

Selectmen's Meeting Minutes 09/04/18

DRAFT Chilmark Board of Selectmen September 4, 2018 Meeting Minutes

Present: Chairman James Malkin, Warren Doty and Bill Rossi.

Tim Carroll, Police Chief Jonathan Klarèn, Clark Goff, Janet Weidner, Peter Cook, Rich Osnoss, Jonathan Mayhew, Jane Slater, Kathie Carroll, Brooks Carroll, Bradlee Carroll, Marshall Carroll,

Harbormaster Dennis Jason, Lenny Jason, Everett Poole, Diana Smith, Riggs Parker, Cathy Thompson, Andy Goldman, Glenn DeBlase, Judy Flanders, news reporters Rich Saltzberg and Landry Harland, MVTV videographer Lynn Christoffers.

At 5:00 PM Chairman Malkin called meeting to order in the Selectmen's meeting room.

Chairman Malkin said we will take a moment of silence to remember a longtime Chilmark resident and remarkable individual Trina Kingsbury who passed away this weekend.

Minutes:

Draft minutes from the February 23, 2018 meeting were reviewed. Mr. Doty moved to approve minutes as written. Mr. Rossi seconded the motion. **SO VOTED: 2 Ayes, 1 Abstain**

James Malkin did not participate in the 2/23/18 meeting

Draft minutes from Selectmen's August 21, 2018 meeting were reviewed, corrections were made. Mr. Doty moved to approve minutes as corrected. Mr. Rossi seconded the motion.

SO VOTED: 3 Ayes

Joint Meeting of Planning Board & Selectmen -Elect Planning Board Member:

Chairman Malkin said we have a letter of interest from Cathy Thompson to be elected to the Planning Board. Janet Weidner said the Planning Board did not yet have a quorum; Mitchell Posin will come if needed. Town Administrator Tim Carroll said there will need to be a quorum present to hold an election tonight. Mr. Carroll said two Selectmen could attend the next Planning Board Meeting to hold election if we don't get a quorum tonight. Chairman Malkin said he would like to support Ms. Thompson to be a new member of the Planning Board. Mr. Doty moved to approve appointment of Cathy Thompson as member of the Planning Board. Mr. Rossi seconded the motion. **SO VOTED: 3 Ayes**

Fuel Dock - Discussion, Marshall Carroll emails:

Chairman Malkin said as Selectmen Liaison to the Harbor department he has been addressing issues in Menemsha Harbor. Chairman Malkin said he and the Harbormaster and Marshall Carroll got together to clear up some issues before the season began. Chairman Malkin said there were 2 separate incidences in July when a boater was approaching the town owned fuel dock for water and they were told they could not fill water unless they purchased fuel.

Chairman Malkin said he received the 2 written incidence reports and discussed this with Parks & Recreation Chairman (Andy Goldman) and Chairman of the Harbor Advisory Board (Everett Poole). Chairman Malkin said he asked Parks & Recreation Chairman to investigate the incidences which was completed and the Chairman of Parks & Recreation recommended a report to the Selectmen and that report was sent to Marshall Carroll on July 14, 2018.

Fuel Dock - Discussion Continued...

Chairman Malkin read from report:

1. The Harbormaster is in charge of the Harbor. His word (and that of his deputies) is not disputable.

2. Menemsha Texaco, in conducting its business on the Town's dock, is required to allow the use of the Town's dock for non-commercial purposes such as touch and go, taking on water, pump out, etc.

Chairman Malkin said there are 3 additional items listed for anyone to read if interested.

Mitchell Posin arrived at 5:10 PM Chairman Malkin asked him to wait till the current discussion was complete and then participate in Planning Board election.

Chairman Malkin said since the 2 incidents there have been 2 more reported by the harbor staff.

Chairman Malkin said we received from Marshall Carroll a copy of his fuel permit from the State. We also received from Marshall a copy of the Fire Marshall's law / regulation that said no boats may be berthed or affixed to fuel docks. Chairman Malkin said upon receiving this, the Harbormaster spoke with the State Fire Marshall who told him that in small harbors in Massachusetts it is

common to work around that issue and to allow boats to approach fuel docks to take on water, not berth there, but take on water without getting fuel. Mr. Malkin said we are currently supplying water to boats who do take on fuel.

Chairman Malkin said Marshall also sent excerpt of Chilmark Water Ways Rule & Regulations that state boaters may take on water at the town designated commercial dock area from 9:00 AM - 3:00 PM. Chairman Malkin said going back to records prior to him being Selectmen there was discussion of that there is not an appetite for non-commercial use in that area.

Chairman Malkin said the MV Fisheries Preservation Trust stated concerns that with the head boat in the harbor along the bulkhead that would congest the commercial dock area.

