

TOWN OF PROVINCETOWN

HARBOR COMMITTEE

MEETING MINUTES OF NOVEMBER 29, 2001

Meeting Held in Town Hall

Members Present: Rex McKinsey (chair), Al Davis, Joyce Guide, Jack Joyce (arrived at 5:18), Sheila LaMontagne

Members Absent: Mel Cote (excused)

Others Present: Keith Bergman, Town Manager; Judith Oset, Permit Coordinator

REGULAR MEETING

CALL TO ORDER: Chair Rex McKinsey called the meeting to order @ 4:51 P.M.

APPROVE MINUTES

October 30, 2001 – *Joyce Guide moved to accept as written with correction of spelling of Sheila LaMontagne's name. Seconded by Sheila LaMontagne and so voted, 3-0. (Al Davis abstaining).*

PWC By-Law Amendment

- Discussion about the proposed channel – Al Davis, Joyce Guide, and Sheila LaMontagne questioned the location of the corridor from the West End launching ramp forming a “lazy Z” to the harbor east of Long Point. (See attached proposal).
- Francis Santos spoke against the route of the corridor and the headway speed
- Geneva Cook spoke against the original ban and the by-law citing a number of suits pending against the National Seashore and other federal lands where the bans against PWC's have been overturned by the courts
- Dwayne Steele, the assistant harbormaster, agreed to discuss the issues with the harbormaster.
- Joe Patrick spoke against the PWC's
- Keith Bergman clarified the position of the state and the need to amend the by-law passed at last year's special meeting
- Al Davis asked Ms. Cook why supporting licenses would not help reduce the complaints against reckless use of PWC's
- Ms. Cook noted that the by-law was to have been approved within 60 days and six months had elapsed since town meeting
- Generally agreed that a new series of public hearings needed to be held so that a by-law amendment could be brought to town meeting in February
- Committee and Mr. Bergman agreed to schedule public hearings
- Mr. Steele was asked to request that Chad Lima, the harbormaster, propose a new corridor providing a more direct route from the West End launching ramp to an area ¼ mile east of Long Point

Sheila LaMontagne moved to have public hearings scheduled. Al Davis seconded the motion and it was so voted, 4-0. (Rex McKinsey recused)

PUBLIC STATEMENTS:

- Bob O'Malley representing the steering committee of concerned citizens spoke about the general support of his group for public access to the waterfront as outlined by Chapter 91. His committee suggested that most of the problems faced by the property owners affected by Chapter 91 licensing were due to the Harbor Plan. His committee had five recommendations that might solve many of the hardships imposed by the licensing process.

They are:

1. Although the Harbor Plan recommends public access wherever possible, the steering committee feels that there are a sufficient number of public access landings and right-of-ways now. The steering committee would prefer to see the focus be directed to improving the existing access ways and to improving the beach. A simulated improvement of an existing town landing was distributed to members of the committee. (See attached).
 2. Appendix B should be “revisited”. Specific recommendations apply to 20-25% of the properties and while admitting that many property owners were remiss in not attending public hearings, the property owners should have been notified about specific recommendations for their properties.
 3. Appendix C - Despite assurances that the state was not interested in establishing a boardwalk, the fee calculation in appendix C assumes a 10foot boardwalk. The fees when calculated amount to anywhere from ten to twenty times greater than the fees initially suggested for licensing.
 4. The steering committee would like to see the Schofield Line replaced by current mean high water lines
 5. All plans and licenses should be amended to clearly state that there is to be a beach walk not a boardwalk.
- There was some discussion among the committee members about land that was manmade and accrued land. Using the current high water standard would obscure the land that was accrued by dredging and beach nourishment and land that was naturally increased by tides, storms, etc.
 - Additional discussion was concerned with when and how the appendixes A, B, and C were added to the Harbor Plan. According to Al Davis, the only current member of the committee who was a member of the committee when the Harbor Plan was written, the appendixes were added without the approval of the original Harbor Commission.
 - Further discussion focused on the dilemma of DEP’s commitment to the Harbor Plan.
 - Francis Santos asked that the Harbor Committee look to matters other than Chapter 91. Mr. Santos expressed his concern that the committee is neglecting its beach management responsibilities and needs to address the issues of beach nourishment and maintaining a clean beach. He asked, “Where is the beach management plan?”
 - Judith Cicero said the property owners were looking for fair and equitable treatment. Most property owners were upset by the fees. Ms. Cicero reminded the committee that Mr. Lynch (DEP) said that “nothing was written in stone” and that the state was not punitive in establishing the fees and benefits required to obtain a license. Ms. Cicero additionally asked the committee to read the editorial in the Cape Cod Times of Nov. 29th.
 - Chairman McKinsey responded by suggesting that the steering committee continue to press their concerns starting with the Board of Selectmen and Representative Gomes.

DISCUSSION OF INDIVIDUAL PROPERTIES:

Chair McKinsey suggested that the discussion of individual properties begin in the order suggested by the agenda. Mr. Patrick presented the committee with photographs of most of the properties whose public comment period was in effect.

