

Joint Town Council & Cove Commission Minutes
May 21, 2019 – 7:00 P.M.
Town Council Conference Room
125 Main Street
East Greenwich, RI

Town Council Members Present: Mark Schwager, President; Caryn Corenthall, and Renu Englehart.

Town Council Members Absent: Michael Donegan, Vice-President, and Michael Zarrella.

Cove Commission Members Present: Bethany Warburton, Chair; Mark Shapiro, Vice-Chair, Tony DiBella, Steve Mendes

Cove Commission Members Absent: Paul Schmidle

Staff Present: Lisa Bourbonnais, Planning Director; Lea Hitchen, Assistant Town Planner; Andy Teitz, Town Solicitor; Joseph Duarte, Acting Town Manager/DPW Director; and Jim Cullen, Harbormaster.

Others Present: Robert Black, Bill Weedon.

Dr. Schwager and Ms. Warburton opened the joint Town Council and Cove Commission meeting at 7:00 pm and all present introduced themselves.

Ms. Hitchen and Ms. Bourbonnais provided an overview and update regarding the Harbor Management Plan (HMP) – Staff has been updating the plan over the course of the last few months and is targeting to complete the update and adopt the Plan by October of this year per CRMCs deadline. The vast majority of the Plan update can be handled as a matter of course by staff and the Cove Commission, meaning history, data, maps, appendices updates, etc. The most important chapter of the HMP that the Town Council will want input in is specific to Chapter III, the Issues, Goals and Policies chapter of the plan. They explained the existing plan does not require a complete rewrite or overhaul but simply tweaking the existing plan; the intent tonight is for Council “buy-in” in order for the process not to become convoluted come October.

Planning Staff commented there are currently nine issues/goals in the current plan to which Planning Staff wanted specific comments on three of the nine issues. Issue 1, being Harbor District Development Review Process- of the current HMP pertains to the Cove Commission’s advisory role in the Development Plan review process which states “the Cove Management Commission shall review all development which may have an impact on the Cove...the Cove Commission shall review all plans for any alteration, construction, repair, removal or demolition of a structure or accessories of a structure within this area of Town.” Per Town Code, (Section 34-5(E)), the Cove Commission’s responsibility states “provide comments and

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recommendations to the Planning Department, Planning Board, ZBR, Town Council or other entity on all public and private development proposals any permit notifications from state agencies for activities in the area east of the Amtrak rail line.” The Town Code version appears to be broader than the physical area addressed by the HMP. Planning Staff commented if the Cove Commission were to comment on any “permit” that would literally mean reviewing window replacement; in reality the intent was most likely CRMC permits. Planning Staff questioned Town Council members if they wanted to add consistency to these provisions or add specific criteria as a basis for the Cove Commission’s review.

Ms. Warburton commented in past practice the Cove Commission has reviewed plans on land adjacent to the water, mooring issues, and at Scalloptown Park. She personally had no interest reviewing permits and would like to continue to encourage positive waterfront usage and partner with businesses. The Historic District Commission, ZBR and Planning Board are entities that review plans and projects; she did not believe the Cove Commission had to be added to the approval process.

Ms. Englehart questioned whether the Cove Commission should be part of the Waterfront Quality of Life Advisory Committee. Atty. Teitz was concerned there would be an overwhelming amount of noise and traffic issues and not enough time to handle the other waterfront issues like HMP, transfer station, moorings, etc. Mr. Shapiro asserted he did not want any part of the noise and traffic issues that affect the waterfront. The suggestion was made to make the Cove Commission Chair and/or designee as an ex-officio member of the Waterfront Quality of Life Advisory Committee. Ms. Warburton accepted that role and noted she would most likely rotate Cove Commission members to attend the meetings as well.

Dr. Schwager questioned the entity responsible for providing and filtering information to the Cove Commission. Ms. Hitchen said Planning Staff should act as the filter considering the department staffs the Planning Board, ZBR and HDC. Several suggestions were made as to how to revise the development review process including to add “as referred by the Planning Department.”

Questions arose regarding the physical geography the Cove Commission would have review on; Planning Staff was of the opinion the geography was parcels adjacent to the waterline (i.e. parcels having a lot line as a waterline). Mr. DiBella disagreed noting he viewed the Cove as an area, not as a waterline and preferred a clear defined space such as “east of the Amtrak rail lines.” Ms. Hitchen pointed out the Cove Commission has the authority to do many things as listed in Town Code section 34-6 (A-H) all of which are water based which no other local board or commission has authority on; the Cove Commission should be focusing on A-H while the other Town boards review land development.

