

## **TOWN OF CAPE ELIZABETH HARBORS COMMITTEE**

Meeting Minutes  
October 26, 2017

**Present:** Chair James Casey (JC), Susan Farady (SF), and Katharine Ray (KR)

**Absent:** Caitlin Jordan (CJ) and Stephen Culver (SC),

**Staff:** Town Manager Matt Sturgis (MS), Town Planner Maureen O'Meara (MO), Harbor Master Ian Anderson (IA), and Town Engineer Stephen Harding (SH)

**Public:** Nate Perry (NP) and Jim Huebener (JH – partial)

**Call to Order:** James Casey called the meeting to order at 6:18 p.m. with a roll call in which Committee Members SF and KR were present and Members SC and SC being absent.

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

1. Draft October 10, 2017 Meeting Minutes
2. 2016 Department of Marine Resources Licensure Data
3. Public Informational Link
4. State of Maine Comprehensive Plan rules for information to be included for Marine Resources
5. 2007 Town of Cape Elizabeth Comprehensive Plan Marine Resources Chapter

### **Citizen Opportunity for Public Comment:**

- NP provided the Committee with suggested Ordinance language the Cape Elizabeth Fishermen's Alliance (CEFA) which would require the Town to notify CEFA of marine applications to the Department of Marine Resources (DMR) as currently no notice is published until the application has been approved. CEFA would like to be aware of potential activities that may affect them. Ideally, this notice would come through the Harbor Master or Police Chief. CEFA recognizes that they would not have veto power, but would like to be able to provide timely comments.
- KR took exception to the suggestion and believed that the Town should not be obligated to notify anyone or any particular organization in these situations. There was a general discussion by the Committee as to the pros and cons of the CEFA suggestion.
- MS stated that if this language were to be accepted that it would be the only instance of the Town being required to notify a specific group. The public process must be followed and it is difficult to track State policies. Stylistically,

this would be unusual for the Town to do and may set up the Town employees for failure if something were to slip through.

- The Committee came to the general consensus that the CEFA suggested Ordinance language was not something that the Committee could support.

**Meeting Minutes:** The October 10, 2017 meeting minutes were approved with no corrections (2 Yes – SF and JC, 1 abstention - KR, 2 absent – SC and CJ).

**Discussion with Town Planner Maureen O’Meara regarding the Marine Resources Chapter of the Comprehensive Plan**

- MO addressed the Harbors Committee about the Committee’s role in drafting the Marine Resources Chapter of the Comprehensive Plan. MO stated that she wrote the 2007 version of the chapter in that Comprehensive Plan and felt that she did not have adequate knowledge of those resources to effectively draft that chapter. She is very pleased that the Harbors Committee, with access to many knowledgeable marine resources people, will be contributing to drafting the current version of Comprehensive Plan.
- MO also noted that the 2007 version was prepared under a very different set of rules for State review. MO handed out a marked up version of the items to be discussed within the Comprehensive Plan. Once the Town submits the Comprehensive Plan, MO provides to the State a 3-page summary of the locations where specific information is provided within the Comprehensive Plan so not all of the listed items don’t necessary need to be in the Marine Resources chapter so long as they appear some place within the Comprehensive Plan. She had noted in the right hand side margin sections of the Comprehensive Plan where the information would be likely placed so that the Committee could concentrate on only the items expected to be included in the Marine Resources chapter. She also noted that the Committee could draft the chapter in any format that they wished and the Comprehensive Plan Committee would decide how best to include the information.
- MO noted that DMR information can be frustrating to get. SF stated that she had gotten 2016 license data through her contacts, but wanted to wait for the meeting discussion tonight to proceed with any further request. There was a discussion as to the amount of licensing data needed to develop trends and SF stated that instead of requesting annual data that every 2 years or even 3 years would indicate trends and be more palatable request for the DMR to process.
- MO stated that in addition to licensing data, the Comprehensive Plan should include an exhibit based on GPS data for moorings that the Harbor Master has developed which could be organized by harbor or any other reasonable approach.
- MO recommended that the Committee focus on trends and the commercial fishermen with recommendations and goals that would result in a high level policy direction by the Town Council. Recommendations would fall under specific goals and must be measurable to be considered later for attainment.
- There was a general discussion regarding the highlighted items which the Harbor Committee should discuss and the non-highlighted items which the Committee can avoid as it will fall into another section of the Comprehensive Plan. MO noted, however, the Committee can comment on any item for Comprehensive Plan Committee consideration if they would like to do so.

