Farm.

Prudence Burt

West Tisbury

GREAT HARBOR

Editors, Vineyard Gazette:

The following letter was sent to the Oak Bluffs selectmen.

My wife and I have been boating for over 35 years. We currently cruise a 44-foot power vessel (Lady Di). We have visited and moored and docked at numerous harbors from Baltimore to Maine. Our primary boating is in Newport, Block Island, Oak Bluffs and the surrounding area. Our home ports are Westport Yacht Club, of which I am a past commodore and sit on the board of directors, and Padanaram Harbor where our home is located. We are also members of the New Bedford Yacht Club where I race and own an Etchell.

We believe that the Oak Bluffs harbor is the best-run harbor that we have ever been at. Your facilities are well-maintained and constantly being improved. It is apparent that the harbor is a high priority and major asset of the community and hopefully is a good contributor to town revenue. It is also a great town to visit.

The management team that you folks have created, in my opinion, is next to none, starting with your harbor master down through the ranks of schedulers, communication staff at the harbor office, dock attendants, shuttle drivers and pump-out personnel. They are always courteous, well-trained and above all very professional, even when dealing with difficult visitors. I am especially impressed with the mix of staff, starting with young high school kids experiencing their first job, to college kids moving up through the ranks, as well as a few older veterans that have been around for a long while, including a few seniors. What a management education they are getting. It appears that they enjoy it as I keep seeing faces return for several years.

As an owner of a manufacturing facility (Silver City Aluminum) that runs 24 hours a day, I realize the challenges that an organization faces especially in these economically trying times. Your boat and harbor management team appear to be doing it right.

Ron and Diane Xavier

South Dartmouth

HAND THAT SHOOK

Editors, Vineyard Gazette:

When President Obama came for lunch Wednesday at Nancy's, my wife and I were sitting on the deck and I had an opportunity to shake his hand, wishing him well. As we left to return to Circuit avenue we passed a yellow police tape behind which about 100 people were standing, eight to 10 deep, with their cameras poised hoping to catch a glimpse of the President. Alas, the President had already left! As I walked past, I smiled and raised my open hand and said, "This is the hand that shook the President's — take a picture!"

To my surprise they did . . . and roared with laughter. I guess that was as close as many would get that day to meet the President.

Frank Goldberg

Edgartown

## Requiem for Little Guy

Love's embrace

Held thee

A short while — almost weightless.

Fly away

Little Soul

On butterfly wings.

Frail veil

Of human life

Slipped through love's fingers — voiceless.

Fly high

Little Guy

On angel's wings — all breathless.

Salt tears

Of mortal mourning

Stain earth's garden — speechless sorrow.

Fly free

Little Grandsoul

On wings of your tomorrow — boundless eternity

Fly Free

— To Caitlin, Calder, Maeve  
in their time of loss, August 2010  
With countless hugs, Yaya