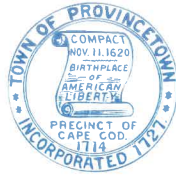


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The Honorable Select Board:

The purpose of this letter is to present my recommendation as Town Manager that the Select Board consider taking the actions necessary to dissolve the Provincetown Public Pier Corporation.

Prior to the establishment of the Provincetown Public Pier Corporation in 2000, MacMillan Pier was considered to be a blighted property in need of substantial capital investment. Section 1 of the Special Act creating the Pier Corporation contains the following finding:

(a) There exists within the town of Provincetown an underutilized marine and marine-related facility named MacMillan Pier that is owned by the town of Provincetown and, due to age and other factors, has become obsolete, decadent, substandard and blighted. Such pier constitutes a serious and growing menace, injurious and inimical to the safety, health, morals and welfare of the residents of the town. MacMillan Pier constitutes an economic liability, substantially impairs or arrests the sound growth of the town and retards its economic well-being. The pier both decreases the value of private investments and threatens the sources of public revenue. Redevelopment of such property in accordance with the Provincetown Harbor Plan will eliminate substandard conditions and prevent their recurrence and is necessary to retain existing industries, businesses and residents and to attract new industries, businesses and residents, and to promote the sound economic growth of the town.

(b) The menace of such obsolete, decadent, substandard or blighted property is beyond remedy and control solely by the regulatory process in the exercise of police power or direct management by the town of Provincetown and, cannot be dealt with effectively by the operations of private enterprise, without the aid provided herein. The lease of MacMillan Pier by the town of Provincetown to a public corporation to be called the Provincetown Public Pier Corporation for the purpose of bringing sound and market-based management practices to MacMillan Pier operations, eliminating decadent, substandard, or blighted open conditions therein, preventing recurrence of such conditions in the area, and permitting the removal or addition of structures and improvements of sites for marine and marine-related uses.

Since 2000, the Town and the Pier Corporation have invested nearly \$20,000,000 in funding and capital improvement projects for MacMillian Pier, including a complete reconstruction and renovation

of the Pier in 2000, construction of a floating dock system, buildings on the pier to house the administrative offices of the Pier Corporation and to service visitors, the construction of a wave attenuation system, and is currently in the process of the replacement of the water line serving the pier. The Pier Corporation also recently issued an Invitation for Bid for significant repairs to the pier and is about to commence a feasibility study to address the impacts of climate change on the pier. Furthermore, a grant of approximately \$800,000 in safety and security improvements has been received from the Commonwealth. The Pier Corporation has also just completed above deck, below water, depth contour and eelgrass surveys, which included a complete report of repairs that will be necessary over the next one to five years.

One of the major focuses of the special legislation was to provide support to the Provincetown fishing industry. Through substantial capital investment and the development of policies in support of the fishing industry, the Town and the Pier Corporation have partnered to accomplish this very important goal. Today, the Provincetown full time fishing fleet utilizing MacMillan Pier is thriving and consists of 55 active vessels. The catch value among the vessels utilizing the Pier is approximately \$8,000,000 per year. Furthermore, MacMillan Pier is a port of refuge for vessels from throughout New England. With the increased frequency of costal storms, the number of vessels seeking refuge continues to rise.

It is my opinion that, through the substantial capital investments made by the Town and the Pier Corporation, as well as sound management practices instituted by the Pier Corporation, the essential purposes for which the Pier Corporation was established in 2000 has been fulfilled so that “the corporation is no longer needed to provide for the sound and market-based management, operation and maintenance of MacMillan Pier.” At the time of its creation in 2000 and continuing until today, the Pier Corporation has been organized around a Board of Directors consisting of five members appointed by the Select Board. Although the Town exercises oversight over the finances of the Pier Corporation, which has included providing various subsidies, the operational aspects of the Pier have been managed by the Board of Directors.

One of the major impetuses for the creation of the Pier Corporation was the requirement that the Town create a public corporation as a condition of substantial grant funding from the Commonwealth to reconstruct and improve MacMillan Pier. The special legislation, however, contemplated that at some point, once the Pier was operating on a sound financial and operational footing, the Town, through a vote of Town Meeting, could dissolve the public corporation and return the management of MacMillan Pier to the Town under the oversight of the Town Manager and the Select Board.

Section 4(e) of the special legislation sets forth the process by which the Pier Corporation may be dissolved with the management of the pier reverting to the Town:

(e) The corporation may be dissolved only in accordance with the following procedure. Either the town manager or the board of selectmen shall make a finding that the corporation is no longer needed to provide for the sound and market-based management, operation and maintenance of MacMillan Pier, and that the purpose of the corporation as set forth in section 1 of this act has been fulfilled, or that the corporation has failed to fulfill such purposes. If such a finding is made, the board of selectmen shall hold a public hearing on whether the corporation should be dissolved. Notice of the public hearing shall be published no later than two weeks prior to the hearing date in two newspapers having general circulation in the town. After the public hearing, the board of selectmen shall make a recommendation to the town

meeting as to whether the corporation shall be dissolved. Thereafter, the town meeting may by majority vote dissolve the corporation. Following a vote of dissolution by the town meeting as described herein, the corporation shall transact only such business as is necessary to conclude its affairs. Following dissolution of the corporation, the town shall assume all legal obligations, and liabilities, assets, debts, leases, contracts, and all real and other property of the corporation.