- Schedule was then discussed with MO noting that the Marine Resources chapter would be taken up in April of 2018. JC stated that would work as the Harbor Committee should be done with their work by then. MO noted that the Comprehensive Plan Committee has a hot topics area on the Town website where questions are posted and people can comment on it. MO offered the opportunity for the Harbors Committee to provide a question if that was desired and it would likely be posted April 9, 2018
- MO provided example bar and pie chart graphics based on the licensure information. She provided a caveat that she did not vouch for the accuracy of the numbers, but that she wanted to provide a visual of the assistance that the Town Staff could offer in support of the chapter.
- SH asked MO if the Committee should consider the Great Pond as part of its chapter. MO stated no in that it would be covered in another chapter and that the Conservation Committee would be the Town group that would deal with that.
- SF led a conversation about specific items and noted that the marked up handout was helpful in focusing the Harbors Committee attention, but that there are some items that were not highlighted where the Committee might be useful in providing information. She used as the example that while she agreed that marine habitat was not really part of the Committee's charge, but that the next item which includes expanding opportunities for outdoor recreation would fall under public resources and waterfront access which has been very much a focus of the Committee's work. MO agreed, however, that discussion has traditionally been part of the open space chapter. MO encouraged the Committee to feel free to comment if there were items on the checklist that the Committee felt were glaring.
- MO noted that the Marine Resources chapter has historically been the lightest in past Comprehensive Plan efforts to be implemented. Whereas overall the last Comprehensive Plan had a very favorable 85% implementation rate that the creation of the Harbors Committee was the only implementation item associated with the last Marine Resources chapter.
- There was a general discussion regarding the Harbors Committee's approach to the chapter. KR suggested that the Committee focus on its charges, but make suggestions in other areas given the thoughtful role the Committee has undertaken and the knowledge gained through the process. JC asked members to spend some time with the chapter information and that this item would be on the agenda for next month.
- JC asked how important the marine resources chapter to the overall Comprehensive Plan. MO responded realistically that it hadn't historically been a significant chapter with only 3 of the total 91 recommendations from the last Comprehensive Plan and that none of these recommendations would have been considered significant.

**Discussion with Harbormaster Ian Anderson regarding changes to the Harbors Ordinance Section and other Harbormaster topics**

- IA provided the Committee with a tracked changes version of the Ordinance's "Chapter 10 – COASTAL WATERS and HARBOR ORDINANCE". IA recommended adding definitions for "Houseboat" and "Outhaul". Under the Moorings Section, IA added suggested language regarding houseboats and

outhauls. (NOTE: As the IA draft was provided just before the meeting, it is now posted on the Town's website under the October 26<sup>th</sup> meeting materials.)

- There was a discussion of when would this suggested language go forward with MS and KR describing the process where the Town's Ordinance Committee reviews the language and then sends it along to the Town Council with recommendations for the Council to consider. A decision was arrived at in which the draft Ordinance with a summary memo would be sent to MS once it was completed and that MS would forward it to the Ordinance Committee for action. Therefore, this charge would be separate from the report on the other charges which would be prepared for the Town Council.
- There was a discussion about the phrase "extreme emergency" in the Section 10-4-1 which states "Anchoring Only With Permission. There shall be no anchoring of vessels in the designated mooring areas of Seal Cove and Maiden Cove without the permission of the Harbor Master except under **extreme emergency** conditions." After debating several categories of emergencies, the group reviewed the Chapter 10 definition of emergency and agreed that the word "emergency" was sufficient on its own in that section and that the word "extreme" should be deleted.
- There was a discussion regarding the Ordinance rewriting process and MO suggested using the phrase "updating the Ordinance to meet common practices". The group reviewed the need to revisit previous discussions from past meetings to get all of the suggested changes in one document and then distribute to MS for further action.
- SF asked IA if the \$25 - \$100 fine range was sufficient and IA stated that it was and was generally consistent with the Town of Scarborough's fine amounts. IA stated that any violation that would warrant a larger fine is punishable at the State level.

