

# Public Meeting

October 29, 2003

4:30 p.m.

**Members Present:** Kerry Adams, Heather Bruce, Melville Cote, and Beverly Dwyer Ormston, Acting Chairman.

**Members Absent:** Gerard Irmer (excused absence) and Joseph Patrick (resigned)

**Advisory Staff:** Jon Gilmore

**Harbor Master:** Chris Flavell

**Pier Manager:** Rex McKinsey

**State Representative:** Truman Henson

The meeting was called to order at 4:40 p.m.

## AGENDA

The October 1<sup>st</sup>, 2003 meeting minutes were read by Heather Bruce in their entirety. Corrections were made and the following motion was made:

**Motion: Motion was made to approve the minutes with the discussed corrections. It was seconded and approved by all. 4-0-0.**

### **Discuss Harbor Plan Amendment process with Truman Henson, CZM Coordinator**

Beverly Ormston chaired the meeting and asked for input from Truman Henson.

He said the Town will soon receive notification from the state about the expiration of the plan. Mr. Henson then said he had taken the state harbor planning regulations (regs) and has culled out the steps the group needs to be made aware of. The first step, he suggested, was for the group to identify areas of the plan that may need amending or rewriting. Also he said it would be valuable to consider an implementation report. Look at the existing plan, identify things that you as a town would like to change and then discuss. Your target date is April 5, 2004 for submission to the state. Town meeting approval is not required for submission – but the Town has chosen to ask for it. He then went on elaborating on publishing the notices and the timing of each notice and said he would work closely with the group towards the end of March. They have to be published in a periodical which comes out every two weeks. After the Secretary of Public Affairs receives approval she will then schedule a public hearing and naturally prior to that there must be published notices of the hearing. If – during the public hearings – there are minimal objections – then the secretary's decision and approval will be forthcoming.

He concluded by saying that he had merely presented a quick overview and he's happy to give any help which is needed but he's not going to dictate changes; that part has to do with Provincetown residents only. He has provided plans from other communities to the Town Manager.

Beverly said she would like all members to have a copy of all the other plans. "My question is, other than \$500 Chapter 91 licensing fee, are there any other stipulations?"

Truman said the fee is not imposed, but merely requested by Department of Environmental Protection (DEP). The Harbor Plan does not set fees but only determines how the fees are to be used; without a plan the state will set fees.

DEP is obligated to collect fees due to licensing. If the Town wants no fees collected – it would not be legal.

Heather Bruce proposed a long question about boardwalks or beach walks or anything?

Truman said the Harbor Plan can make recommendations but not mandate. “Vertical access,” for one, is a difficult term to get around. If you decide whatever access is appropriate, then the “Harbor Access Fund” would redefine some of the issues.

Melville Cote – wondering about Section 3 said we should make this as accurate as possible.

Truman cautioned the group that they shouldn’t try to recreate the plan; he continued that it is perfectly O.K. to reference a section and make corrections.

Rex McKinsey wondered about other towns who have done this. Is the average of a resubmission letter of 20 or 30 pages or what?

Answer – Marthas Vineyard – 15 ish page on recommendations and the secretary signed off on 10 year renewal. Another example was Stage Harbor, Chatham’s submission was 20 pages and referenced the main body of the plan. Truman said he doesn’t envision an enormous document.

Heather asked how many pages there were in other plans? She received a vague answer from Truman. She then asked, “Should we suggest that the Scofield line be done away with?” No answer. Heather continued that she thinks it’s an unreasonable line. So, can we eliminate it? There is just too much controversy. Truman said he will look into it. He feels it’s a presumptive line. It goes back to 1984. It’s a DEP presumption and he doesn’t know whether it’s legally appropriate.

Heather, continuing, asked if the group can eliminate the appendices? They have very descriptive passages on each property owner. Might the state take issue with this?

Truman answered that the Secretary will base approval on plan submitted. The Secretary can “not approve” certain sections.

