

**TOWN OF CAPE ELIZABETH
HARBORS COMMITTEE**

Meeting Minutes
August 15, 2017

Present: Acting Chair Stephen Culver (SC), Susan Farady (SF), and Katharine Ray (KR).

Absent: James Casey (JC) and Caitlin Jordan (CJ)

Staff: Town Engineer Stephen Harding (SH)

Public: Nate Perry (NP), Jerry Kneller (JK), Shannon O'Meara (SO), and John Voltz (JV – arrived late)

Call to Order: Stephen Culver called the meeting to order at 6:20 p.m. with a roll call in which Committee Members SF and KR were present with Members JC and CJ being absent.

Meeting Minutes: The July 13, 2017 meeting minutes were approved with SF making one correction as to proper name of the Maine Sea Grant Beaches Conference that she attended (3 Yes, 0 No, 2 absent).

Reports and Correspondence: The Committee had been provided in their meeting packets information which included:

1. Draft July 13, 2017 Meeting Minutes
2. Undated Draft Letter of Understanding addressed to Ron Hunt
3. July 20, 2017 Draft Committee Report Outline (inadvertently omitted)
4. July 31, 2017 email correspondence from Chuck Redmond
5. July 31, 2017 email correspondence from Town Manager Matt Sturgis
6. August 1, 2017 email correspondence from Jerry Kneller

Citizen Opportunity for Public Comment:

- NP reported that the Cape Elizabeth's Fishermen's Alliance (CEFA) had wanted to coordinate their recommendations to the Harbors Committee with Harbormaster Ian Anderson (IA). Unfortunately, IA was called away about 10 minutes into the discussion with CEFA representatives so they are rescheduling another meeting after Labor Day to coordinate their recommendations. NP said that they also wanted to work with CEFA member Gary Cummings to take advantage of his historical knowledge of the Kettle Cove/Boat Cove area. The CEFA will provide the Harbors Committee with a bulleted list of their recommendations.
- JK discussed the email that he had provided to the Committee which provided support for the Town maintaining the rights to the paper streets of Atlantic

Place and Surfside Avenue as they provide access to the waterfront. He noted that the Town Council had discussed this issue at their August 14, 2017 meeting. From watching that meeting, he took away four items. The Council acted to (1) reconsider the July 10, 2017 meeting vote to begin the paper street vacation process, (2) re-vote by a 7-0 approval vote to reverse the 4-3 approval vote on July 10th to begin the vacation of the Atlantic Place and Surfside Avenue paper streets, (3) voted to extend the Atlantic Place and Surfside Avenue paper street rights for 20 years, and (4) intends to discuss the Atlantic Place and Surfside Avenue paper streets' status at an upcoming workshop.

- KR clarified that the Council now has the Atlantic Place and Surfside Avenue paper streets' extension in place, but that status can be changed by an amendment by September 27th. Some people would like to have the Town permanently accept the paper streets, whereas others would like to have the Town permanently vacate the paper streets. If the Town accepts the paper streets then there needs to be a plan in place to use the streets. The Council can either accept the paper streets, vacate the paper streets, or retain the Town's rights to the paper streets for a period of 20 years.
- KR further explained the contentious history of the paper streets which with a value of \$2M to \$2.5M has passionate factions on both sides of the issue. She explained that in the past the Town Council would accept paper streets for utilities or public access reasons or vacate paper streets that were deemed to have no value to the Town. In instances of vacation, the right of way property would be split between adjoining landowners. In this case, the Council received significant push back from the abutters to vacate the paper streets' rights and the neighborhood responded with a petition having 452 signatures.
- A general discussion ensued as to the situation where abutting landowners would significantly benefit from the vacation process and the ability of members of the public using the papers streets to walk along the ocean. The discussion included residents' concerns regarding parking and a significant increase in the use of the paper streets by large groups of people.
- KR reiterated that September 27th is the cutoff date which will kick in retention of the paper streets for another 20 years if the Council does not amend the current paper streets' status. The Council will be discussing this topic at their September 6th workshop and then will follow up with a formal discussion at an upcoming meeting in September before the 27th.
- JK appreciated the clarification and urged that the Council should not give the property rights away.
- SC noted that this issue would be settled one way or another by the Council before the Harbors Committee prepares its report to the Council.
- SF questioned as to how the Committee should address the issue of paper streets in their report, if the topic needs to be discussed at all in the report. If the Committee is to discuss this subject in the report, she stated that it should be on a future meeting agenda as an item for open discussion amongst the Committee.
- KR recommended that the Committee act as a standalone Committee and not get influenced by the politics of an issue. The Committee should focus on making recommendations that the Committee feels that the Council should undertake.

- As an unrelated update, SF noted that all of the presentations have now been uploaded onto the website of the Maine Sea Grant Beaches Conference that she recently attended. SF will send Committee Members an email with a link to the presentations, many of which relate to the topics that the Harbors Committee is undertaking.

Review of Draft Letter of Understanding to the State of Maine

- The Committee then reviewed the draft Letter of Understanding to the State of Maine. This letter was drafted by Chair JC with assistance from SH and was an action item as recommended by the State of Maine's Kurt Shoener (KS) during the July 13th Harbor Committee meeting. SF suggested including a statement requesting a response by mid-October so that the Committee would have the State's response in time to include in their report to the Council and to keep the momentum moving forward in the discussion and interaction with the State of Maine. SH revised the letter to the Committee's satisfaction and stated that he will forward it to Town Manager Matt Sturgis for follow up action with the Town Council.

