

TOWN OF CAPE ELIZABETH HARBORS COMMITTEE

Meeting Minutes
September 28, 2017

Present: Chair James Casey (JC), Stephen Culver (SC), Susan Farady (SF – arrived late), Caitlin Jordan (CJ – arrived late), and Katharine Ray (KR).

Staff: Town Engineer Stephen Harding (SH) and Police Chief Neil Williams (NW)

State Representatives: [Manager of Crescent Beach, Two Lights, and Kettle Cove State Parks Kurt Shoener \(KS\)](#) and [Assistant Regional Parks Manager Gary Best \(GB\)](#).

Public: Nate Perry (NP) and Jim Morin (JM)

Call to Order: James Casey called the meeting to order at 6:20 p.m. with a roll call in which Committee Members SC and KR were present with Members SF and CJ being delayed and arriving later.

Meeting Minutes: The August 15, 2017 meeting minutes were approved with no corrections (3 Yes, 0 No, 2 absent).

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

1. Draft August 15, 2017 Meeting Minutes
2. July 20, 2017 Draft Committee Report Outline
3. July 29, 2017 Committee Member Susan Farady email regarding a link to a resiliency workshop
4. August 16, 2017 Committee Member Susan Farady email regarding links to Maine law regulations on public shoreline access
5. August 2017 Interim Public Survey Results

Citizen Opportunity for Public Comment:

- No comments were made.

Discussion on Kettle Cove & Crescent Beach interactions with Police Chief Neil Williams and State of Maine's Kurt Shoener and Gary Best

- NW stated the discussion by outlining that the State controls the State Park land with the Town Police Department (PD) patrolling Kettle Cove Road and covering the Park area after hours. In his opinion, the coordination works well and there are much fewer problems now than in the past.
- NW did describe an issue with a Community Service Sailing Class that had gathered at the "NO PARKING" sign area and caused a complaint from the neighborhood. NW had looked into it and called the interim Director of

Community Services, Kathy Raftice, and explained the problem which was then corrected.

- KR asked if the Community Services drop off constituted a legal issue. NW stated that he felt it didn't as the NO PARKING sign area would allow drop offs, but that the action caused a disturbance to the neighbors that could have been avoided. KS noted that the resident who complained had cited a Town Ordinance and there was a general discussion of the interpretation, applicability, and the current status of ordinances.
- GB noted that in 2018, the State will be directing organized groups to go to Crescent Beach where there is ample parking rather than contribute to the congestion at Kettle Cove. KS added that a kayaking company was recently directed to go to Crescent Beach. KR asked if these companies have to pay the Crescent Beach fee and GB responded yes. He noted that they should also have to pay the "Iron Ranger" passive collection system fee at Kettle Cove, but acknowledged that State estimates that they get about a 10% compliance rate with the Iron Ranger system. KS noted that many visitors simply don't realize that they are at a State Beach at Kettle Cove.
- SC asked about enforcement issues. NW said that the Town PD supports the State rangers who are primarily focusing on the commercial beach area. GB noted that the State eliminated three positions at the Kettle Cove, Two Lights, and Crescent Beach parks so the crew at Kettle Cove was stretched much thinner than in past years which may have exasperated the neighborhood concerns.
- SF entered the meeting at this point.
- GB also stated that they welcome the Town PD presence and appreciated seeing the cruiser pass through the parking lot during the day. He stated that whenever they call the Town PD will come to the beach in support.
- NW stated that if there are problems next year, he can reach out to KS to work on solutions. In his opinion, every neighborhood in Town has concerns about speeding and that the Kettle Cove Road area is similar in that regard. The PD watches areas very closely and if there is a problem, they will hit it.
- KS asked about bringing in a speed trailer to post speeds electronically as has been done in the past. NW noted that the Town may need to purchase one in the future as they have been using the District 2 Highway Safety sign, but that it had been destroyed in a recent accident.
- KS ended this topic by saying that the Town does a great job in supporting Kettle Cove and the State's operations there.

Discussion with Harbormaster Ian Anderson

- IA opened his discussion with noting that the Town should consider adding into its ordinance stipulations for "houseboats" and "outhauls". He also provided samples of outhaul definitions from three local ordinances.
- CJ entered the meeting at this point.
- SF asked if there were any current issues with outhauls.
- IA responded that there are a handful at Peebles Cove. Outhauls become an issue when they obstruct navigation and in the Peebles Cove situation there is a concern from a kayaker that the outhaul restricts navigation across the channel. He believes that the cove association has considered the issue and was alright with it at first, but has since reversed its position.

