



TISBURY SELECT BOARD MEETING MINUTES

Wednesday, July 12, 2023 at 4:00 PM

Roy Cutrer, John Cahill, Christina Colarusso

HYBRID MEETING

SELECT BOARD MEMBERS PRESENT: John Cahill, Roy Cutrer, Christina Colarusso

STAFF PRESENT: John Grande, Town Administrator, Elena De Foe, Executive Assistant

CALL TO ORDER

Chair Cutrer called the meeting to order at 4:00PM.

ANNOUNCEMENTS

District Attorney New Initiatives-District Attorney Galibois

Mr. Galibois stated he celebrated six months in office on July 4th. He appointed and swore in the first assistant district attorney Jessica Lumba. He explained that the first assistant oversees the entire case load. We have approximately 10,000 cases that we handle across our 5 district courts and superior courts, appeals, courts and juvenile courts, Jessica is also in charge of our staff. We have 64 people now on staff. She has created what's called vertical prosecution and that is when someone comes into a court initially for their arraignment. A prosecutor is assigned to the case and remains with the case throughout the entire duration of it. She is the first woman in the history of the Capitol Island District Attorney's office to ever hold this position of first Assistant District Attorney. A grant writing department was added to the office. Mr. Galibois named other positions in the office. We're doing such things as noting people's race, age, gender, nature of the charges, and whether they're held on bail. Our hope is after this year we will be able to produce a report, not simply internally, but for the public as well. Mental health, in my opinion, was the number one platform issue over the course of the campaign. I talked specifically about trying to get a mental health court session in our District Court. That is when professionals in the field come right into the courtroom to work directly with the struggling defendants. Try to identify the core issue. That the defendant is grappling with, then obviously you have the chance to treat that core issue. The DA's office has gotten a space at the Edgartown Police Department and now have a permanent employee five days a week on the Island.

CONTINUED PUBLIC HEARING

4:15PM- Continued Public Hearing to consider an application for an amendment to an approved Aquaculture License for Husselton Head Oysters, Jeffrey Canha

Jeffrey Canha introduced himself and disclosed he is a member of the Waterways Committee. He showed pictures of a raft inside the site that he believes are unpermitted. He also stated that it is his opinion there are no moorings inside the site and there is plenty of room for navigation between the site and the properties. Mr. Canha has letters of support from Safe Harbor Marina and the Shipyard. He stated they are the mooring executives for the three moorings around the site and they have agreed to move the moorings slightly at no cost because they understand the value of this project.

Cutrer stated the board understands there are two floaters in the area and it is not clear to the board whether or not they are moorings or tied down with cinder blocks. Those two objects will not be considered obstacles to the project.

Dr. Bob Rheault as an expert speaking on behalf of Mr. Canha. He grew up on the pond and owned owns property at the other side of Cunha's current lease. He has a Biological Oceanography PHD and has 25 years of oyster farming experience, mostly in Rhode Island on a pond called Point Judith Pond which is similar in size, shape and tidal amplitude to the Lagoon. It has the same sulfidic mud on the bottom, and it is equally congested. The big difference is there are three times more homes in the watershed, five marinas, one of the biggest Coastal fishing ports on the east coast, second to New Bedford and more boat traffic, not quite as many deep holes as the lagoon has. In 1986 he started a hatchery and started applying for leases. It was quite contentious at first but the Town Resource management decided that It is prudent

to allow 5% of the coastal pond waters to be dedicated to the production of sustainable shellfish because of the proven job benefits and economic development as well as the water quality and fish habitat benefits. The pond in Rhode Island is subject to the same Army core restrictions on impacts to fishing, navigation, and eel grass. We also have a prehearing policy in Rhode Island, but it is an optional thing. These hearings tend to be quite contentious. If it could be found in RI, it can be here. And the benefits for the pond should not be ignored. Mr. Rheault stated that if only deep water is recommended than floating gear will need to be allowed or allow shallower water. He explained the benefits of using floating gear in such areas. It is a fantasy to think you can grow shellfish in bottom gear in a devolved oxygen level. On the concern that the area is seeded DMF will come and survey and resolve that issue. To address the homeowners' concerns you very easily navigate through the buoys and easily untangle if needed. Dr. Rheault stated that Mr. Canha has offered to provide a lane free of buoys on his lease for navigational purposes.

Cutrer asked Mr. Canha if he agrees to have a lane in the middle of the site as stated by Dr. Rheault.

Mr. Canha responded that yes, if that helps he would sacrifice part of the lease he added that there is also an option to use less buoys.

Mr. Cutrer asked if it is possible to use floating gear on the current site.

Mr. Canha explained that the current regulations do not allow floating gear and he has built his business around the regulations. My gear is not the type of gear you can put floats on. He explained that only 25% of his current lease is fishable.