#### **Review of Ilya Fleischman's September 26, 2017 email regarding comments on the Kettle Cove/Crescent Beach area**

- The group then reviewed an email that resident Ilya Fleischman (IF) had provided. The email focused on physical design, permitting, information dissemination, and enforcement. There was a general discussion on the content of the email and that some of the points raised were beyond the scope of the Harbors Committee's work.
- MS noted that some of the points are regulated by the State or required a hybrid of State and Town solutions. The group reviewed that some of the points raised had also been either resolved or would be addressed in the final resolution of items that would happen well after the Committee's recommendations to the Town Council. The group also noted that some of the suggestions would be consistent with the recommendations that the Committee would likely decide to move forward to the Council
- The Committee decided that the email should be absorbed and taken into consideration as the Committee furthered its report to the Council. MS will respond to IF.

#### **Review of Public Informational Survey verbatim comments and trends**

- JC started the discussion of the Public Informational Survey in that there were four questions that featured public comments and that each member of the

Committee present at the last meeting was tasked with one question to review. His assignment was Question 3 – How Important is your public access to the Cape Elizabeth shore? Jim summarized the 147 public comment responses to the group as follows:

<u>Response theme</u>	<u>%</u>
Protect Private Property	9
Generally positive comments	33
More access	20
Access fine as is	16
Paper streets – negative comments re: removing	13
Paper streets – positive comments re: keep	1
Improve access	2
Other	<u>6</u>
Total	100%

- SF discussed the responses to her assigned Question 7 – Which activities do you engage in on the Cape Elizabeth shore? She will align her summary to follow Jim’s format, but she found comments ranging from lots of picnics, boating, nature watching, specific exercise, and dog walkers.
- JC noted that SC and CJ will be able to provide their summaries at the next meeting.
- JC stated that he would get a print out of the entire Public Informational Survey and comments to add to the appendix of the Committee’s final report.

**Discussion of possible report extension request**

- JC noted that it is unlikely in the time remaining that the Committee is going to be able to finish its work by the end of 2017 and would need to ask for an extension.
- In preparing tonight’ agenda, JC and SH had talked and SH had raised the issue of not finishing the Committee’s work in time to apply for 2018 grants with application deadlines in the March/April timeframe. MS stated that he had sent the letter regarding Kettle Cove to the State with the Council’s blessing and he intends to continue the grant process in parallel with the Committee’s work so that the grant deadline period should not be a factor in rushing to complete the Harbors Committee’s work.
- KR noted that past Town Committees have requested extensions and she felt that the Council would likely grant one for the Harbor Committee. The Council will need an explanation.
- JC stated that the Committee can discuss this topic at the next meeting with hopefully all members present to get their input and then draft a memo. MS stated that he can take this to the Council at a December meeting and get a response.

**Other Items not on the Agenda**

- JC asked IA if he could go on the trip to review the moorings and IA stated that he would be welcome. They will coordinate the time of the review with CEFA.

- After the last meeting, SH noted that Gary Best of the State had provided him with some deeds for the State's Kettle Cove property in hopes of having a reference to a public ramp easement that was granted to the Town. SH said his quick read of the deeds did not produce any such language and asked the Committee if they would like him to ask one of Sebago Technics' surveyors to research the registry for the easement. The Committee responded yes.
- KR noted that her last meeting on the Council was December 10<sup>th</sup> and that she was not sure if the Council would want her to continue on with the Harbors Committee or not, but that it would be decided before she left the Council.

**Public Comment:**

- NP notified the Committee that CEFA would be providing their comments to the Harbors Committee in the near future.

**Next Meeting:** The next Harbors Committee regular meeting will be held on Tuesday, November 28, 2017 at 6:15 P.M. in the Lower Conference Room at Town Hall.

**The meeting was adjourned at 8:14 p.m.**

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