



Town of Greenwich
 Harbor Management Commission
 Meeting
 March 15, 2017
 7:00 P.M.
 Mazza Room, Town Hall

Minutes

Members in attendance:

Bruce Angiolillo	Chairman
Mike Van Oss	Secretary
Bill Ingraham	
Steve Kinner	
Frank Mazza	

This certificate received on file

On JUL 13 2017

At 7 AM.

Absent:

Lile Gibbons	Vice Chairman
Peter Quigley	



 Town Clerk

Alternates:

Don Carlson

Absent:

Bernard Armstrong

Ex-Officio Members in Attendance:

Sue Baker	Conservation Commission
Roger Bowgen	Shellfish Commission
Jeff Freidag	Department of Parks & Recreation
Ian MacMillan	Harbormaster
Horst Tebbe	RTM

Absent:

John Brown	Police Department
Rick Loh	Board of Parks & Recreation
John Toner	Board of Selectmen

Consultant in Attendance:

Geoffrey Steadman

1. Meeting called to order at 7:05 P.M. by Chairman Bruce Angiolillo

In the absence of Lile Gibbons and Peter Quigley, Chairman Angiolillo seated Alternate Member Don Carlson.

2. Approval of Minutes of the February 15, 2017 Meeting

Motion to approve the Minutes of the February 15, 2017 Meeting by Steve Kinner, seconded by Don Carlson. Motion carried (Unanimous).

3. Chairman's Report

Chairman Angiolillo reported on his activities since the February 15, 2017 Meeting.

- Reviewed and discussed February 15 comments received from John Gaucher at DEEP with Lile Gibbons, Aamina Ahmad and Geoff Steadman. (Mr. Angiolillo also outlined these comments for the Commission at the meeting).
- Met with Aamina Ahmad on February 23 to review Mr. Gaucher's comments and their legal implications, and seek the advice of the Law Department.
- Attended the Planning & Zoning Department's second Public Meeting regarding the review of the Town's existing WB Zoning.
- Attended reappointment interviews conducted by the RTM Land Use Committee on March 6 and by the RTM Parks & Recreation Committee and the RTM Appointments Committee on March 7.
- Met with Jim Michel, Deputy Commissioner of DPW, and Joe Siciliano, Director of Parks & Recreation, regarding planned maintenance and improvements to Steamboat Road Landing (Mr. Angiolillo reviewed with the Commission this proposed work and that it appeared consistent with the goals and priorities of the approved draft Harbor Management Plan).

- Worked with Geoff Steadman and Lile Gibbons on proposed responses to Mr. Gaucher's February 15 comments.
- Received and reviewed March 13 Memorandum of the Law Department concerning the Board of Selectmen's authority to review decisions of the HMC (Copy attached).
- Met on March 13 with Mike Van Oss and Penny Monahan to review the status of 2017 mooring renewals.
- Traveled to Hartford on March 13 with Geoff Steadman and met with Mr. Gaucher and David Blatt at DEEP to resolve remaining open items regarding the review of the proposed draft Harbor Management Plan.

4. Update on Harbor Management Plan

Geoff Steadman reported on the few remaining open items discussed with DEEP at the March 13 meeting in Hartford. Geoff commented that the meeting was positive and that he believes the Harbor Management Plan is close to obtaining DEEP approval.

5. Update on On-Line Mooring Program

Mike Van Oss commended Chairman Angiolillo and Geoff Steadman on their diligence in moving the draft Harbor Management Plan forward.

Mr. Van Oss reported that 81 mooring renewal applications for 2017 have been received to date. He noted the deadline for renewals is March 31. He also reported that he has reached out to several mooring holders who had not paid for their moorings last year and had recently received their payments for 2016.

Mr. Van Oss reconfirmed that mooring renewal application information will be provided to the Harbormaster. He stated that it will be provided on a weekly basis and that the first batch of this information has already been provided to the Harbormaster.

Casey McKee suggested that notice be provided in the newspaper as a reminder to mooring holders to get their renewal applications in by the March 31 deadline. The Greenwich Time reporter in attendance offered her help in publicizing this information. The Chairman expressed the Commission's appreciation and thanked her for her assistance.

6. Harbormaster Report

See attached.

7. New Business

Bill Ingraham reported on his work regarding the preparation of a leaflet for boaters in the GHA. Given the consensus that such a leaflet would be useful and beneficial, Chairman Angiolillo thanked Mr. Ingraham for his efforts and asked him to proceed with the preparation of a draft that could be discussed by the Commission at the April meeting.

Looking forward to the approval of the Harbor Management Plan, Chairman Angiolillo asked the Commission to collect their thoughts and ideas on projects and priorities for the Commission to pursue.

Horst Tebbe suggested that the Harbor Management Commission begin to reach out to members of the RTM Land Use, Legislative & Rules and Parks & Recreation Committees for support of the draft proposed Harbor Management Plan in anticipation of its presentation to the RTM for approval. Chairman Angiolillo thanked Mr. Tebbe for this suggestion, something that the Commission had expressed an interest in doing for several months now.

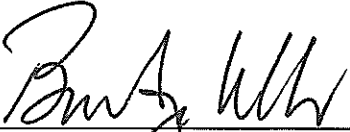
8. Public Comment

None.


9. Adjournment

Motion to adjourn made by Steve Kinner, seconded by Don Carlson.
Motion carried (Unanimous).

Meeting adjourned at 8:35 P.M.



Bruce Angiolillo
Chairman



Mike Van Oss
Secretary *by permission PA*

Penny Monahan assisted the Secretary in the preparation of these minutes.