David Doneski stated the statute, and the regulations work together. The application is not preliminary to what the State has to do, but rather a requirement under the state process. The action the board takes will constitute the final action of the town and will stand on its own. It is not something the board can revisit. This is a substantive action by the Board.

Sarah Turano-Flores is the attorney for the abutters. She has submitted her own letter and additional letters from her clients. In her letter she stated six standers of the application which are a combination of the regulations and the state statutes. These requirements are not met in this application. She stated one of the problems with this particular proposal, and that required in the statute section 59, that the survey be submitted. We don't know exactly where this site is going to be located. This site is particularly problematic. Its location is only 60ft offshore. The water is only 10 ft deep. The expert was just testifying but Point Jessica Pond in Rhode Island in a much larger water body. Here we have a lot of people, kayaking, non-motorized activities, swimming things that happen near the shore not further in the deeper waters. The abutters are all people that use the area with their kids and grandkids and go back generations on the Island, so they are Islanders through and through. All the buoys and ropes will present challenges that may not occur if the site is in deeper water. This is not an objection to aquaculture in general, but as our expert Dr. Neubert stated these farms can be good but they need to be specifically placed. Your shellfish committee did take a vote that Lagoon Pond is not suitable for aquaculture. Essentially this affords an exclusive use of this site for the applicant. There are other areas in the Lagoon that are suitable and less congested. 300 cages and buoys are no longer going to be a place where people can enjoy the water. Ms. Turano-Flores stated the board is here tonight to review this particular application and site. Very specific to this waterbody and whether or not this is the right place for this proposal. She stated there is a local shell fisherman who raked the area on Saturday and found lots of quahogs and scallops. Whether those are naturally occurring, or part of the town seeding program they are going to be displaced by 300 bottom cages. These 2 acres are no longer going to be accessible for the existing shellfish and local shell fishermen who have been fishing this area for years.

Lynne Fraker stated that oyster's clean water. It is much needed in the Lagoon. The contaminants are from fertilizers and septic systems. Kids swim in this water that is of poor quality. She stated that the shellfish committee said there should not be aquaculture in the Lagoon and now we have lost the pond and there are no more scallops there. The seed is dying because of the water quality.

Member Colarusso stated she is a water and wastewater engineer. She stated that Edgartown and Chilmark have had oysters for 25 years. Other places are growing oysters to help water quality. She suggested Tisbury do the same.

Ms. Ewart stated there has not been traditionally oysters on the pond. The Town has a few experimental areas that were unsuccessful.

Diana Clark asked how many acres is the Lagoon? She suggested there should be plenty of other spaces to put the aquaculture site.

John Grande responded that the Tisbury side of the Lagoon is 248 acres.

Ian Puetthoff stated the aquaculture site will really impel with the general use of this area. He urged the board to consider other sites.

Michael Weston concurred with the statement of Mr. Puetthoff. He also stated that there are 4 moorings in the area.

Chair Cuter asked if there are any legal moorings in the proposed site?

Mr. Crocker responded no.

Member Colarusso asked how much it will cost to move moorings 10 ft or so?

Mr. Crocker responded his guess is about a few hundred dollars.

Danielle Ewart stated she is not against aquaculture. She has been seeding the area for 13 years. There are very limited sites on the Lagoon that can be used for aquaculture. His existing site is one of the best sites. I do not like surface gear because birds nest on the gear and the droppings contaminate the oysters. The proposed area is very shallow.

Cahill asked Ms. Ewart if she had had any conversations with the applicant considering other areas?

Ms. Ewart responded no.

Mr. Grande stated that the Department of Marine Fisheries has a lot of respect for Tisbury's Shellfish constable, and her recommendation should be definitive.

Corena is the daughter of one of the abutters. She stated she is speaking for a lot of people. We use this space every day. We teach our kids to swim and sail in the area. Recreational uses are important, and we are lucky to have the opportunity to own this property. We are small business owners on the Island. We come with an open heart of how hard it is to keep a small business on the island. Her brother stated that it would be hard to get into their mooring if the aquaculture farm is approved. It is a heavily used area. She urged the board to find a way that it will not be as disruptive. She asked how it can be configured differently. I love the idea of a corridor through. She suggested that the farm be broken into smaller spaces throughout the Lagoon instead of one big area. Corena was concerned that it is not just buoys it is also large rafts and working operations in front of where we use the water.

Adam Riggs, 66 Weaver Lane. He asked the board not to pool and categorize the people in this. We absolutely want cleaner water we just want you to be assured that this is heavily used by a lot of people and this space will be taken away from all those people. He appreciated the intention to find solutions to the navigation problems.

Paul Munafo asked how far offshore is the proposed site?