Beverly said that Provincetown had many wharves years ago. If there were a wharf years ago – can these people put a wharf back in? Answer: If there is a valid license, etc. and those permits allow for this, then it would be allowed. Usually – they would be subject to conservation commission review. Truman continued that recently the state has been more specific regarding maintenance, rebuilding, etc.

Beverly has a list of old wharves and the owners have amnesty. Truman said he wouldn’t be stunned to learn that some of these wharves had never been licensed to begin with.

#### **Discuss draft staff prepared Harbor Plan Amendments**

Wasn’t done because the group wanted to meet with Truman Henson first.

#### **Any other business that shall properly come before the board**

**NEXT MEETING – MONDAY – NOVEMBER 3<sup>RD</sup> – 4:30 P.M.**

**Motion: A motion was made to close the meeting at 5:29 p.m.**

At this point Truman Henson left the meeting to the disappointment of the Committee. They had anticipated that he was going to stay to field questions at the public hearing which was to immediately follow. He pled a long drive ahead as his excuse for leaving.

## **PUBLIC HEARING 5:30 P.M. ON**

### **Harbor Plan Amendments**

The Provincetown Harbor Committee held a public hearing on Wednesday, October 29, 2003 at 5:30 p.m. in the Judge Welsh Hearing Room, Provincetown, Town Hall, 260 Commercial Street, Provincetown, MA 02657 to receive input on potential revisions to the Provincetown Harbor Plan, a copy of which is on file with the Town Clerk and available on-line at [www.provincetown-ma.gov](http://www.provincetown-ma.gov). The Harbor Plan was approved on May 4, 1999 by the Commonwealth's Secretary of Environmental Affairs and expires on May 4, 2004 "unless a renewal request is filed by the Town of Provincetown prior to that date in accordance with 301 CMR 23.06(2)(a). The Board of Selectmen's FY 2004 Town-wide Policy Goal 9.1 is to prepare for adoption by the April 2004 Annual Town Meeting amendments to the Municipal Harbor Plan for Provincetown Harbor, which must be renewed every five years. The Harbor Committee must determine which proposed plan revisions can be achieved by next May's deadline, and which should be the subject of subsequent plan amendment requests. To help inform this determination, the Harbor Committee will conduct a public hearing on October 29, 2003, at which all affected parties and the general public are invited to comment on the existing plan and to offer plan revision recommendations. Comments may be submitted in writing to the Harbor Committee c/o Community Development Department, 260 Commercial Street, Provincetown MA 02657, or in person at the hearing:

The Public Meeting began at 5:33 p.m.

Jim McGowan, a waterfront property owner, began by speaking about the fictitious Scofield line. He thinks better delineation should be created and that it should be related to high tide - or low tide - or something. A delineation that is clearly understandable by everyone.

He further feels the Harbor Plan should address the harbor and not a person's property. He also hastily referenced the Patriotic Act as yet another invasion.

Next Jim went on to say, "Relative to the appendices – no additions or addendums – only by the Harbor Committee. Just the Harbor Committee submission."

He also added that he hoped once it's voted on it is implemented. – "Don't make new plan so burdensome it can't work."

Also, Jim added, the amnesty should stay in place and only the money collected should be used for Harbor Plan. He said, "The other plan had funding – make sure you get funding, too, and get the plan mailed to all affected property owners in Provincetown."

Bob Seaver of 449 Commercial Street had a statement to make. "Suggestion is word he's heard before. I don't like to hear people say suggestion – you have to show spine if you deal with bureaucracy." He spoke as a representative of the Chapter 91 Steering Committee and his statement is attached to the minutes.

His basic suggestion was to establish one or more working groups – to meet often. Final result will be a community process.

Bob Steinberg rose in agreement with Mr. Seaver and said he would prefer thinking about what should be in a Harbor Plan. He also said that some licenses have been issued (amnesty) and he thinks the licenses have been issued improperly.

Rachel White spoke next stating that the Harbor Plan is a very powerful and sometimes dangerous thing. She then wondered whatever happened to the 89 plan and 92 plan? "Who developed it?" Rachel asked. Rex McKinsey, to fill in the gaps, said that when the Harbor Planning group ended, the Town then solicited help from an urban planning group from whence came the two plans in question that were never approved. Rachel's main question, later in her conversation, was in regard to the moorings.

