

MINUTES OF WATERWAYS MANAGEMENT COMMISSION MEETING

MARCH 11, 2009

A meeting of the Waterways Management Commission was duly called and held on Wednesday, March 11, 2009 at 7:03 p.m. at the Dartmouth Town Hall. The meeting was called to order by the Chairman, Chris Hemingway. The following people were present: Roger Race, Warren Hathaway, Norman Peloquin, and Michael Gill. Excused were Robert Metcalf and Gerald Hickey. Also present was Mr. Steven Melo, Harbormaster.

Mr. Hemingway reviewed the agenda for the meeting. Mr. Race moved to accept the agenda. Mr. Gill seconded. So Moved.

The minutes of the meeting of March 3, 2009 were discussed. Mr. Hemingway noted that on page 1 under Bridgetenders, first paragraph, third sentence should read "\$10,000.00 per day fine if the bridge could **not** open for marine traffic". Mr. Race moved to accept the minutes as amended. Mr. Gill seconded. So Moved.

Discussion with Neil Churchill, Division of Marine Fisheries re: Shellfish/Natural Resources & Bridgetenders.

Mr. Churchill works for the Division of Marine Fisheries and has been in this area since 2008. Mr. Churchill said if the Town doesn't enforce the MOU (Memorandum of Understanding between the Division of Marine Fisheries, the Town to Dartmouth and City of New Bedford) it will shut down the fishing areas of Dartmouth including our side of Clarks Cove. New Bedford licensed fishermen can still fish on the New Bedford side of Clarks Cove only. He also said if the Town can't enforce the rules; the MOU will no longer be valid. The MOU states the Town must maintain minimum patrolling of the shellfish areas and have a Shellfish Constable of Record. His supervisor informed him even if we don't have a Constable of Record, the Town still has to sell recreational permits. If they don't sell the permits, there will be a problem with the Federal Government; the Federal Division of Marine Fisheries will take over control of the shellfish areas. He said in that case, the Town will not get any of the money from the recreational permits. Mr. Hemingway said the permits now sold in Dartmouth don't support the Shellfish Division, which is a problem. Mr. Ken Pacheco, Dartmouth Shellfish Constable, said the Town takes in about \$8,000. per year in permits. Mr. Churchill said once an area is closed usually due to water quality, there is no shellfishing in the closed area, if someone is caught fishing it is now a felony and carries a large fine. But he isn't sure if this applies to a shellfish area that is closed due to non-compliance, he will check into this being a felony. Mr. Churchill stated Dartmouth is a big Town with large shellfish areas. Mr. Race asked if other area towns are having the same problems keeping the shellfish division. Mr. Churchill said some towns are having these problems such as Yarmouth.

Mr. Hemingway asked if Mr. Churchill has heard of any towns talking about regionalization plans for shellfishing. Mr. Churchill said shellfish is under Town control and the Towns have to work together for regionalization. He stated that if two or three Towns regionalize it would be a lot of area to cover for shell constables. Mr. Churchill also stated that the Police Departments cannot enforce shellfish regulations under Section 8A; they can only enforce lobster regulations. If someone is caught fishing in a closed area only environmental police can arrest them. Mr. Gill said the Police could cite them.

Mr. Race asked if the Division of Marine Fisheries will be issuing any statements on this since all Towns are having financial problems. Mr. Churchill said nothing has been done this year, but if one Town drops their Shellfish Departments they may decide to do something. He said it may come to a head this year .

Mr. Churchill also stated that instead of the shellfish course, proof of extensive experience in shellfishery would have to be given showing the person knows something about shellfish management. Mr. Melo asked Mr. Churchill if he knows of any towns that have combined the services of Harbormaster and Shellfish Constable. Mr. Churchill said it's common in South Shore towns; Plymouth has done it. Mr. Churchill feels that the issue of shellfish coverage enforcement shouldn't be public discussion until the Town has a plan to enforce the regulations. Mr. Gill said that officers patrolling the shoreline can enforce regulations if someone is in non-compliance. Mr. Churchill will research this issue. Mr. Churchill stated that the State permits allows a person to sell their catch, the Town permits allow the person to catch the shellfish in the Town. Mr. Churchill said at the market the commercial fishermen have to document where they caught the shellfish and the markets have access to the information of closed areas. He said that most Towns know the commercial fishermen and their boats by sight and they check out any new commercial fishermen to the area. Mr. Ken Pacheco, Dartmouth Shellfish

Constable, stated that the Towns call each other to check on new fishermen. He stated there area 15-20 shellfish sites in Town and they have to closed or opened upon conditions. Mr. Melo stated he heard rumors of closing the shellfishery in Town, but Mr. Pacheco heard he may return to full time. Mr. Race feels that the volunteer in the Shellfish Division may end since the liability is large with a volunteer carrying a badge and enforcing regulations.