Jeffrey Canha responded with exact measurements. It is 60 feet offshore.

Paul Munafo stated that people would have to swim 60 feet in the water to approach the area. Navigation should not be a problem. Moorings could also be moved.

Robert Rheault stated that there are dozens of scientific papers showing the oysters are filtering about three times more than quahogs.

David Doneski advised the board that what is before them is this particular application and not larger topics of shellfish in general. It is whether the specifics of this application are consistent with the standards in the provisions in the general laws and the Town's Aquaculture Regulations.

Mr. Canha stated that this is a public-private partnership because it is driven by the Department of Marine Fisheries and the Select Board. We are going to pump 75,000 000 gallons a day (30 Oak Bluffs water towers) and filter them with the oysters. MGL 130 sec 64 says how much you can charge, and it is that little because of the benefits to the environment.

Roy Cutrer stated that Tisbury has one of the oldest working waterfronts.

Vice-Chair Cahill would like to make sure that all the community is involved. I would like to make sure that aquaculture, which is really important, is supported by all of us. This hearing is really all about the proposed site and this particular location. **Cahill made a motion that the application for this location be**

denied based on the negative findings and reports submitted by the Shellfish Constable as well as the Harbormaster as well as public testimony seen today both verbal and written and that the application is insufficient in addressing and resolving these issues of the area. These are areas where there are long standing multiple uses.

Mr. Doneski stated that motions can be in the affirmative or the negative.

Chair Cutrer seconded the motion.

Member Colarusso stated that she came with an open mind, and she feels like this location is one of the best once that will come. It is private property you can't access the beach without trespassing. It seems like the other oyster farms are of bigger concern by being closer to the Chanel. It reminds me again that we need to set goals and meet people halfway.

Mr. Cahill stated he would hope that after tonight the staff will work with Mr. Canha to find a suitable location. I am just denying this location, not aquaculture in general.

Roll Call Vote. The vote was 1 in favor, 2 opposed, and 0 abstained. Cahill Aye. Colarusso Ney. Cutrer Ney. The motion fails.

Member Colarusso made a motion to approve the application on the condition that it gets moved to one acre with a reasonable section in the middle. The motion was not seconded.

Mr. Doneski advised that the motion needs to be specific to the exact size and coordinates of the proposed area because the board is approving a location. The new area needs to be encompassed by this application not provided in some other area not part of the application. The Board is only acting on what is in front.

Mr. Grande advised that there are three motions that can be made: to approve, to approve with conditions and to deny. If the Board would like to place conditions, they need to be described to the satisfaction of the Town Council.

Cahill asked Canha if he is willing to alter his application to better meet what Colarusso is trying to describe and move the site. He suggested Canha work with the harbor and shellfish management to come up with a site that will satisfy what Member Colarusso envisioned.

Canha said he is amenable to one acre with 20ft access. He stated that DMF may move the site anyways or not approve. He requested a preliminary approval from the board so DMF can come and dive the site.

Mr. Canha is worried the break in the middle will make it two sites.

Ewart stated that will not be the case it will still be one site.

Member Colarusso made a motion to continue the public hearing to July 26, 2023, at 4:15PM. Cahill seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

APPOINTMENTS

Conditional Building and Zoning Commissioner- Gregory Monka

Cahill made a motion to appoint Greg Monka as Conditional Building and Zoning Commissioner for the period of 18 months. Colarusso seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

Interim Local Building Inspector- Tom Perry

Cahill made a motion to appoint Tom Perry as Interim local Building Inspector until September 30, 2023. Colarusso seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

Special Part Time Traffic Officers- Shantavia Whyly, TJ Lett, Luke Coelho

Cahill made a motion to appoint Shantavia Whyly, TJ Lett, Luke Coelho as Special Part Time Traffic Officers. Colarusso seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

Town Hall Consolidation Task Group- John Best, Rick Homans, Amy Houghton, Jynell Kristal, John Shilling

Cahill made a motion to appoint John Best, Rick Homans, Amy Houghton, Jynell Kristal, John Shilling as Town Hall Consolidation Task Group through the end of the calendar year. Colarusso seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

Climate Committee- Holly Stephenson, Dan Phelan

Cahill made a motion to appoint Holly Stephenson and Dan Phelan to the Climate Committee for the remainder of this fiscal year's term. Colarusso seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

DISCUSSION AND VOTES

Acceptance of Donation- Friends of MV Concert Series

Adam Epstein explained that for most people the festival is a fundraising gala event to support different island organizations supporting the mission of the MV Concert Series. He stated that the organization will make a donation of 30,000 to the Town to restore Veteran's Park field. Instead of the festival managing the restoration. He stated they traditionally spend 15-17,000 the proposed amount is doubled. If the Town only uses some amount the rest will stay with the Town strictly for the restoration of the field and maintenance. Mr. Epstein stated that the field is in a better condition than it was before the concerts started due to the restoration efforts of his team.

