



TISBURY SELECT BOARD MEETING MINUTES
Wednesday, September 28, 2022, at 4:30 PM
Larry Gomez, Roy Cutrer, John Cahill
VIRTUAL MEETING

SELECT BOARD MEMBERS PRESENT: Larry Gomez, John Cahill, Roy Cutrer. Chair Gomez left the meeting early.
STAFF PRESENT: John Grande,, Town Administrator, Elena De Foe, Executive Assistant

CALL TO ORDER

Vice-Chair Cutrer called the meeting to order at 4:30PM.

PUBLIC HEARING

4:30 PM Proposed amendments to the Tisbury Waterways Regulations

Vice-Chair Cutrer read the public hearing notice and opened the public hearing at 4:33PM.

Mr. Grande provided a brief overview of the major changes to the Waterways Regulations. He listed the changes as follows:

1. Section II: DEFINITIONS

- a. Add defined term for "Live-A-Board"
- b. Amend definition "Tisbury Waterways"

2. Section V. POLLUTION

Odor and or smoke claimed offensive.

3. Section VII. WATER SPORTS

Revised Language

4. Section IX INOPERABLE VESSELS

New Regulation Town

5. Section X. LIVE-A-BOARD/HOUSBOATS

New regulations

6. Section XI. FLOATING BUSINESS

Updates, add Waterways Committee

7. Section XII. VESSELS AT ANCHOR

Revised Language

8. Section XIII. FERRIES AND LARGE VESSELS

Deleted any ferry over 150 feet in length must be double ended.

9. Section XIV. TOWN PIERS/LANDINGS

In addition to other amendments and restructuring, broadens purpose to all waterways that facilities are intended for recreational use.

CHAPTER II. MOORING REUGLATIONS FOR TISBURY WATERWAYS

1. Section XIX. MOORING CATEGORIES

A. Private Moorings

New concepts/regulations as to subletting moorings, payment of excise tax and abatement to mooring holder.

B. Commercial Moorings

Amended/specific regulations as to subletting, transferability and waiver.

E. Commercial Fishing Rafts

New section.

2. Section XXI. Waiting Lists

Unfinished amendments. One waiting list versus multiple and whether boatyards should have separate waiting list.

3. Section XXII. RENEWAL OF MOORING PERMITS

Amendments intended to tighten up of regulations. Town Administrator Report September 2, 2022, 3

4. Section XXVIII.

Revised/New regulations

C. Low Impact Mooring Systems

D. Acceptable Low Impact Mooring Anchors

5. Section XXXIV MINIMUM MOORING TACKLE REQUIREMENTS (BY LOCATION)

Revised to be location specific.

Member Cahill made a motion to table the hearing until 4:50 PM. Chair Gomez seconded. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

Public hearing reconvened at 4:50PM.

Mr. Doug Reece spoke on behalf of himself and the Lagoon Pond Association. He suggested to work with Oak Bluffs towards making a unified regulations regarding Lagoon Pond. Mr. Reece asked if there is a way to consider zoning districts throughout the water. He suggested considering a detergent/cleaners for all the contaminants in the water coming from boats especially in the ponds. Mr. Reece proposed Live-abords to have a required pump out and a registration of the people leaving aboard. He urged the Select Board to help Mr. Crocker with enforcement of the rules. Mr. Reece is concerned about abandoned boats and suggested making that a part of the regulations.

Ms. Lynne Fraker explained that she looked at Oak Bluffs regulations which she believes to be outdated and less detailed. She stated however a meeting with Oak Bluffs especially regarding Lagoon Pond would be a good idea.

Mr. Canha explained the harbor department have new staff which should ensure enforcement of the rules. He also explained the boats on anchorage at Lagoon Pond are allowed up to 7 days and they are to be contacted by harbor department on their first day to ensure the boat is not overloaded and has the proper equipment to support a 7 day stay.

Mr. Grande acknowledge that John Crocker has managed to successfully remove a number of abandoned boats. He would suggest some input from Town Council on the matter.

Ms. Fraker presented her comments to the Waterways regulations which were entered into the record and attached with these Minutes as Appendix A. She believes the Waterways Regulations should be consistent with the DCPC Regulations. She pointed that IX. Inoperable Vessels and XXVI. Vessels to be operational is exactly the same language and she believes one should be eliminated.

Mr. Canha stated (as a business owner and resident not as Waterways Committee member) the Houseboat definition comes from Newport, RI and it is used to allow Houseboats. He believes the definition is vague and it is hard to define the first and secondary use of a Houseboat. Mr. Canha explained he has conducted a survey in regard to houseboat and he believes the regulations in this matter are discriminatory. He asked that the Aquaculture Moorings be exempt from annual mooring fees. Mr. Canha explained that aquaculture is improving the water quality and the rafts being used are an absolute necessity to the functioning of the farm.