As Town Manager, and after discussions with the Town's financial team, Town staff, Pier stakeholders, and others, I have concluded and therefore recommend to the Select Board that the time has come to streamline the operation of MacMillan Pier by dissolving the Pier Corporation and establishing the management of the Pier as an operating department of the Town. Sections 4-3-b and c of the Town Charter provides clear authority to the Town Manager, with the approval of the select Board, to reorganize Town departments:

b. With the approval of the Select Board, the Town Manager may organize operational functions into departments or offices, and establish, consolidate, or abolish departments, offices, or positions within the purview of the Town Manager. The Town Manager may also remove an employee who has become redundant.

c. With the approval of the Select Board, the Town Manager may transfer powers and duties from one Department or Office to another. With the approval of the Finance Committee, the Town Manager may transfer the appropriations of one Department or Office to another.

Accordingly, as part of this recommendation, I will be presenting a reorganization plan to the Select Board for its approval.

It is also my recommendation that the operation of MacMillan Pier be established as an Enterprise Fund of the Town pursuant to G.L. c. 44, §53F ½, so that all revenue and expenses of the pier can be separately accounted for. The warrant article to establish the Enterprise Fund as well as the appropriation of the first Enterprise Fund operating budget (for Fiscal Year 2025) should also be included on the warrant for the 2024 Annual Town Meeting. Following is a suggested warrant article for the 2024 Annual Town meeting:

Establish a Provincetown MacMillan Pier Enterprise Fund Enterprise Fund. To see if the Town will vote to accept the provisions of General Laws Chapter 44, Section 53F ½ establishing the Provincetown MacMillan Pier as an Enterprise Fund effective for the Fiscal Year beginning July 1, 2024; and further to transfer any funds held by the Town on behalf of the Provincetown Public Pier Corporation on July 1, 2024, to the MacMillan Pier Enterprise Fund; and further to establish an Enterprise Fund budget for Fiscal Year 2025; or to take any other action relative thereto.

The benefits of these recommendations are (1) establishing an efficient management structure for the management of MacMillan Pier, (2) insuring that the Pier is operated in a fiscally sound and transparent manner through an Enterprise Fund, and (3) remaining accountable to the voters of the Town through the Town Meeting appropriation process.

In order to accomplish this recommendation, the Select Board must hold a public hearing pursuant to the requirements stated above. After the public hearing, if the Select Board agrees with my recommendation, the Board should place an article on the 2024 Annual Town Meeting Warrant in the following form:


To see if the Town will vote pursuant to Section 4e of Chapter 13 of the Acts of 2000 to dissolve the Provincetown Public Pier Corporation upon the recommendation of the Town Manager and the Select Board that said Corporation is no longer needed to provide for the sound and market-based management, operation and maintenance of MacMillan Pier, and that the purpose of the Corporation as set forth in section 1 of Chapter 13 of the Acts of 2000 has been fulfilled; provided that said Corporation shall transact only such business as is necessary to conclude its affairs; and provided further that the Town shall assume all legal obligations, and liabilities, assets, debts, leases, contracts and all real and other property of the Corporation; to authorize the Select Board to file a Home Rule Petition with the General Court to effectuate the dissolution of the Pier Corporation to the extent the Select Board deem such action to be necessary and/or appropriate; it being the understanding of Town Meeting that the Town Manager with the approval of the Select Board pursuant to Section 4-3-b of the Town Charter intend to reorganize Town Administration by creating a Pier Department, as part of the Department of Public Works, which shall include the management of MacMillan Pier; or to take any further action relative thereto.

If Town Meeting approves this recommendation by a majority vote, the Pier Corporation will be dissolved without any further action necessary. All of the assets and liabilities of the Pier Corporation will be transferred to the Town. While Town Counsel does not believe that there is any action required by the General Court to effectuate the dissolution of the Pier Corporation, we have included authority to file a Home Rule Petition just in case it becomes necessary or advantageous to the Town.

As you know, currently the Town and the Pier Corporation have a lease agreement in place for MacMillan Pier. The lease, which has a term of 25 years, is due to expire in March 2025. As such, my recommendation is that the Town take the necessary steps to dissolve the Pier Corporation now, prior to the expiration of the existing lease.

With this recommendation, I would also like to take this opportunity to extend my heartfelt thanks and appreciation to the current members of the Board of Directors of the Pier Corporation as well as all of its past members. Their excellent stewardship and management of MacMillan Pier demonstrated over the past 25 years is what has informed my recommendation today that its essential purposes have been fulfilled and it is no longer needed.

Respectfully,



Alex Morse
Town Manager