Nancy Gilfoy asked if there have been conversations with the Open Space and Recreation Committee and Department of Public Works.

Mr. Grande explained there has not been conversation with the Committee or DPW due to the late request.

The acceptance of the donation was tabled. No action was taken.

Acceptance of Donation- Tisbury Fire Department by Patrick McCornack

Colarusso made a motion to accept the donation for the Tisbury Fire Department by Patrick McCornack. Cahill seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

Acceptance of Donation- Animal Control Department by Tammy Small

Colarusso made a motion to accept the donation for the Animal Control Department by Tammy Small. Cahill seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

Tashmoo Dinghy Dock Project

John Crocker explained that previously the Board has given permission to the Waterways Committee to investigate the depth at the proposed Tashmoo Dinghy Dock site. The original idea was modified to accommodate the depth survey. It was moved about 16 feet. The next step is budgeting and permitting. A part of the process is for the Shellfish Constable to do a shellfish survey and eel grass survey. There may be some donations to pay for this plan. Looking for permission to continue with the permitting process. Paul Munafo stated the project could receive Community Preservation funding. We would like to see this move as quickly as possible, so deadlines are not missed.

Colarusso made a motion to approve the design and permitting project through the harbor master, but the final design comes to the select board when shovel ready. Cahill seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

Cutrer stated that the working group can still advise the Harbor Master.

Tisbury Municipal Housing Trust Grant Agreement

Cahill made a motion to approve and sign the housing grant agreement. Colarusso seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

TOWN ADMINISTRATOR REPORT

Licenses and Permits

Common Victualler License Renewals

Bite on the Go Inc d/b/a Sweet Bites, 32 Beach Road

Colarusso made a motion to approve the Common Victualler License for Bite on the Go, 32 Beach Road. Cahill seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

Food Truck License Renewals

Nina's Dine-N-Dash LLC, 61 Beach Road

The Food Truck License for Nina's Dine and Dash was tabled.

Tisbury Taco Truck LLC d/b/a El Gato Grande, 386 State Road

Colarusso made a motion to approve the renewal of the Food Truck License for Tisbury Taco Truck, 386 State Road. Cahill seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

One-Day Alcohol License

Beach Road Weekend, Friends of the MV Concert Series-8.25,8.26,8.27.2023

Cahill made a motion to approve the one-day alcohol licenses with the amendment to the capacity listed in the application for this year to 12,000. Colarusso seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

Martha's Vineyard Playhouse, 152 Main Street-8.30.23 Fundraiser

Cahill made a motion to approve the one-day alcohol license for Martha's Vineyard Playhouse for 8.30.23. Colarusso seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

Busker License

David Willis

Colarusso made a motion to approve the busker license for David Willis. Cahill seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

Tisbury Warrants Signed by Clerk

Payroll Warrants (*informational only*)

3.30.23 \$162,745.42	4.6.23 \$405,959.44	4.13.23 \$166,187.63
4.20.23 \$376,645.97	4.27.23 \$161,904.1	5.4.23 \$375,334.70
5.11.23 \$161,144.28	5.18.23 \$383,448.76	5.25.23 \$161,917.84
6.1.23 \$385,371.51	6.8.23 \$166,391.85	6.15.23 \$383,869.29
6.22.23 \$190,578.01		

Bills Payable Warrants (*informational only*)

3.28.23 \$1,910,168.31	3.31.23 \$6,749.16	4.4.23 \$1,821,487.99
4.11.23 \$2,713,311.75	4.25.23 \$576,558.68	4.28.23 \$67,745.90
5.2.23 \$319,632.85	5.5.23 \$91.11	5.9.23 \$365,628.18
5.12.23 \$110,463.46	5.16.23 \$2,183,081.08	5.23.23 \$285,487.87
5.26.23 \$23,233.04	5.30.23 \$693,408.46	6.6.23 \$66,819.94
6.9.23 \$28,687.97	6.12.23 \$47,189.05	6.13.23 \$182,538.17
6.14.23 \$14,701.62	6.15.23 \$12,336.14	6.16.23 \$13,694.05
6.16.23 \$12,407.20	6.20.23 \$3,460,447.38	6.23.23 \$4,931.29

Colarusso read all the warrants.

MEETING ADJOURNMENT

Member Colarusso made a motion to adjourn the meeting. Vice-Chair Cahill second the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

The Meeting was adjourned at 6:15PM.

Meeting Minutes Recorded by Executive Assistant Elena De Foe,

Meeting Minutes Approved August 9, 2023


Roy Cutrer
Chair


John Cahill
Vice Chair


Christina Colarusso
Clerk