Mr. Grande entered into the record the following comments, received prior to the public hearing:

Susan and Peter Grilli September 16, 2022

Lynne Fraker September 22, 2022

Stephen Besse September 22, 2022

Christopher Smith September 22, 2022

Manager of Vineyard Haven Yacht Club Lorne Lewis September 22, 2022

Kathryn Leonard September 25, 2022

Jeffrey Canha, Husselton Oyster September 26, 2022

Jeffrey Canha September 28, 2022

Mr. Stephen Besse stated that Conservation Mooring regulations have changed and it seems to him that the Town is trying to regulate them out of existence. He asked what led to the draconian regulations? Where is the hazard to protect from?

Mr. John Crocker believes the conservation moorings remain unchanged and have been the same for a while.

Ms. Fraker explained that at the last public hearing a lot of the regulations regarding moorings especially maintenance never made it into the regulations. This time around they were voted to be added to the regulations. She believes the regulations are not draconian. She stated changes are consistent with Department of Marine Fisheries recommendations. She stated there is a waiver option should a person need a different plan of care for the mooring.

Mr. Grande recommended to continue the discussion regarding Conservation moorings at the continued hearing.

Mr. Canha stated that there are moving parts in a conservation mooring.

Mr. Lorne Lewis asked if anybody has had a chance to speak with the manufacturers of the conservation moorings. He stated they are easier to maintain. There are fewer moving parts and therefore fewer failure parts. They are currently required to be inspected. He doesn't see the reason for all the changes in maintenance.

Mr. Chris Smith supported Mr. Lewis questions. He stated Tom Hill (one of the mooring makers on the list of approved moorings) believes some of the regulations are bad for the moorings. He is not sure what the benefit of these proposals is?

Attorney Hewig stated he will reserve his comments to the final hearing. He understands what is intended and will take into consideration all of the proposed changes and comments.

Member Cahill made a motion to continue the public hearing to October 26, 2022, at 4:30PM in a virtual format. Vice-Chair Cutrer seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

4:45 PM Continued Public Hearing for Harbor Use Permit for Seaplane or Floatplane by Eric Atkins to Service in Tisbury Waterways in the area of West Chop and Vineyard Haven Harbor pursuant to sections .03, USE OF THE CHANNELS, MOORING AREAS AND ANCHORAGES b), iv) and .09) OTHER AUTHORITIES of the Vineyard Haven Harbor District of Critical Planning Concern.

Vice-Chair Cutrer continued the Harbor use permit public hearing.

Mr. Jeff Canha explained the Waterway committee rejected the application on the grounds that it was not necessary. A letter was sent to the Select Board from the committee.

Mr. Atkins withdrew the application.

Member Cahill motioned to close the public hearing with no action taken on the application. Chair Gomez seconded. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

TOWN ADMINISTRATOR REPORT

Mink Meadows Notice of intent to sell of Chapter Land under 61B

Mr. Grande explained that Mink Meadows has carved out a piece of property and because the land is classified as Chapter Land under chapter 61B the Town has a right of first refusal.

Mr. Joe Fitzgerald stated this is the third lot that was subdivided. The reason is to raise fund to replace the irrigation system at the golf and fund environmental work for the ponds and the beach area. The property is already under a purchase and sales agreement.

Member Cahill made a motion to not exercise the towns option to purchase the property under Chapter 61B section 9. Vice-Chair Cutrer seconded. Roll Call Vote. The vote was 2 in favor, 0 opposed, and 0 abstained.

Vineyard Power Letter of Support

Mr. Deon Alley explained he is working on moving the community toward energy efficiency programs. The letter is in support of Vineyard Power to join a program with Mass Save a Community First Partnership. The program will allow Vineyard Power to do the outreach program and will ensure that the residents have access to much needed services and improvements.

Member Cahill made a motion for a letter of support for Vineyard Power as presented in the packet. Vice-Chair Cutrer seconded. Roll Call Vote. The vote was 2 in favor, 0 opposed, and 0 abstained.

Special Event Application-Martha's Vineyard Museum- New Exhibit Celebration- October 28, 2022

One Day Alcohol License-Martha's Vineyard Museum October 28, 2022

Member Cahill made a motion to approve Special Event and One-day Alcohol License. Vice-Chair Cutrer seconded. Roll Call Vote. The vote was 2 in favor, 0 opposed, and 0 abstained.