Chairman Malkin said the lease that Marshall has with the town is for the ground and station but not for the town owned dock.

Chairman Malkin then asked Marshall Carroll to speak to the issues that have been brought up this summer of incidents when water was not provided to boaters when requested.

Marshall Carroll said he would like to thank all for the opportunity to run a business in Menemsha. Marshall Carroll said he understands and respects that he is a lessee of the bulkhead through the Parks & Recreation committee and appreciates all feedback as a way to improve the way he runs the business. Marshall Carroll said he always likes to address issues quickly that arise. Marshall said he is unable to address issues during July & August.

Marshall said you can ask what you want, but I am obligated to follow the State Fire Marshall rules. Annually Marshall Carroll pays thousands of dollars to get the fueling inspected and permitted, and cannot risk going against the laws.

Marshall Carroll said the happenings on fuel dock are up to the discretion of the dock attendant.

Fuel Dock - Discussion Continued...

Marshall Carroll said regarding the meeting he had with Chairman Malkin and Dennis Jason last year he thought the information he supplied from the State Fire Marshall that a vessel, that is not fueling is not permitted on the fuel dock made it clear that the harbormaster would not be sending boats to fuel dock for pump outs and water.

Chairman Malkin asked if Chairman of the Harbor Advisory would like to speak. Everett Poole said it's the opinion of the Harbor Advisory Committee that no vessel would ever leave Menemsha needing water. And boaters should be given access to water whenever needed. They might have to wait their turn and somebody else might be stuck behind them.

Mr. Poole said when he ran the fuel dock in Menemsha he would never send a boater off without water. Mr. Poole said it's the town's facility the town provides water free of charge; a vessels needs water they get water.

Bradlee Carroll said she discussed with the manager of the Tisbury Water Company about how they run their business and she said she was told it was up to the fuel dock operator. Ms. Carroll said she thinks it is unsafe because if someone comes to the fuel dock just wanting water, they are not prepared to get fuel they could have their stove running they could be cooking some food and essentially that is unsafe to leave up to the harbor department who is untrained in the fuel process. Ms. Bradlee said you are opening a can of worms by allowing anyone to come to the fuel dock and she has concerns with that.

Harbormaster Jason said he has been a tanker man (fuel transporter) for 12 years prior to being the Harbormaster. Harbormaster Jason said he knows the procedures for loading and unloading fuel. The procedure the Harbor Department uses in Menemsha: we first make sure Marshall's (Menemsha Texaco) business will not be interfered. We make sure that when vessel comes in to take on water or have a pump-out they follow same regulations Marshall follows: no lit flames, no cooking, no smoking and shut the engine off.

Chairman Malkin asked for any comments from anyone who had yet to be recognized.

Riggs Parker said 10 years ago sailing up and down the east coast he would take small amounts of fuel and take on water he was never refused water even when that was all he requested. Mr. Parker said we cannot refuse water when not getting fuel. This is a harbor of refuge; we have the responsibility to be good to the mariners out there and to take care of their needs without being overly regulatory.

Marshall Carroll said look at why we have in our Chilmark Waterways Rules & Regulations that the yellow zone (commercial) is where boaters can get water. Jonathan Mayhew said the yellow zone / commercial dock area you refer to is too crowded. Marshall recommended some solutions to where vessels can get water and how to run the harbor better. Mr. Carroll said he has already sent his recommendations in an email but one would be: A courtesy dock out by the channel. Jonathan Mayhew said having vessels go out into the channel instead of the safety of navigating to the fuel dock to get water doesn't make sense.

Fuel Dock - Discussion Continued...

Ms. Carroll said she would like to see a designated area for water and pump outs that are not on the fuel dock.

Harbormaster Jason said the pump-out as it was set up by Tim Carroll doesn't allow us to pump out anyplace. With the pump box located where it is many boaters don't want the hose going over their boats during the process. We need to have the boat near the pump-out station that is located near the fuel dock.

Chairman Malkin asked to stay on topic of water for boaters. Chairman Malkin said we have a fuel dock the town owns. At the fuel dock we have always provided water. We have 4 incidences where it was reported to me and the Selectmen that boats were turned away unless they purchased fuel. That is what we are dealing with; we don't need to go into discussion of pump-outs. Harbormaster Jason said about the water at the loading zone it was discussed and was not agreed on and not sure how that got into the regulations but it needs to be ratified. Marshall Carroll said the Regulations have been ratified since 2008 directing boaters to the yellow zone for water. Marshall said he is not saying water is not available at the fuel dock but that it is at the discretion of the fuel dock attendant.