Mr. Race asked Mr. Churchill if he would be able to attend the Select Board meeting next Monday evening. Mr. Churchill said that he should be able to attend the meeting. Mr. Melo said it is scheduled for 6:30 p.m. Mr. Hemingway said that he also feels Mr. Churchill would be an asset at the meeting should the Select Board have any questions. Mr. Gill asked if any stimulus fund money is slated for the Division of Marine Fisheries. Mr. Churchill said he hasn't heard of any available funds for fisheries. He said grant programs also raise funds.

The WMC thanked Mr. Churchill and Mr. Pacheco for coming to the meeting.

Mr. Melo asked if he would be capable of supervising a Shellfish officer if he can't enforce Shellfish regulations since he has no training or experience in that department. Mr. Hemingway suggested if an area is closed to recommend to the fishermen that they should leave the shellfish for safety and health reasons informing them of the danger taking them from the area. Mr. Gill said that the police could demand to see their license. Mr. Melo doesn't feel comfortable demanding to see someone's' license without an enforcement authority in that area.

Mr. Hemingway suggested calling the Select Board ahead of the meeting and informing them that the WMC isn't comfortable discussing the lack of shellfish area supervision in a public meeting. This could create problems. He also suggested speaking with Mr. Iacaponi on this issue. Mr. Hemingway suggested calling Mr. Joseph Michaud, Select Board Chairman, informing him of this delicate issue. Mr. Peloquin said he will contact Mr. Michaud. Mr. Hathaway would like to be sure Mr. Michaud is aware of the health repercussions that could exist if this is discussed in open session before any plans are made.

Meeting with Mr. David Hickox, DPW. Mr. Hemingway said he met with Mr. Hickox, Roy Pinheiro of the DPW Highway Division and Mr. Melo regarding the Bridgetenders. Mr. Melo said in the off season he will be the first person contacted for any bridge openings, if he isn't available then a DPW worker will be called. He isn't able to commit a time allocation until he sees how many bridge openings occur during the off season and how it will affect his ability to do his job. He said that the first opening is scheduled for March 18th. Mr. Hemingway said they will try it this season and if it works out maybe next season we'll do more with the Bridgetenders. Mr. Melo said that the DPW will keep the payroll and schedule for the Bridgetenders. He stated that Mr. Hickox had looked up the regulations for the bridge and feels that the bridge and all associated expenses for the bridge are under the responsibility of the Town DPW. He feels that Mr. Hickox agrees that the boaters should not carry the burden to maintain the bridge. Mr. Hemingway said that Mr. Hickox will not be able to attend the Select Board meeting next Monday but he will send a letter to Mr. Ed Iacaponi and the Select Board stating that the Waterways is willing to help with the Bridgetenders. Mr. Melo said the bridge openings are documented at the bridge, but during the day in the off season a DPW employee is sent to open the bridge and it not always be documented. Mr. Hemingway stated that the DPW seemed happy with the agreement between them and Waterways regarding the Bridgetenders. He feels the DPW is happy with the present way the bridge is working and doesn't anticipate any immediate problems with the bridge. Mr. Melo asked if we should ask for a cut in overhead charges the Waterways Enterprise pays the Town due to the fact that he is now helping with general fund costs. Mr. Hathaway said he feels we should wait to see how it works this season and if there are any savings to the General Fund first before asking for a reduction in overhead charges.

Mr. Hathaway suggested during the meeting with the Select Board that as Chairman, Mr. Hemingway should be the speaker and answer the questions. If he needs clarification, he can confer with the WMC members present before answering any questions. It was agreed that Mr. Hemingway represent the WMC at the Select Board.

Mr. Melo said he has received an e-mail from Ms. Cheryl Abrantes, Finance Committee secretary, inviting WMC to a meeting with FinCom for March 26, 2009. Mr. Melo stated he has a prior educational commitment and cannot attend this meeting. Ms. Abrantes said they want to discuss mooring fees with relation to the bridgetenders, but that would be contrary to the purposes of the established Enterprise Fund.

Department Trucks. Mr. Melo said that he is now down two trucks. He said the Blazer he chose has a rear axle noise. It is at Davis & Tripp to check out; it could be a small or large problem. He'll know by the end of the week what the problem is. He said that the Police Department is waiting for one Blazer, he'll let them know which one they'll get when he knows the problem.

CPC Funding. Mr. Melo said that the application has been submitted to CPC. If approved we will receive an additional \$97,000. in CPC funds which when added to the money we previously received, we should be able to complete the project at Rogers Street.

Rogers Street House Insurance. Mr. Hathaway asked about the insurance on the house. Mr. Melo said Mr. Iacaponi has all the information but he hasn't heard anything more from Mr. Iacaponi.

Public Comment.

None.

The next meeting is scheduled for Tuesday, April 7, 2009 at 7:00 p.m., Room 314 at the Town Hall.

It was moved by Mr. Peloquin and seconded by Mr. Gill to adjourn the meeting at 8:28 p.m. So Moved.

Respectfully submitted,

Diane L. Vieira