In terms of physical geography Mr. Cullen suggested a compromise of either 100’ of the high tide line or 50’; a specific number to the water line. Atty. Teitz recommended a 200’ depth from the coastal feature for consistency with CRMC. He agreed that any property along the water no matter its depth should be within the Cove Commission’s jurisdiction. Ms. Bourbonnais proposed using Water Street and Crompton Street as the designated line which

should include parcels on either side of the street. She reminded those present that there is a lack of compliance and that should be a goal in and of itself to bring the code and HMP to be consistent. She added that immediately upon the HMP adoption the Town Code (Section 34) will need to be revised to match the language that is modified in the HMP - this will be a priority. Ms. Englehart supported the idea of the roads being the line of distinction between what the Cove Commission reviews.

In terms of material that is filtered to the Cove Commission the Planning Staff felt it was necessary for the Cove Commission to comment on major land development projects as they are an advisory board and do not have purview of their own.

The issue of Commercial Shellfishing was briefly discussed noting the Cove Commission has been and continues to be an advocate for the local shellfishing industry. There are a couple of marinas that have designated slips specifically for shellfishermen. Parking for shellfishermen is generally on private property and allowed on the Town's upper parking lot. Mr. Cullen was not aware of the shellfishermen being under any threat to his knowledge.

Dr. Schwager commented the HMP makes many references to "the Town shall." He recommended the HMP be specific as to which department and/or Commission/Board in the Town is responsible for implementing a goal, policy, etc.

Planning Staff pointed out the HMP makes several references to town-wide surveys performed in 1986 and 2003; these references will be updated. The latest survey was done in 2011 but without any questions relating to the waterfront as there were other priorities at the time such as commuter rail, etc. Ms. Bourbonnais suggested the Cove Commission advocate for policies such as improved parking for shellfishermen, etc.

Ms. Hitchen moved on to Goal 3 pertaining to Public Access, i.e. Rights of Way to the Cove. Planning Staff explained this section deserves the most in-depth examination. The situation on the ground with some of the rights of way has definitely evolved since the Plan's last iteration. As one example, the King Street CRMC right of way has gone through periods of contention with the adjacent private business. The Town Council has the opportunity to set a new tone for the next 5-10 years in terms of how to discuss the rights of ways and update the HMP accordingly. This section also talks about right of way amenities like sidewalks, benches, and trash receptacles and the Council may want to think about how these recommendations may or may not obligate them to future capital expenditures. Finally, this section notes that waterfront access includes *visual* access (views to the Cove). It calls on local zoning regulations to keep building heights low so views are unobstructed but State law seems to be getting more permissive in this regard which complicates the setting of stricter local limits. Considerations around natural hazards mitigation certainly come into play here which may warrant a broader tangential discussion.

The group briefly discussed the King Street right of way and Planning Staff explained the history of when the rolling bar came to be on the deck over the ROW. Atty. Teitz commented

right of way situations can become complicated as CRMC has jurisdiction over the coastline and presumably granted an assent and no appeal was timely filed. As a public street no one can get adverse possession to it; part of CRMC it that once it gets to the water it becomes public trust doctrine. Above the high tide line someone can obtain adverse possession and could otherwise block it; if it is a public street laid out on a plan than adverse possession can never be used. The Town has separate rights as a street that might supersede CRMC.

Atty. Teitz recommended there be a strong statement in the updated HMP that notes the Town/Cove Commission will work to reopen the right of ways to allow public passage. He added to reopen ROWs that have been encroached upon and make all ROWs more accessible whether it be clearing out brush or becoming handicapped accessible. He also suggested once the ROWs are in place to mark them with very large granite stones rather than with signs or medallions or granite bounds that eventually get lost or moved.

Mr. Cullen pointed out it took the Town decades but the Town did reclaim the Rocky Hollow ROW a couple of years ago. He also noted that previous sitting Councils in the 1970s and 1980s allowed private businesses to operate on the right of ways and has essentially continued to this day.