Mr. Poole said the Harbor Advisory Committee looked into other harbors as well and for instance the town of Chatham which owns the dock you can fuel on one side and take water and other commerce on the other. Mr. Poole said this is true in most small harbors in Massachusetts. Mr. Poole said the State Fire Marshall has never written that into his regulations but takes that under consideration whenever the subject comes up. So far he has always said you can do multiple tasks as long as it's (task) properly keeping watch. Harbormaster Jason said he spoke to the Fire Marshall and as Everett stated with small harbors it's not uncommon to have a fuel dock utilized for multiple uses provided it follows the codes of no open flames, no cooking, no smoking and engine must be turned off.

Mr. Doty said it's the end of the season and we don't need to make any decisions on changes now. Mr. Doty said words of support of Marshall Carroll and the business he and his family run in Menemsha. Mr. Doty said Marshall runs the fuel dock terrifically. Mr. Doty said nothing is the same as it was 10 years ago everything is busier. Mr. Doty said the commercial zone is busy all of the time now from both sides of the building. This is an issue that can be worked out. The Town is doing a good job managing the harbor. The fuel company (Menemsha Texaco) is doing a good job managing their business. We need to find a way to have it all work together.

Chairman Malkin responded saying he agrees Marshall does a great job with fuel and running his store. Chairman Malkin said in the email sent July 14th it clearly states the Harbormaster is in charge of the harbor and waterways in Chilmark. The harbor cannot have multiple people in charge. Chairman Malkin said we cannot have dock attendants countermanding the Harbormaster's directions.

Chairman Malkin said we cannot have Menemsha getting a reputation of turning boaters in need of water away unless they buy fuel. It's not acceptable.

Fuel Dock - Discussion Continued...

Mr. Rossi said he has no comment, at this time he is taking this all in to process. Mr. Rossi said we do need to come to a decision and have a firm policy before the beginning of next season.

Mr. Rossi is sorry that this has caused a lot of tension between the harbor and a lease holder in Menemsha.

Lenny Jason asked what happens in the meantime. Chairman Malkin said the letter from July 14, 2018 stands. Mr. Rossi said he agreed. Mr. Doty said from today on there is plenty of room at the dock to get water. Mr. Doty said if a boat pulls up to the fuel dock now they could be pointed to a place where they can get water. Mr. Poole said but that could be unclear as to where they are being directed. Lenny Jason asked how many boats went away without fuel from fuel dock because there was someone taking on water. Was anyone turned away from getting fuel? Marshall Carroll said none. Lenny Jason said you need to decide who runs the harbor the Harbormaster or a tenant. Marshall Carroll said Lenny Jason as building inspector understands the gravity of regulations and to ignore the Fire Marshall rules could be very dangerous. Referring to Fire Marshall Regulations, Marshall said it's not up to me (Marshall Carroll) to decide what ones to follow and what ones not to follow.

Mr. Parker said the problem with having only fueling at the fuel dock is it's a very tight harbor and you are usually dealing with people who don't know how to operate their sail boat or motor vessel in close spaces. This needs to be taken into account for them to get water.

Andy Goldman Chairman of Park & Recreation Committee said the Park & Rec is supposed to have a meeting possibly next week. The Park & Rec has not formally considered this question that is why he did not want to speak on behalf of the committee earlier. Mr. Goldman said he would be prepared to put this on the agenda for the next meeting. Jane Slater said as a member of Park & Rec. she doesn't think this is an issue to be deferred to the Park & Rec to consider again. If the Selectmen have asked for a lessee to do something they have to do it. Ms. Slater said she could imagine a lease holder writing a letter asking for the Park & Rec to consider a request but that has not happened.

Chairman Malkin asked for any further comment that has not been heard. Jonathan Mayhew said the Commercial Dock is for commercial fishermen not for sail boats or powers boats to come in and get water. Mr. Rossi said considering it hasn't interfered with Marshall selling fuel. The one thing that is muddying his decision is the Fire Marshall regulations. In terms of Harbor Policy the Harbor should be able to water boats as long as it's not interfering with his (Marshall Carroll's) commerce on the dock.

Diane Smith said it appears that we have contacted the Fire Marshall and heard that they overlook this issue in the smaller harbors like ours but Marshall could hear this if he contacted the Fire Marshall. Chairman Malkin said he believed that public comments

are complete at this time and asked his colleagues to consider what has been discussed. Chairman Malkin read the direction from the notice of July 14, 2018:

1. The Harbormaster is in charge of the Harbor. His word (and that of his deputies) is not disputable.

Fuel Dock - Discussion Continued...

2. Menemsha Texaco, in conducting its business on the Town's dock, is required to allow the use of the Town's dock for non-commercial purposes such as touch and go, taking on water, pump out, etc.