Common Victualler License- West Chop Club, 162 Iroquois Ave

Common Victualler License-Wolf Gang Inc, 45 Beach Road

Member Cahill made a motion to approve Common Victualler Licenses for West Chop Club and Wolf Gang Inc. Vice-Chair Cutrer seconded. Roll Call Vote. The vote was 2 in favor, 0 opposed, and 0 abstained.

Beach Road Restaurant request for early closing

Mr. Grande explained the closure is due to needed repairs and staffing issues. The notification is required by Tisbury Alcohol regulations and the dates need to be stated.

Ms. Mary Kenworth explained the restaurant is requesting to close early October 11th and open as usually in early February. The goal is to open February but the staff shortage is very serious so that is why they preemptively say mid-March in the letter.

Member Cahill made a motion that the Board is in acceptance of the Letter from Beach Road. Vice-Chair Cutrer seconded. Roll Call Vote. The vote was 2 in favor, 0 opposed, and 0 abstained.

COMMITTEE AND DEPARTMENTS REPORTS AND REQUESTS

Department of Public Works- Local Drop Off hours change

Mr. Kirk Metell is requesting an hour operation change at the LDO which will help with coverage and will provide a much-needed break for the LDO operator. He explained the only a short number of transactions are handled between 12 and 1 pm, more transactions are handled in the early morning and late afternoon. The patrons are not losing time at the LDO it will be open earlier and closing later.

Mr. Grande stated there are statutory requirements to accommodate a break. He suggested the hours to be reviewed again in six month.

Member Cahill made the motion to accept the proposed hours of operation with the condition to review the hours on or before six months. Vice-Chair Cutrer seconded. Roll Call Vote. The vote was 2 in favor, 0 opposed, and 0 abstained.

Martha's Vineyard Commission- Climate Action Plan

Elizabeth Durkee presented the Climate action Plan for the island. This is a 20-year plan. She explained there was a lot of community input and many events. The Plan has six sections presented as follows: Land use, natural resources and biodiversity; Transportation, infrastructure and waste; Public health and safety; Economic Resilience; Food security; Energy transformation. Ms. Durkee elaborated in each category. She stated the plan is most certainly going to be implemented. Ms. Durkee stated Kate Warner is the new energy planner at the Martha's Vineyard Commission.

Mr. Grande was consigned about the implementation short-, mid- and long-term strategy for all the 191 action items to implement.

Town Clerk:

Approval of the warrant for the November 8, 2022, State Election- Tabled for next meeting. The warrant was not yet received.

Setting the November 8, 2022, State Election in Person Early Voting dates

Member Cahill made the motion to set the November 8, 2022, State Election in Person Early Voting dates, times and location as follows:

Saturday, October 22, 2022, 12:00pm to 4:00pm

Monday, October 24, 2022, through Friday October 28, 2022, 12:00pm to 4:00pm.

Monday, October 31, 2022, through Thursday November 3, 2022, 12:00pm to 4:00pm.

Saturday, October 29, 2022, and Friday November 4, 2022, 9:00am to 5:00pm

All Early Voting to take place at the Town's polling location at the Emergency Services Facility, 215 Spring St.

Vice-Chair Cutrer seconded. Roll Call Vote. The vote was 2 in favor, 0 opposed, and 0 abstained.

Member Cahill made the motion to appoint Martha Hudson to serve as election worker until June 30th, 2023.

Vice-Chair Cutrer seconded. Roll Call Vote. The vote was 2 in favor, 0 opposed, and 0 abstained.

Wastewater-Flow increase application- S&S Kitchenette, 48 Main Street- No action taken. Previously addressed.

MEETING MINUTES

September 14, 2022

Member Cahill made a motion to approve the Minutes for September 14, 2022. Vice-Chair Cutrer seconded. Roll Call Vote. The vote was 2 in favor, 0 opposed, and 0 abstained.

September 14, 2022, Joint meeting with Tisbury School Committee

Member Cahill made a motion to approve the Minutes for September 14, 2022, Joint meeting with Tisbury School Commission. Vice-Chair Cutrer seconded. Roll Call Vote. The vote was 2 in favor, 0 opposed, and 0 abstained.

September 20, 2022

Member Cahill made a motion to approve the Minutes for September 20, 2022. Vice-Chair Cutrer seconded. Roll Call Vote. The vote was 2 in favor, 0 opposed, and 0 abstained.

