

**TISBURY WATERWAYS COMMITTEE MEETING
MINUTES**

Thursday, February 16, 2023, at 5:00pm

In Attendance: Matt Hobart, Michael Baptiste, Jeff Canha, Greg Martino, and Roger Moffat

Also Present: John Crocker, Colleen Wilson, Kim Elias, Lynne Fraker, Bob Landreth, Nelson Sigelman, Bev Postad, Tom Robinson, Doug Reece, Gerard Meader, Bill Hewig, Jay Grande, Mac Schilcher and Louisa Hoffstad.

- 1) **Call to Order 05:02pm:** Matt Hobart called the meeting to order.
- 2) **Public Comment:** Mac Schilcher asked the Committee if they would revisit discussions regarding reopening the Tashmoo Herring Run and to look at grant opportunities. In addition, he asked that they look at Nitrogen loading reports regarding storm runoff, Pipes, Data Testing and Soil Testing. Lynn Fraker ask that they push to get the proposed changes to the Waterways Regulations done. She had made come comments at the public hearing, as did Jeff Canha, that had not been considered and she asked that they be considered when going through the regulations.
- 3) **Minutes:** Matt Hobart entertained a motion, Greg Martino moved the motion and Roger Moffat the minutes of January 12, 2023, as amended by substituting language submitted by Bob Landreth.

(Voted 5-0)
- 4) **Tisbury Waterways Regulations:** Matt Habart opened the discussion by acknowledging letters received from Jay Grande, Town Administrator and John Snyder. Matt opened the discussion by addressing the comments that Jay Grande had raised. He read question one into the record and what the committee had proposed regarding liveaboard and changing anchoring from 3 days to 7 days. There was discussion regarding the wording. Jeff Canha recused himself to the audience speaking on behalf of no one other than himself as a stakeholder. Discussion continued, Matt Hobart asked if Jay Grande could speak further. Jay Grande thought it would be helpful to clarify the central theme. Allowing liveaboard during the winter knowing that there are risks involved in the Harbor. Concerns regarding liability of having a regulation that promotes live-a-boards in the town mooring field. It was not clear to open up live-a-board during the winter when there is not a Harbormaster Vessel available, pump out is not available and there is limited staff available. It was a concern that Tisbury moorings are principally recreational and was a concern for the Harbormaster's Office. Also, there were legal questions which could open up the town to potential future lawsuit and the capacity to provide safety was a real core issue. Jeff Canha asked whether they were looking at prohibiting all activities on town water November through May. He mentioned some activities such as commercial fishers and rowing activities. He also mentioned an incident in Tashmoo in August of 2021. He said the Harbormasters response

times are sketchy as best. He mentioned the activities of the rowing gig and the temperatures of the water in off season months. John Crocker said that, at the moment, there are two live-a-boards currently in the harbor. One on a town mooring and the other on a commercial mooring. Legal Counsel spoke on a legal question that Matt read with respect to Harbormaster permission and town waiver. Mr. Hewig said that waivers are implicitly enforceable but may not always hold up in court and not a guarantee. There was further discussion regarding increased risk during the winter and whether it was in the public interest. Matt asked John Crocker how he felt about the language. He said that those living on their vessels during summer time he does not see as a big issue. Anchoring 3 days or 7 days he did not see as an issue either. He said the point is that there are times that it can be impossible to respond in the winter. He gave an example that the Patrol Boat is tied up in the lagoon during the winter and sometimes the lagoon can freeze up during the winter, so it limits their ability in cases of emergency also pump out boats come out during the winter. The pump out facility at the town dock is shut down during the winter. Jeff stated that the harbormaster has made a site visit to his vessel regarding his sanitation device which is approved. Jeff mentioned inoperable and active vessel language and questioned whether additional definition is needed. Matt suggested that there would be less liability is the live-a-aboard was moored on a commercially owned mooring vs town mooring. Attorney Hewig felt that there is less liability on a commercial mooring. With more lengthy discussion, Jay Grande recommended that the Harbormaster have a discussion with Counsel on language and bring back to the committee. Policy question one was tabled until next meeting.

