

Meeting Minutes

January 26, 2004

Members Present: Kerry Adams, Heather Bruce, Gerard Irmer

Members Absent: Beverly Dwyer Ormston, Melville Cote

Advisory Staff: Jon Gilmore

Harbor Master: Chris Flavell

Pier Manager: Rex McKinsey

The meeting was called to order at 4:38 p.m.

AGENDA

Review and approve minutes of January 7th, 14th, and 21st 2004

Although there was no discussion on the minutes, it was thought best by all to not discuss them without the members responsible for the minutes present.

Motion by Heather Bruce: Table discussion and review of minutes from January 7th, 14th and 21st meetings as Beverly Dwyer Ormston, and Alison Boutin were not currently present to revise them. Kerry Adams seconded the motion and it was unanimously passed.

PUBLIC STATEMENTS

None

MEMBER STATEMENTS

A voucher was sent to the committee with December's Banner Advertisement fees, the committee reviewed the voucher.

Motion by Kerry Adams: Pay the Banner the fee as shown on the voucher.

Jerry Irmer seconded the motion and it was unanimously passed.

NEW BUSINESS

Review of proposed changes to the Harbor Plan with Truman Henson, Cape and Islands Coordinator, CZM

Truman Henson told the committee that "the water use piece was very well done" He suggested that on page 4 section 7, on the last line, strike "spoil" and replace with "dredged material" He appreciated the language that emphasized "boat pump out facilities and storm water" saying that a 300 gallon pump out boat is okay for recreational vessels, but that there is a concern for the commercial boats such as whale watch fleets. Grants are available for this type of thing to prioritize tackling this issue. Mr Henson found the language under Chapter 91 Recommendations to be "upsetting." He informed the committee that many of the issues can NOT be addressed by a Harbor Plan, and that a Harbor Plan cannot alter Chapter 91, DEP regulations or jurisdiction or Massachusetts State Law, and that the suggestion of changing or ignoring the set Mean High Water Mark (MHWM) intends to do so.

Heather Bruce and Truman Henson discussed at length the implications Chapter 91 had on property owners and how to best resolve the negative impacts on a town or state level. They both agreed that the best way to "find more applicable suggestions for Provincetown to provide public benefit on private beachfronts" would be to keep the definition of "public benefits" open for discussion and refinement. Members felt the desire to reduce the penalties of the historic residential properties just because they do not provide direct beach access as easily as commercial properties. Chris Flavell confirmed with Truman Henson that if the Provincetown Harbor Committee comes up with creative definitions of "public benefit" for shorefronts, that those definitions (within reason) would be accepted by the DEP.

Heather Bruce continued conversation with Truman Henson about the State's use of the Schofield Line as a

MHWM. Ms. Bruce stated that residents and coastal engineers both see flaws in the line and disagree with its accepted use by the DEP. Mr. Henson emphasized that the Harbor Plan was not the mechanism to refute the use of this line, and that a town cannot refute the line that is officially endorsed as the most accurate MHWM and used as the jurisdiction boundary of the DEP. However the DEP suggests that a town or group *can challenge* the line (through a petition article as suggested by Jerry Irmer). Appropriate language to use in the Harbor Plan to mention such an action was recommended by Mr. Truman to read, "the town suggests further investigation of the accuracy of the Schofield MHWM." He also recommended referencing Edgartown's Harbor Plan, as it is one of the few with many similar issues on Chapter 91.

Discussing the topic of **monetary contributions**, Truman Henson emphasized that the Harbor Plan is the correct mechanism to "describe and dictate how the funds are utilized by the town." Discussion arose on how the fees are determined (amnesty and non amnesty) and on the formula used by the DEP that is incomprehensible to residents. Mr. Henson assured the committee he would search for a document that would better depict the highly variable fee-formula. It was also confusing how to interpret Compliance Fees, whether they were based per unit or parcel of land. The committee agreed that filing and assessing properties in an address-orderly fashion would be efficient and helpful to all. Mr. Truman stated that he was "trying to help Provincetown amend and renew their Harbor Plan and to interpret State law so the Harbor Plan can be most affective."

Specificities should be written into the Harbor Plan for how to allocate the Harbor Gift Funds once Chapter 91 fees are collected. Rex McKinsey summarized that in the near future the committee must agree and prioritize possible actions and developments.

The document's section on Public Facilities had no real issues by any member.

Truman Henson alerted the committee that there was a direct conflict between the Harbor Plan and Chapter 91 in the Water Use Section VII; the Harbor Plan suggests using funds on the pier, whereas Chapter 91 states no funds shall be used on the pier.

Jon Gilmore asked how to physically process, format and submit the Harbor Plan Amendments once they are completed. Truman Henson described that the committee doesn't need to "make more of a paper shuffle than necessary" and that only the sections of the Plan that have been most amended need to be focused on, the rest can be directly 'copied and pasted' for processing. Alice Brock emphasized the need to keep the old and new versions of the document at hand so we can distinguish the changes.

OLD BUSINESS

None

SET TIME AND DATE OF NEXT MEETING

There will be no meeting Wednesday January 28, 2004. The next meeting will be in Caucus Hall on Wednesday February 4th, 2004 at 4:30pm. The agenda for the meeting still needs to be finalized.

Rex McKinsey pointed out that on the February 4th agenda the applicant for a future Chapter 91 property would meet with the committee to discuss the process. Also, 655 Commercial St will be presented to the committee to make recommendations on their shorefront development before the property goes to the DEP Public Hearing. Rex recommended to review the application, look at the appendices in the Harbor Plan and use this opportunity to make a recommendation to the DEP, even if there is no objection to the property development.

This recommendation to the DEP is also a good way to bring out the new language in the amended Harbor Plan before it passes. The recommendations allow the DEP to input from the new language without having the new Harbor Plan to reference.

Motion moved by Heather Bruce: Adjourn Harbor Committee Meeting of January 26, 2004. Kerry Adams seconded the motion and it passed unanimously.