BILLS PAYABLE

3.31.22 \$43,344.98 9.13.22 \$292,216.77 9.20.22 \$280,035.36

Member Cahill made the motion to approve the bills payable as presented. Chair Gomez seconded the motion. Roll Call Vote. The vote was 3 in favor, 0 opposed, and 0 abstained.

PAYROLL

9.15.22 \$153,373.34 9.22.22 \$359,225.61

Member Cahill made a motion to approve the payroll as presented. Vice-Chair Cutrer seconded. Roll Call Vote. The vote was 2 in favor, 0 opposed, and 0 abstained.

PROSPECTIVE MEETINGS SCHEDULE AND AGENDA ITEMS

Next Scheduled meeting is October 12, 2022.

Vice-Chair Cutrer announced that Chair Larry Gomez has turned his resignation effective October 1, 2022.

MEETING ADJOURNMENT

Member Cahill motion to adjourn the meeting. Vice-Chair Cutrer seconded the motion. Vice-Chair Cutrer seconded. Roll Call Vote. The vote was 2 in favor, 0 opposed, and 0 abstained.

Meeting was adjourned at 6:53PM

Meeting Minutes Recorded by Executive Assistant Elena De Foe

Meeting Minutes Approved October 26, 2022



Roy Cutrer
Vice Chair



John Cahill
Clerk

APPENDIX A

Comments from Lynne Fraker for Waterways Regulations Public Hearing 9/28/22

Page | 1 DCPC reference consistency

DCPC reference consistency issue

Rationale for proposed revisions:

The Vineyard Haven Harbor DCPC is referenced for *Floating Business and Commercial Pier use*, but the DCPC only regulates Vineyard Haven Harbor.

The VH Harbor DCPC cannot be revised through this process, so I have proposed revising some language and revising the dates for a Harbor Use permit Application review, for consistency for all Tisbury Waterways. Reference to DCPC may need further review. *Waterways Permit* revised to *Harbor Use Permit*

XI. FLOATING BUSINESS (page 6)

As of the publishing of this regulation, all floating businesses must submit an application for a **Harbor Use** permit as stated below. Any businesses that are non-water dependent are prohibited. All uses as outlined in the **Vineyard Haven Harbor** DCPC regulations .03 Use of Channels, Moorings and Anchorages **(e)** **(a)** and .08 Exemptions **(b)** Water-related Activities are excluded **for all Tisbury Waterways**.

Any person or business desiring a **Waterways Tisbury Harbor Use Permit** ("Permit") **to operate a floating business in any Tisbury Waterways** shall apply in writing to the Select Board who shall immediately transmit the application to the Waterways **Harbor Management** Committee for a recommendation. In the case of Permits to operate a ferry service, the application must specify the proposed schedule and the equipment to be used.

1. The Waterways Committee shall make a recommendation to the Select Board within **21 91** days of transmittal.
2. If the Committee fails to make a recommendation to the Select Board on an application for a Harbor Use Permit within **21 91** days, the Select Board will proceed without the recommendation by the Committee.
3. The Select Board shall then hold a public hearing within **30 120** days of receipt of the application to invite comment on the Permit application and shall carefully consider the impact of the proposed use or activities considering the purposes of this Section.
4. If the Select Board determines that the proposed use or activity is consistent with the purpose of this regulation, the Permit shall be granted subject to such conditions and time limitations as the Select Board in their discretion may grant, and such permit shall be valid for as long as the permitted use or activity is carried on by the Permit holder.

XIV. Town Piers/Landings (page 7)

B. Commercial Activities on Town Piers (page 7)

1. With the approval of the Select Board, the Town may **issue a Commercial Pier Use Permit for** certain commercial access to its public piers **in all Tisbury Waterways**. These permits will be limited to the following activities:

- | | |
|--------------------------------------|---------------------------------|
| a. Commercial Fishing | b. Charter Fishing |
| c. Charter Sailing | d. Launch Services |
| e. Aquaculture and Shellfish Farming | f. Parasailing/Aqua sports |
| g. Community Boating | h. Mooring Maintenance Services |
| i. Ferries | |

2. Under Section .07 of the Vineyard Haven Harbor District of Critical Planning Concern Regulations adopted on October 24, 2000, certain commercial activities within the DCPC area **shall** require a Harbor Use Permit **in addition to a Commercial Pier Use Permit** to access Town public piers. These include freight service, ferries, marine biological and oceanographic research, seaplane, or floatplane service, dredging, harbor taxis, tours, and launch services.'

3. ~~With the Harbormaster's permission~~ Any ~~some~~ water-dependent activities ~~not listed~~ that can be ~~construed defined~~ as commercial may use the public piers **by applying to the Harbormaster for a temporary (time limit?) use permit**. These include but are not limited to, research and water testing, emergency boat repair, and transient use by commercial vessels, such as visiting fishing boats.