Matt Hobart read question two into the record which concerned environmental mooring and opened the discussion. Matt stated that their concern was having environmental moorings in the mooring fields as they presented a danger. Lynne Fraker was involved with the initial subcommittee and there were concerns regarding the Hazlet moorings. The outcome of that committee was that the rubber was fine, but they did not like the setup of it. So that was why the suggestion of chains through and round mooring balls. There were specific recommendations. She had made call to Pioneer moorings, and they stated they did not like Haslet moorings. She went onto describe the use of using a spar buoy. The question was why the recommended changes are suggesting that they use the mooring in a different way to the manufacturers recommendation and why there is a restriction to private marinas from using them. Jeff said the diagram shown is not recommended by the manufacturer which will open up town to liability. John Crocker has replaced conservation moorings on all town moorings in the harbor after they had failed inspection. He is not aware of any other environmental mooring that has failed. He suggested that the Town follow the manufacturer's instructions and obtain a list of their moorings and what each mooring is appropriate for according to vessel size so that the Harbor Department would know if the mooring was appropriate, but continue to have annual inspections and follow the manufacturers inspection recommendations. There was further discussion regarding liability, it was suggested that the Harbormaster review the language with the Attorney and that they be installed per the Harbormasters authorization but not in any grided mooring field. (Inner harbor, Lake Tashmoo mooring field and Lagoon Pond Landing mooring field.)

Matt Hobart read question three into the record which concerned Floating Businesses. The whole section was brought up when Rick Brown owned a floating wood shop. Jeff Canha has spoken to the current owner. She has not had a conversation with the Harbor Department. His understanding is that it is now being used as an art studio in a private marina. The question was it being used as floating business, John Crocker said it could be looked at as a floating business. He stated that the conversation before was that it would be grandfathered as pre-existing, similar to the Houseboat and then not allow any further non water dependent uses. Lynne Fraker asked why and commented on why language was changed from water dependent business and non-water dependent business. After further discussion Matt entertained a motion, Greg Martino moved the motion and Roger Moffat seconded to recommend the following language as "XII. NON WATER-DEPENDENT FLOATIN BUSINESSES. Non-Water Dependent Floating Business are expressly prohibited from Tisbury Waterways. Vessel _____ which pre-dates this regulation, may be permitted to remain in Tisbury Waterways providing it complies with these regulations".

(Voted 5-0)

Matt Hobart asked Mr. Grande if the Select Board have requested that they through the entire recommended changes. Jay Grande responded that the Mooring portion was not discussed and that they go through part two. He said that the only other comment which was made by Mr. Snyder in part two which involves a financial implication. Matt stated that they will revisit the mooring section and decide if they want to take issue with any changes that have been made.

- 5) Tashmoo Pump out Boat: Replacement Discussion.** Matt Habart stated that he had received notification from John Crocker that the Tashmoo pump out boat needed to be replaced. John Crocker sent an email explaining the issue. The cost of a new boat would be in the region of \$110,000, a CVA grant would pay approximately half (\$56,000). He suggested, as an alternative to not purchasing a new boat, that a pump out station at the end of the Lake Street Landing Pier in which the CVA grant would be 75% of the cost. With a tight tank placed under the parking area is estimate that it would only need one pump out each season which would be adequate to hold the average amount of gallons that a pumped out each season (approx. 9,000 gallons). He felt that the pump out station would be the better option not just financially, but also less impact, less staffing, less gas. Jeff Canha stated that it would also have less environmental impact. He had spoken with Jared Meader earlier. Mr. Meader confirmed that said there would be no charge to dropping of waste at the Town wastewater facility as it was for a town purpose. He had also spoken to the Health Agent to ascertain if the fish cleaning station would have to be relocated. Although she stated that there were no regulations about it, she thought it would be better if the pump out and the fish cleaning station were separated. he suggests that it would be better locate the cleaning station to the bulkhead. He also said the Tashmoo Skiff could now be located at the Tashmoo Dock instead of the head of Lake Tashmoo.