Review of Draft Outline of upcoming Harbors Committee Report

- SF questioned the presence of this item in the packet which was apparently omitted. SH apologized for the inadvertent omission of this document in the materials provided to the Committee. SC suggested postponing discussion of this item since the document was not included for prior review by the Committee, not included in the meeting's public record, and, with the absence of Members JC and CJ, should be discussed with the full Committee.

Review of Correspondence Received:

- SC continued with a review of emails that the Committee had received. He began with the July 31, 2017 email correspondence from Kettle Cove Road resident Chuck Redmond (CR). The correspondence included a thread of emails between CR, KS, and Kettle Cove resident Ilya Fleischman (IF) regarding alleged commercial fishermen's recreational use of the commercial boat launch after ranger hours, the recreational non-boat launch, tailgating use of Crescent Beach, parking restrictions on Kettle Cove Road, and Crescent Beach enforcement responsibilities between the Town and the State.
- KR questioned who the residents call when they note a possible enforcement issue with the consensus being that a typical citizen would likely contact the local police not knowing who to contact at the State. SH noted that he had forwarded this email to Police Chief Williams who responded that the beach areas are the State's responsibility to enforce and that the Town will provide assistance on an as-needed, requested basis.
- KR noted that parking regulations are dictated by the Town Council and is not a Harbors Committee issue. It's also not up to the neighborhood to decide on parking restrictions and that the no parking areas are posted so it's up to the Police to enforce.
- SC suggested that the Harbors Committee could provide the Council with recommendations and KR noted that the Council has restricted parking areas for safety reasons in the past.

- SF felt that clearer signage, with guidance from the CEFA, would help to alleviate a number of issues not only with parking, but also in the larger context of the overall area.
- SC then reviewed the July 31, 2017 email correspondence from Town Manager Matt Sturgis which was an email from resident IF regarding parking on the beach and suggesting that the Town should issue permits for trailers and not cars.
- A general discussion ensued with the consensus being that the Committee would not support the issuing of trailer permits. It was noted that the same trailer could be used by several members of the public and that perhaps the Town should supply permit holders with a pamphlet of rules and policies to be followed when using the beach. The Committee requested that SH invite Police Chief Williams to the next Harbors Committee meeting so that he could explain how the Town enforces its permit process and to explain the interaction between the State and the local police.
- SC noted that he felt the August 1, 2017 email correspondence from JK had been adequately reviewed in the context of the Public Comment portion at the beginning of this meeting.

Update on the public input survey:

- SH showed the Committee Members the interim status of the on-line public input survey which has at this time 360 responses. The Committee reviewed the information to date and scanned through the various response comments which generally supported public access to the shoreline of Cape Elizabeth. The Committee decided to close the survey on September 15th and directed SH to get webmaster Wendy Derzawiec to notice this end date on the Town website, social media, and the Cape Courier newspaper.

Other Items not on the agenda:

- SC noted that unfortunately the WETeam has been very busy recently with a lost paddle boarder and a boat accident fatality. One of the items that he noted was that the current Boat Cove turnaround area is inadequate and really needs to be about 10 to 15-feet longer. He felt that the Committee should include that item in their recommendations to the Council.
- SF stated that the Committee should include in its report information regarding the legal regulations regarding Maine's shoreline access as this dictates ocean access which has come up many times in the Committee's past discussions. Maine and Massachusetts share unique legal circumstances with regards to public shoreline access. She will forward to the Committee links with legal discussions on this topic.

Public Comment:

- JV stated that materials posted on the Town website for the meeting should include a context discussion for each document. He questioned the Sea Grant Beach Conference and it was clarified to him that SF attended as part of her career position and was not as a representative of the Harbors Committee. JV then discussed the suggestions regarding trailer permits and other use suggestions that seem to be focused on restricting public access. There are noise, littering, and other stipulations in place to control unbecoming behavior

during the use of these resources that should be used to control the improper use of these valued resources. He urged the Committee and the Town not to create situations where access to these resources are unnecessarily restricted because others want to restrict use of these resources and are promoting using regulations to limit public use. He feels that the Town should promote usage of these resources and not present unnecessary obstacles. He also thought it would be helpful for the Council to see the content of public survey responses.

- JK suggested that given the high number of responses to the public input survey that the trends of public opinion regarding public access has been established already at this point. He urged the Committee to consider releasing interim results to the Council before the September 6th workshop so that the Council would have this data as they assessed the public access/paper streets issue.
- There was a general discussion as to having this information made public in an interim format to get into the Council packets for the September 6th workshop. The Committee discussed various cutoff dates for the interim report and directed SH to work with Town Manager Matt Sturgis as to the proper cutoff date depending on the Council packet deadline. KR made a motion to provide the Council with interim data results from the public input survey, SF seconded the motion, and the motion passed (3 Yes, 0 No, 2 absent).
- NP reiterated SC's earlier comment regarding the need to expand the length of the turnaround at Boat Cove and to recommend signage restricting its use to commercial boat trailers and emergency vehicles. He noted that it would be a terrible situation should the WETeam need this space during an emergency and was unable to access it.

Next Meeting: The Committee then discussed the agenda for the next meeting and directed SH to invite Police Chief Williams, KS, and IA to the next meeting. The Committee gave the 27th and the 28th as options for the next meeting date. (NOTE: After confirming the availability of the absent Committee Members, Town Manager Matt Sturgis, and the invited participants - the next Harbors Committee meeting will be held on Thursday, September 28, 2017 at 6:15 P.M. in the Lower Conference Room at Town Hall.)

The meeting was adjourned at 7:38 p.m.

Respectfully Submitted,
Stephen D. Harding, P.E.
Town Engineer