John Wayne Fox
Town Attorney

John K. Wetmore
Special Counsel

Eugene F. McLaughlin, Jr
Fernando F. de Arango
Valerie Maze Keeney
Aamina Ahmad
Abby R. Wadler



LAW DEPARTMENT

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MEMORANDUM

TO: Mr. Bruce Angiolillo, Chairman – Harbor Management Commission

FROM: Aamina Ahmad, Assistant Town Attorney

DATE: March 13, 2017

RE: The Selectmen's Right to Review HMC Decisions

You have asked the Town Attorney's office to review Mr. John Gaucher's email dated February 15, 2017 and provide our input on the issue of the Town's Harbor Management Commission Ordinance which states that any decisions of the Harbor Management Commission (HMC) may be appealed to the Greenwich Board of Selectmen.

By way of background, since 1949, the Town of Greenwich has managed its harbors pursuant to Special Legislative Acts enacted by the State legislature. Special Act 288 of 1949, An Act Concerning The Regulation of The Mooring, Anchoring, And Speed of Boats And Vessels In The Harbors Of Greenwich defines the geographical area within which the Board of Selectmen has the authority to regulate the anchoring and mooring of vessels, boats and crafts and also authorizes the Selectmen to:

make such other reasonable rules, regulations or orders respecting the use of the waters by all vessels, boats and craft, the method of their mooring or anchoring and the reasonable sufficiency of their mooring and anchoring gear as may be necessary to protect persons and all other vessels, boats and craft in such waters and other property thereon.

Special Act 93 of 1955, also enacted by the State Legislature, amended the area of jurisdiction granted to the Selectmen in 1949 by providing a more detailed description of the boundary. Since 1949 and pursuant to these Special Acts, the Selectmen have

exercised authority over Greenwich waters by adopting various local ordinances, rules and regulations and amending them from time to time.

It was not until 1984 that the State legislature enacted the Connecticut Harbor Management Act (CHMA) which authorized municipalities to establish harbor management commissions and develop harbor management plans for the management and oversight of navigable waters within their jurisdiction. The legislative intent of CHMA, as evidenced by its legislative history, was to give coastal towns and cities more local control over their navigable waters. CHMA contains no language repealing existing Special Acts. Consistent with well-established rules of statutory construction, Greenwich's Special Acts continue to be valid and in effect; they continue to operate and co-exist with CHMA and other State and Federal laws.

In 2013, Greenwich adopted an ordinance establishing the HMC. The ordinance gives the Selectmen the right to review any decisions of the HMC. This right of review is consistent with the historical oversight authority granted to the Selectmen by the Special Acts. This right of review is also not inconsistent with CHMA because CHMA contains no provision prohibiting further review of decisions made by a harbor management commission. Therefore, while there is a somewhat complex statutory and regulatory framework governing the navigable waters of the State of Connecticut, Greenwich's Special Acts are an integral part of this framework as it pertains to Greenwich waters. The Special Acts continue to authorize the Selectmen to exercise the historical oversight expressly granted to them.

Mr. Gaucher of DEEP seems to have taken the position that Greenwich's Harbor Management Plan (HMP) cannot be approved if it contains language that the HMC's decisions may be appealed to the Selectmen, as stated in the local ordinance creating the HMC. Mr. Gaucher suggests that such a right of review would be inconsistent with CHMA. However, as noted above, the Selectmen's right of review is not inconsistent with CHMA. Merely because CHMA is silent on this issue does not mean review is prohibited. There are other State statutes pertaining to local land use agencies which specifically contain an appeal process for persons aggrieved by agency decisions. (See General Statutes § 8-8 and § 22a-43 specifying the appeal process from decisions of planning and zoning commissions, zoning boards of appeal and inland wetlands commissions). If the State legislature had wished to include an appeal process in the CHMA, it could have done so. But it chose not to. Therefore, if someone wished to challenge a decision of the HMC by filing a lawsuit in State superior court, the defendant would be the Town of Greenwich and not the HMC as the legislature has not provided a statutory right of appeal from the HMC. Such a lawsuit would be subject to dismissal for failure to exhaust administrative remedies if the plaintiff had not first sought review by the Selectmen of the HMC's decision prior to filing suit. More importantly, the source of the Selectmen's oversight powers over Greenwich waters and by extension, over the HMC – Special Acts 288 and 93 – remain in full force and effect and have not been repealed. Therefore, a State agency cannot require, as a condition of approval of the HMP, that the Selectmen give up their

Mr. Bruce Angiolillo
March 13, 2017
Page 3

Special Act powers in exchange for State approval of the HMP. Doing so would be in derogation of legally vested rights of the Selectmen which flow from Special Acts approved by the State legislature. A State agency cannot use the HMP approval process to amend State enacted laws.

We are available to provide any other assistance you may need.

cc: John Wayne Fox, Town Attorney

3.15.17 HM report

1. No information on mooring permit applications from HMC to date except that applications were sent out to a number of mooring owners.
2. 420 frostbiting programs for GA, Brunswick, RCDS, Greenwich High have started on 3/6/2017 in Greenwich Harbor.
3. Harbor ice reports to USGC have indicated light icing in the Mianus and Greenwich federal navigation projects
4. Storm reports from Congressman Himes and from Senator Frantz were available on 3/13/17 which demonstrates the need for storm report email lists for the Harbor Management Commission for storm and hurricane warnings this season.
5. Email could also be used to announce Power Squadron classes, Boat Shows and the Town Party as well as other marine related events.
6. Marine Event forms should be filled out and filed with USCG this season.
7. "if found" Paddle craft stickers should be distributed through Parks & Rec registration forms for small craft racks.