6) Lake Tashmoo Anchorage Area Discussion: Mac Schilcher mentioned that there was a meeting on March 8th with respect to Anchoring in Tashmoo. Mr. Grande stated that as an advisory board to the Select Board that the Select Board would respect the fact that the committee would wish to weigh in on the topic and that if it was not possible to have the conversation when could it be discussed next. The meeting continued with discussion. John spoke about past history and the issue of anchoring eel grass, so there were two selected anchorage areas. When Noah Mayrand applied for an application for an aquaculture grant site, the DMF did a survey and did not support the site because they found eel grass in the area. Better data was done by DMF who conducted side scan sonar and ground proofing a result of which they found eel grass. Hence a decision needs to be made with regards to anchoring in eel grass. He recommends installing guest mooring. Installing half a dozen pilings in as a onetime disturbance using green heart pilings. This would allow people tie off to pilings allowing three vessels per piling thereby reducing from 100 boats to 18 boats. There was discussion, Jeff Canha thought it was exciting and went on to ask the committee if they wanted to prohibit anchoring in all of Tisbury Waterways except in designated areas. He stated that there is currently only one anchorage area in Tisbury, between wind farm terminal and drawbridge). That way there would be no anchoring in Tashmoo. He felt it was a great solution but felt that there could be more areas. Matt Hobart felt opposed to shutting down anchoring. After further discussion, John Crocker stated that he had had a conversation with one of the waterfront property owners in the area who seems not to have an issue supportive. He has also spoken to the USACE who indicated no issues either. There was also discussion regarding safe harbor/refuge, questions on how it would be monitored and additional designating anchorage areas including Lagoon Pond. Mac Schilcher felt that it was not an environmental issue and felt that should be to recognize that that there could be an issue and to ask the Committee to recommend a management plan. Further discussion was centered around the Natural Resource Committee, protecting Tashmoo as a whole and DCPC proposed by the MV Commission, the Select Board Meeting on March 8th, 2023 on whether to close Lake Tashmoo entirely as a no anchorage area. Nelson Sigelman stated that he on the Tashmoo every weekend through the summer and felt that the discussion was being tacked on to an already long meeting and that the issues needed to be further discussed. He also hoped that the committee had had a chance to look at the eel grass survey. He hopes that it could be incorporated into an overall management plan. John Crocker that it would not be possible to install a pump out station before the boating season as the CVA grant cycle is per calendar year. The cost of the project would be in the region of \$18,000. After discussion, Matt Hobart entertained a motion, Greg Martino moved the motion and Jeff Canha seconded to recommend to the Select Board to table their decision and allow the Waterways Committee to have more time for involvement and deliberate the Tashmoo Use Plan.

(Voted 5-0)

7) Non-Agenda Items: Matt mentioned, although Mr. Munafo was not in attendance, that Mr. Munafo had asked that the regular meetings be moved to the second Wednesday of each month

due to conflicts on Thursdays. After discussion it was decided to keep the meetings on the second Thursday of each month.

Greg Martino mentioned that there was discussion about eliminating the zoom function on meetings because of prior technical difficulties. After a short discussion, the committee will continue with Hybrid meetings when possible (zoom and in person). Next meeting is on March 9th, 2023. Mac Schilcher mentioned that there was a meeting on March 8th with respect to Anchoring in Tashmoo.

07:22pm Greg Martino made a motion to adjourn, and Jeff Canha seconded. **(Voted 5-0)**

Documents:

Draft Minutes

Email from Bob Landreth regarding changes to minutes

Draft Changes to Waterways Regulations

Regulation changes policy questions from Jay Grande

Regulation changes concerns from John Snyder, Treasurer

Regulation comments from Harbor Department