For those that were not familiar with the six ROWs, Ms. Hitchen named the ROWs from north to south, being the Division Street ROW, having no major issues and is the most used and most accessible. Followed by the King Street ROW, being the most contentious; Long Street ROW which is actually located in the East Greenwich Marina parking lot (it is not the boat ramp to the south); the London Street ROW, being the Barbara Tufts playground; the Bridge Street ROW, located in between a private residence and the Crompton Condominiums and has a large drop in terrain to the water; and the Rocky Hollow ROW which was the former location of the Harris Marina and is now clear. The question was asked if a ROW falls under the purview of the state or town. Atty. Teitz noted the underlying rights go with the individual public use of the community and it is the project of the CRMC to locate and identify the ROWs but the state does not own any of them. He thought it would be very interesting to obtain the CRMC transcript of when King Street became a ROW. Atty. Teitz added there are various ways to discuss obtaining the access; it should be up to the Cove Commission as to what they envision. There is the legal avenue which will include a lot of research in order to find out exactly what the Town's rights are; it is essentially a two prong approach.

Planning Staff noted the third goal, being Goal #7 of the HMP, "Development of Town Owned Property," is the perfect segue to item 2 on the agenda being the creation of a "waterfront plan," a strategic neighborhood plan for the waterfront area. This section of the Harbor Management Plan definitely deserves a comprehensive update but is fraught with highly complex and potentially antagonistic issues like relocation of the Town's transfer station and our apparent need for more public parking to support the full spectrum of commercial and recreational activities from Main Street east to the Cove. It would be nice if we had the luxury of time to deal with this theme with a consultant as part of the Waterfront Plan but the Harbor Management Plan is under strict deadline for completion so we will need the Cove Commission

and Town Council to come to some agreement on these bigger picture public property issues sooner rather than later.

Leading up to the meeting Ms. Hitchen noted she had provided everyone with a memo dated back to June 2017 from Michael Donegan and Bethany Warburton regarding recommendations for the creation and implementation of waterfront access and enhancement plan which makes several suggestions such as a town-owned marina, development of a waterfront marina complex, and enhancement of waterfront nature trails and improvement to waterfront access points.

Ms. Warburton recalled she and Ms. Hitchen visiting Congressman Langevin's office a couple of years ago regarding grant opportunities and federal funding for transient boating; if the Town were to ever build out any sort of dock there is the opportunity to get partial payment as long as certain slips are dedicated to transient boaters. The benefit of transient boaters is economic; they visit restaurants and shops.

When queried about whether East Greenwich has transient boaters Mr. Cullen explained as far as the Town Dock there is a one hour time limit for unattended boats and the Town does have transient moorings per se. He noted the EGYC has reciprocal privileges with other yacht clubs. As the harbormaster, Mr. Cullen often gets calls from boaters inquiring about mooring availability – generally speaking he can accommodate due to informal arrangements with several mooring holders who are not using a mooring on a regular basis. He added the State and City of Warwick are in the process of installing 12 guest moorings along the Goddard Park Beach which will bring in more transient boaters to East Greenwich. Mr. Weedon informed those present of an app called "DOCKWA" which allows boaters to reserve slips/moorings.

Ms. Warburton added the memo also proposed the idea of a town marina to include transient slips along with bathrooms, a harbormaster office as well as incorporating an expanded parking area which is how eliminating the transfer station came to be. Discussions also included a tie-off/dinghy dock off of the Barbara Tufts area for transients as an opportunity for people to walk up to the Main Street area.

Planning Staff inquired as to what the Town Council expects to get for a "Waterfront Study" with \$40,000. Dr. Schwager explained that he took the 2017 memo and had conversations with Mr. Donegan and Ms. Warburton to create an initial funding for a request for qualifications to prepare a proposal to see the possibilities and limitations of the Cove. Dr. Schwager viewed the waterfront as a diamond in the rough since the waterfront has never received much attention.

Ms. Warburton asserted there are many opportunities from an educational standpoint such as expand nature trails, construct boardwalks, install signage explaining migratory birds, install fish ladders, construct a bridge connecting to Old Forge Road, and cross-purposing uses the harbormaster office with a high school marine biology class.

Mr. Cullen believes there is money to be made with a town-owned marina. He noted commercial marinas make enough money to survive as their biggest expense is land and taxes. The Town has about 1000' of frontage from the Barbara Tufts park south to the boat ramp; considering the Town already owns the land and does not pay taxes the associated costs would be construction, insurance and maintenance. Mr. Cullen reminded those present that he has designed a couple of dock proposals; one design is drawn as a pilot project with one dock, essentially to see if the demand is there and would cost well under \$100,000 versus the second schematic showing a larger marina to include facilities for public meetings, a harbor master office, potential for a high school sailing team, and opportunities for the whole community.