Rationale: Documentation and transparency

4. The following activities may not be permitted or allowed on Town piers:

- a. Boat Rental
- b. Loading/unloading of heavy construction/repair equipment/building supplies that might cause damage to the pier.

5. Permitting Process for Commercial Activity on Town Piers

- a. Activities listed above ~~must~~ **shall** apply for a commercial permit/**business** license to operate in the Town of Tisbury.
- b. **Commercial Town Pier Use** applications are available in the Harbormaster's Office or at Town Hall
- c. Each application shall be accompanied by a non-refundable application/license fee (see Fee Schedule Appendix I).
- d. Permits shall not be transferable.
- e. Once completed, permit applications will be referred to the ~~Harbor Management~~ **Waterways** Committee and the Harbormaster for a recommendation and receive final approval from the Board of Select Board.
- f. Permits will be subject to enforcement by the Harbormaster's Office following existing pier regulations.

Comments for Waterways Regulations Public Hearing 9.28.22 Lynne Fraker

Table of Contents: Elimination of ~~XXVI. Vessels to be Operational~~ (page 15 and Table of Contents)

Rationale: exact same language as **IX. Inoperable Vessels** (page 6)

II. Definitions (page 4)

Water Dependent use or Activity

A “water-dependent use or activity” shall mean and refer to a use or activity which can only be conducted on, in, over, or adjacent to a water body because such activity requires direct access to a water body, and which involves, as an integral part of such use or activity, the use of the water body. Without limitation of the foregoing, marinas, boatyards, dry docks, boat storage areas, waterborne passenger transportation facilities, and facilities for loading and unloading bulk cargo shall be considered water-dependent uses and activities.

Rationale: add definition to be discussed with **XI. Floating Business** (page 6). Copied from VHH DCPC

LIVEABOARD: An active vessel (see definition) used by one or more persons for sleeping accommodations for more than 2 consecutive weeks or more than 14 days in a season ~~except in the Inner Harbor in the Town mooring field~~

Rationale: Definition of liveaboard should not exempt the Inner Harbor. Any vessel used as liveaboard longer than 2 weeks should apply for and pay for a Waterways permit. (see **X. Liveaboard**)

Recreational Boating Facility

All marinas, boatyards, and yacht clubs that have been assigned multiple moorings by the Town for use by their patrons, customers, or members

Rationale: **B. Commercial Moorings** (page 11) 1st paragraph requires definition

V. Pollution: (page 5)

replace the “waters of Tisbury” with **Tisbury Waterways**

Rationale: Consistency

Eliminate ~~No odor or smoke deemed offensive by Harbormaster shall be allowed~~

Rationale: too Subjective

X. Live-a-Board/ Houseboats (page 6)

1. Live Aboard (see definition page 4)

~~People~~ Individuals who choose to live aboard their vessels shall **apply for** ~~seek the approval of the Harbormaster~~ a Waterways permit from the Town. Permit applications are available at the Natural Resource Office. Requests will be reviewed by Natural Resource Dept, Waterways Advisory Committee, and the Select Board for approval. ~~Should the Harbormaster give their permission to do so,~~ The vessel owner will be required to sign a waiver releasing the Town of Tisbury of any liability.

Rationale: Transparency and documentation

Comments for Waterways Regulations Public Hearing 9.28.22 Lynne Fraker

XIV. Town Piers/Landings #3. (Page 7) Replace “explicit permission” with “**written permission**”

Rationale: documentation

D. Lake Street Landing Regulations

#5 (page 9) Insert recreational: Commercial and **recreational vessels** may dock.....

Rationale: no regulation for recreational vessel docking on the South side

#6. (Page 9) Replace “~~Wharf~~” or “~~dock~~” with “bulkhead area only**”**

Rationale: too broad a definition. Language needs consistency with #4

E. Dinghy and Small Craft (Page 9)

1. insert “including transient dinghies**”**

Rationale: no formal policy or regulation for transient dinghies

XIX. Mooring Categories

B. Commercial Moorings sec 2 subsection b. (page 11) Last sentence:

Recreational Boating facilities shall be required to submit to the Harbormaster the information **outlined** in Section ~~V, B-subsection 3.~~ **XXI, Subsection 2**

Rationale: Correct reference

XXXI (XXXII) Winter stakes (page 16)

If stake is not removed by ~~June 1~~ **June 15** it may be removed by or at the direction of the Harbormaster.....

Rationale: Reduces burden on Mooring maintenance providers