Chris Flavell, the new Harbormaster, addressed the issue. Moorings are like a group of rabbits, they multiply when you least expect it! Chris said that new applications are mandated for the spring. People will be required to stencil their mooring numbers and names on the balls and, if not, these balls will be removed.

Alice Brock, 69 Commercial Street, feels the basic premise of Chapter 91 is giving the public more access to the beach. Wonderful!!!! She felt the intent was good but really impinges on the rights of waterfront property owners.

She lives between Cap'n Jack's Wharf and the West End parking lot which she feels provide adequate beach access – yet she is required to provide a lighted walkway to the beach, rubbish barrels, and now – she's heard – she must encourage people with dingys to tie up at her deck! She is not happy with Chapter 91. Bottom line from Alice: Chapter 91 and its rules need to be rethought.

Beverly, the Chair du jour, said she realizes there are problems with the plan and then she asked Alice if she would be willing to serve on a subcommittee. Alice agreed and her phone number is 2127.

Heather asked a couple of questions still relating to the boardwalk. She kept referring to the **\$10 sq ft for boardwalk**. Rex explained that the Harbor Plan did put a hypothetical board walk in the plan only to serve as part of an equation for fees due the Harbor Access Fund.

Kerry Adams wondered if, when Alice received literature from the state, she was told to get insurance. She responded that she was not told of this requirement.

Rex said that undoubtedly, this is your opportunity to make sure that no boardwalk will ever come to Provincetown. The original plan had Seamen's Bank as part of a mini loop – just set up to get heavy pedestrian walkway off the main drag and onto the shoreline. Rex said connecting the parking lots of the Post Office, Seamen's Bank, etc. was proposed and totally optional. This redone plan would give everyone a big opportunity to eliminate Appendix C.

Bob Seaver said that prior to the plan, there were applications which specified access to property. He cited Pucci's a.k.a. Fanizzi's as having to provide public access to the beach when they were only feet from a town access at the end of Kendall Lane. He also told of another case where it was mandated that Boy Scouts use property for a 2 week jamboree in lieu of lack of harbor access.

Melville Cote noted that there doesn't seem to be adequate understanding of what the plan says and the Chapter 91 says. For example – the appendices are only informational and that is so stated in the index.

Once again the boardwalk was the subject of a cyclical discussion.

Beverly said that Kopelman & Paige's, Kathleen O'Donnell, advised that another town didn't allow dropping the appendices. Was that relevant?

Chris Flavell said that regardless of what we submit, the state will either approve or deny. They will not mandate anything.

Rex was concerned about kicking out the appendices. We need to emphatically state that whatever money the state charges comes back to us. Let's do a reinforcement of section 5 – then they'll be less interested in garbage cans & lights, etc.

A discussion on strategizing took place with no conclusions drawn.

Bob Seaver, once again entering into the hearing, said that whatever else may be true, if you don't reinstate appendices then the state would be left with no guidance. Something must be giving guidance or else they will think up something perhaps worse. Maybe we should articulate a vision – the idea of maximizing access to the water. Public access issue – emphasize – don't have to but something has to be there in its place.

Bob Silverberg suggested the public should have many more rights, Chapter 91 guarantees beach access. . I wonder whether the new plan should address beach access?

Jim McGowan jumped into the discussion again knocking Chapter 91. He said that property owners are being punished continuously. Where's the public restrooms, where's the visitor's information center, etc.? All the Chapter 91 rulings that have been issued are only to private property owners.

The public was encouraged to give input to the Committee.

Once again – the next meeting date is Monday – November 3<sup>rd</sup> at 4:30 p.m.

The meeting adjourned at 6:36 p.m.

Respectfully submitted,

*Evelyn Gaudiano*

Evelyn Rogers Gaudiano

**Approved by** \_\_\_\_\_ **on** \_\_\_\_\_, 2003.