1. 53 Commercial Street- There are no recommended improvements for this property in the appendix. The committee discussed two issues. First, the chair recommended that this property which abuts the West End Parking Lot, Town Landing, and beach be allowed to consider that portion of the survey expenses required for properties abutting town landings as a public benefit. Those expenses could, therefore, be deducted from the calculated fee for the license. Second, the committee was concerned that the fence constructed on the beach west of the town landing and below the mean high water line and the signs thereon were denying public access to the beach below the high water mark. Al Davis moved that the property owners at 53 Commercial Street remove the fence abutting the town landing up to the height of the mean high tide line. Al Davis further moved that all-existing signs on this fence be removed. Joyce Guide seconded the motion and it was so voted 4-0 (Sheila LaMontagne abstained.)

Rex McKinsey moved that if a survey is required by DEP, and if any portion of the survey involved land abutting a town landing, that portion of the survey that delineates town property be considered a public benefit and that portion of its cost be deducted from the licensing fees. Al Davis seconded the motion and it was so voted 4-0 (Sheila LaMontagne abstaining)

2. 67 Commercial Street- There are no recommendations for this property in the appendix. Rex McKinsey moved that the committee make no recommendation on this property. Al Davis seconded the motion and it was voted 5-0.

3. 75 Commercial Street – There are no recommendations for this property in the appendix. The property owner in his

- public hearing agreed to off-site improvements and was working with Magda. Rex McKinsey moved that the committee make no recommendation on the property. Al Davis seconded the motion and it was so moved 5-0)
4. 107 Commercial Street – At his public hearing the property owner’s representative asked to make a contribution to the harbor fund. Rex McKinsey moved that the committee make no recommendation. Al Davis seconded the motion and it was so moved 5-0.
 5. 221-223 Commercial Street – After some discussion of the recommendations in the Harbor Plan regarding this property belonging to the Seamens Savings Bank, the committee agreed that beach access, receptacles, and benches would be recommended but that parking for fishermen was not a feasible plan. The committee agreed to postpone making a motion until after the scheduled public hearing on December 17th.
 6. 345A Commercial Street – The committee discussed the recommendations in the Harbor Plan for dinghy tie-up, survey, benches, and waste receptacles. Rex McKinsey moved that the committee make no comment. Al Davis seconded the motion and it was so moved 5-0.
 7. 4011/2 Commercial Street - The committee discussed the recommendations in the appendix including survey, lights, benches, waste receptacles, and signage. Rex McKinsey moved that code 2 (signage) be deleted where said signage is duplicated by new town landing signs. Al Davis seconded and it was so moved 4-0 (Sheila LaMontagne abstained). Rex McKinsey moved that if a survey is required by DEP, and if any portion of the survey involved land abutting a town landing, that portion of the survey that delineates town property be considered a public benefit and that portion of its cost be deducted from the licensing fees. Al Davis seconded the motion and it was so voted 4-0 (Sheila LaMontagne abstaining)
 8. 403 Commercial Street- Mr. Joseph Patrick made a public statement regarding the public benefits he is presently offering: table, hose at stairway, 24-hr. ship’s light. Mr. Patrick will put such benefits in writing as part of his licensing agreement. Chair Rex McKinsey moved that if a survey is required by DEP, and if any portion of the survey involved land abutting a town landing, that portion of the survey that delineates town property be considered a public benefit and that portion of its cost be deducted from the licensing fees. Al Davis seconded the motion and it was so voted 4-0. (Sheila LaMontagne abstaining)
 9. 415-417 Commercial Street- There are no recommendations for this property in the Harbor Plan. Chair Rex McKinsey moved that the committee make no comment. Al Davis seconded the motion and it was so voted 5-0.
 10. 449 Commercial Street- There are no recommendations for this property in the Harbor Plan. Chair Rex McKinsey moved that the committee make no comment. Al Davis seconded the motion and it was so voted 5-0.
 11. 599 Commercial Street- Judith Oset described the property as being bordered by a private right of way which is considered by the town as a separate property owned by residents on the non-water side of Commercial Street. The property is under construction and the committee postponed any action.

DISCUSSION OF UPCOMING BOARD OF SELECTMEN’S MEETING

Chair Rex McKinsey encouraged all members of the committee to attend the December 10th meeting to discuss the recommended signage.

NEW BUSINESS

- Mr. Berman suggested asking Grant Administrator, Michelle Jarusiewicz, to look for funding for the renovation of the outfall pipes.
- Joyce Guide announced that she has resigned from the pier nominating committee.
- Al Davis moved that Rex McKinsey be the new Harbor Committee’s representative on the Pier Nominating Committee. Sheila LaMontagne seconded that motion and it was so voted 4-0 (Rex McKinsey abstaining)
- Al Davis reminded the committee that Harbor Regulations are due. Two issues to be discussed are a moratorium on non-resident moorings and the fact that although the mooring fees had been doubled last year, the mooring fee fund had not been increased.
- Rex asked if Sheila LaMontagne could attend the next DEP hearings on December 17th at 1PM. Rex and Sheila will cover the two hearings.

TIME AND DATE OF NEXT MEETING

The committee agreed to hold their next meeting on December 18th and 5pm.

The meeting adjourned at approximately 8PM

Respectfully submitted by Sheila LaMontagne.