Mr. Cullen explained regulations state 3 out of 4 moorings must go to East Greenwich residents; the fact is there is only one remaining "Mom and Pop" marina business left on the Cove, being Buckland's (formerly Anderson's Marina); all big companies/corporations from out of state have bought out the marinas. He was of the opinion the preservation of an area should occur for residents without being priced out of the market.

The main concern for Planning Staff is to obtain a meaningful plan – the Town can either do a plan that physically delineates the highest and best land uses which may include trails, has an outreach component and looks at space for a harbor master office and/or educational facilities, demarcates wildlife OR get a true market analysis with a demand study which can include how to phase in projects – essentially there is no way \$40,000 will get both. Ms. Bourbonnais explained two years ago the Planning Department had \$30,000 and we were not anywhere in the neighborhood of obtaining everything which was back then estimated to be \$50,000 - \$100,000; she suggested the scope be narrowed in order to obtain a meaningful product to implement something at the end.

Mr. Mendes said there is a broad consensus that the one agreement amongst everyone is to remove the transfer station in order to "clear the canvas." He questioned if the available \$40,000 should be spent towards removing the transfer station in order to make that first step happen. Mr. Duarte explained regionalizing the transfer station was an option over a year ago but there was no traction behind it therefore the plan died. He preferred not to put any more time into the issue if the Town Council does not have an appetite for the idea as it has consistently died at the Town Council level but he would be happy to resurrect the idea upon Council's request. Mr. Duarte noted there is a new DPW Director in North Kingstown who might have a different opinion than the previous director but North Kingstown was the only location where this could be a viable idea in terms of regionalization since other transfer stations simply do not have the capacity. When asked about the cost of removing the existing transfer station Mr. Duarte approximated the total cost to be about \$40,000. He commented that permitting for a new recycling facility at a different location could be an option but definitely not for a trash facility as it is extremely costly and requires special licenses. Mr. Duarte emphasized the fact that if the transfer station is eliminated there will not be another one; he projected it would cost hundreds of thousands of dollars to properly construct, design, permit and license a new transfer station. Permits are also site specific therefore our current permit cannot be transferred to a new location.

Ms. Englehart preferred to have a comprehensive plan to use as a guideline as opposed to creating a blank slate for an unknown use. Ms. Hitchen queried whether a portion of the \$40,000 should be set aside to go towards a new town-wide survey. Ms. Bourbonnais opined the 2013 town-wide survey would have cost \$8,000 for a statistically significant survey.

After more discussion Ms. Bourbonnais indicated Planning Staff had enough information to move forward to create an RFP (request for proposal). As for timeline the Harbor Management Plan is expected to go before the Town Council for approval in September followed by a draft waterfront RFP afterwards.

Procedurally, Planning Staff questioned whether the waterfront plan should be adopted as a neighborhood element of the comprehensive plan or it be a stand-alone document. Atty. Teitz recommended the waterfront plan be an element of the comprehensive plan which means when town bodies review a plan it be reviewed for consistency with the comprehensive plan. Said plan also needs to be approved by the State; state agencies also are required to be consistent with it; theoretically CRMC should not be able to approve a project that is inconsistent once said plan has been approved, just like the comprehensive plan. Atty. Teitz was also of the opinion that multiple comp. plan chapters would not need to be revised but simply appending the waterfront plan to the comprehensive plan would be sufficient.

Questions arose as to who and what groups would participate in the process. Ms. Bourbonnais commented that considering the waterfront plan is a neighborhood strategic plan element of the comprehensive plan the Planning Board has purview as they review the Comprehensive Plan; additionally the Town Council will have to adopt it; the Cove Commission will also play a large role in participation. Atty. Teitz suggested the Cove Commission be the primary body responsible for overseeing the consultant and working on the draft with periodic meetings with the public, Town Council and Planning Board. He added when reviewing the RFP responses the Planning Board should be initially involved.

With no further questions or comments Dr. Schwager and Ms. Warbuton requested a motion to adjourn their respective board.

Motion to adjourn the Town Council meeting by Ms. Englehart. Seconded by Corenthal.

VOTE: 3 – 0.

Motion to adjourn the Cove Commission meeting by Ms. Warburton. Seconded by Shapiro.

VOTE: 4 – 0.

Meeting adjourned at 8:47 PM

Minutes respectfully submitted by Lea Hitchen, Assistant Town Planner.

For further information, please refer to the recording available in the Planning Department.

APPROVED BY TOWN COUNCIL:
(PENDING)