- IA stated that he prefers the Portland sample for outhauls which states “Any vessel which is less than fourteen feet in length may be out-hauled without the requirements of a permit, provided the outhaul does not hinder navigation.”
- KR asked if there was any significance to the 14-foot limit.
- IA responded that above it would be a higher level of dingy and that the 16-foot length triggers higher regulations.
- SF suggested that definitions for both houseboats and outhauls be added to the ordinance which IA stated that he would provide.
- SC asked IA what he has learned and IA responded that outhauls have not been a problem. He also stated that he has learned a lot about Kettle Cove and its weather issues in high winds. He said he has turned away about 12 Kettle Cove mooring requests by simply suggesting that the people requesting them go to Kettle Cove on a windy day and observe the swells. IA also stating that balancing his time between Cape Elizabeth and Scarborough is a challenge and he wishes that he could spend more time in Cape Elizabeth.
- JC questioned IA as to his connection with the Town PD. IA stated that he coordinates mostly with the front desk in the PD as they issue permits and provide digital copies to IA. JC wondered if IA oversees renewals and IA said that the PD does it and has a 95% compliance record. IA said that it is hard to keep up with all the permits, but that he believes that people abide by the Cape Elizabeth standard that the boat has to be used at least 7 days out of the year.
- NW stated the 7 day standard is relatively easy to meet as people are either committed in that the boats represent their livelihood or a significant investment.
- There was a general discussion about the improvement of the Town’s mooring report and the difficulty in determining an illegal mooring if it is submerged and misrepresented on the surface.
- There was a discussion about the current term of “extreme emergency” being used in the ordinance and the need to define it. IA stated that to him two situations dictated an extreme emergency, weather and mechanical trouble. The need for a crisp definition was agreed upon and that enforcement should be handled by the Harbormaster.
- SF noted that other definitions needed to be added to the Ordinance.
- SF asked about jet skis and if they are a problem. IA said that it wasn’t an issue in Cape Elizabeth, but in Scarborough there have been issues. Since these are a watercraft, they are State laws already in place for preventing wakes in mooring fields and swimming areas.
- The discussion then centered on groups impacting the mooring field at Kettle Cove. GB asked about Portland Paddles will be going out of Crescent Beach next year. He asked if such groups present problems for the commercial fleet. NP noted that there is a lot of activities that could come in conflict such as scuba divers, kayakers, and paddleboards. Some of these conflicts happen near the commercial launch that could be prevented with clear signage. He recounted an incident with a group of scuba divers submerged when a boat was entering their area and the safety issues that arise when unsuspecting people using the cove confront commercial vessels. He suggested that the State encourage people with car carriers to use Crescent Beach as people tend to wonder unknowingly to the Commercial Beach at Kettle Cove.

- NW noted that there is a big sign there already and the discussion focused on the kind of message that should be conveyed. NP stated that whatever the message that safety in the mooring field should be the priority. The group discussed the need to reach out to groups that regularly use the cove and convey the concerns of the group to restrict their marine equipment use within the mooring field. IA noted that the biggest issues seem to arise when people are coming and going and not so much when they are actually on or in the water. GB said that the state can direct organized groups to Crescent Beach, but individually users are much more difficult to control. Swimmers were also discussed as groups that may be quasi organized, but not fully so which makes communication with them difficult.
- KS stated that the State keeps a calendar of organized groups which they would be willing to share.

Summary of the Public Input Survey

- JC reviewed that the public input survey is now closed and that 497 people responded with 497 comments which is a terrific response for this type of survey. He will look to do a test analysis which could provide a lot of value in giving an important and nice round view of the survey. The Committee could go through this information and put a version within the final report. JC felt that there wasn't a lot of surprises, but that it will provide a good benchmark of public opinion.

Review of Draft Outline of upcoming Harbors Committee Report

- JC suggested that this item be put off for another month, but thought that it should be discussed at a separate meeting. A general discussion ensued about the Comprehensive Plan section that was assigned to the Committee with the consensus being that it would be best to focus on the main report to the Council and then draft the Comprehensive Plan section using parts and information from the main report embellished as necessary to meet the Comprehensive Plan needs.
- SF stated that she would reach out to her contacts at DMR to gather the Commercial Fleet's information. A discussion ensued about the quality of information that might be gleaned from the Town's Mooring Report which appears to be limited.
- The Committee set up a meeting date of October 10th to begin the report process.

Other Items not on the agenda:

- JC noted that the Committee had received via a September 27, 2017 email from Town Manager Matt Sturgis which forwarded Ilya Fleischman's September 26, 2017 email regarding various issues associated with the Kettle Cove area. JC felt that there was a lot of good information in the email that should be discussed at a later meeting in October.
- SH then shared a draft Letter of Understanding to the State of Maine as prepared by Matt Sturgis (MS) which was an action item as recommended by the State of Maine's KS and GB during the July 13th Harbor Committee meeting. This letter differed from a draft by the Harbors Committee which MS had not recalled seeing before he had drafted his letter. MS would like the

Committee to review the letter prior to him presenting it to the Town Council at an upcoming October meeting.

- The group reviewed the two letters. The MS letter focused on the relocation of the recreational access to the beach off Kettle Cove Road. The Harbors Committee draft included that item as well as easement regarding the current public launch area, an easement for Boat Cove to cover the commercial fleet's use of the cove, and signage. It also included a statement requesting a response by a deadline 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 relayed that MS felt it was better to engage the State with one issue that both parties can support and then develop dialogue into other issues as the discussions continued.
- GB noted that the MS letter is appropriate to have the attention of their Director, Ron Hunt. That item would require that a Cooperative Agreement be drafted and agreed to so that the Town and the State would both understand and agree to the responsibilities and commitments of each party. The easement that the Town has for the current access to the beach does not rise to the Director level and may be unnecessary to alter as the park is public land unless the easement outlines specific uses. The Boat Cove easement would require much scrutiny and be reviewed by many people at the State level which would take a very long time to finalize. GB felt that signage could be readily accomplished within the group and is timely as the State is putting in sign requests soon for the next season.
- The group debated that merits of the two approaches and eventually agreed that the MS letter with a requested response received date would be the best approach and directed SH to convey that decision to MS. The other points in the Harbor Committee draft letter would be part of the report recommendations to be presented to the Council.

Public Comment:

- NP noted that signage appears to be easier to move forward with unanimous agreement that the turnaround at Boat Cove should be a priority to ensure WETeam and the Commercial Fleet's unobstructed use. GB suggested getting together and walking the park area to discuss the signage needs to come up with an overall signage plan.

Next Meeting: In addition to the October 10th workshop meeting to work on the final report, the next Harbors Committee regular meeting will be held on Thursday, October 26, 2017 at 6:15 P.M. in the Lower Conference Room at Town Hall.

The meeting was adjourned at 7:57 p.m.

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