3. The Harbormaster will use his good judgement and where practicable will communicate with Menemsha Texaco regarding any instructions or permissions he has given that involve usage of the Town's dock.

Mr. Rossi asked Harbormaster Jason if he assigns a wharfinger to go onto the dock to observe the taking on water. Harbormaster Jason said its right beside the shack and we can watch from there. Marshall Carroll asked that if the Harbormaster decides to direct a boat to the fuel dock to have them contact the fuel attendant to let them know. Chairman Malkin said that is addressed in item 3. Of the notice sent July 14, 2018.

Selectmen adopted items 1-3 in the notice from July 14, 2018 (as listed above).

Joint Meeting of Planning Board & Selectmen -Elect Planning Board Member -Continued:

Chairman Malkin thanked Mitchel Posin for coming in to elect a new member to the Chilmark Planning Board. Mr. Doty moved to have Selectmen vote affirmative to elect Cathy Thompson to the Chilmark Planning Board and asked for the Planning Board to make a similar motion.

Mr. Rossi seconded the motion. **SO VOTED: 3 Ayes**

Rich Osnoss chairman of the Planning Board opened nominations. Mr. Osnoss nominated Cathy Thompson to replace the position vacated by Joan malkin on the Planning Board. Janet Weidner said that position is till April and can be then elected through Town Elections. Janet Weidner seconded the motion. **SO VOTED: 4 Ayes 2 absent John Eisner, Chris MacLeod , 1 position vacant**

Cathy Thompson said it is with great humility that she thanks all for the opportunity to serve our town once again on the Planning Board.

Selectmen thanked Cathy Thompson for her commitment.

Division of Marine Fisheries Saltwater Access Grants:

Mr. Carroll said this grant is a program to improve recreational fishing access. Mr. Doty asked if any funds could apply to improve our access at Hariph's Creek landing. Mr. Carroll said he sent this to the Harbormaster and to you (Selectmen) and our Conservation Officer and asked if there were suggestions for the Selectmen to consider. Mr. Rossi recommended improvement to the parking lot at Hariph's Creek landing. Mr. Carroll said the maximum from DMF is \$15,000.00. Mr. Rossi said he would make a call about this.

Sustainable Materials Recovery Award:

Mr. Carroll said this is the first time all of the island towns have qualified to receive this from the DEP. Mr. Carroll said they are pleased with our; reduce, reuse, recycle practices and are encouraging us to continue with these award funds. _

Evaluation of Building Inspector:

Mr. Carroll said this is due and the Chairman of Selectmen is responsible for this.

Appoint Chilmark Representative to All Island School Committee - Rob Hannemann:

Mr. Doty moved to appoint Rob Hannemann as our Chilmark representative on the All Island School Committee's Negotiation Committee. Mr. Rossi seconded the motion.

SO VOTED: 3 Ayes

What if eating bananas (marijuana) lowered your IQ - possible vote support letter:

Chairman Malkin said he sent an email to Planning Board Chairman Rich Osnoss asking in light of Commonwealths legislation on marijuana what if anything does the Planning Board suggest the Town of Chilmark do. Mr. Doty said the Chilmark voters overwhelmingly voted yes to legalizing marijuana.

Mr. Doty moved to endorse this letter about marijuana awareness and education. Mr. Rossi seconded the motion. **SO VOTED: 3 Ayes**

MV Community Services (MVCS) - Proclaim National Suicide Prevention Week:

Mr. Doty said if this is a recommendation from the MVCS he supports it completely.

Mr. Rossi moved to support this proclamation that the week of September 9 - 15th is suicide prevention week. Mr. Doty seconded the motion. **SO VOTED: 3 Ayes**

Special Town Meeting - Schedule:

Mr. Carroll talked about the process to get to the recommendation of November 19, 2018 for the Special Town Meeting date.

Mr. Doty moved to approve and post the November 19, 2018 date to hold the Chilmark Special Town Meeting. Mr. Rossi seconded the motion. **SO VOTED: 3 Ayes**

Annual Town Meeting & Budget Hearing & Selectmen's January Schedules:

Mr. Carroll said he has heard back from the FinCom and they are all set with proposed hearing schedule. Mr. Carroll pointed out that the first Tuesday in January is a Holiday. Mr. Carroll proposed to schedule Selectmen's meetings on Tuesday January 8th and January 22nd. Selectmen agreed to that change. Mr. Carroll said Annual Town Meeting would be April 22, 2019.

Mr. Doty moved to adopt the schedules as discussed and presented tonight by the Town Administrator. Mr. Rossi seconded the motion. **SO VOTED: 3 Ayes**

Veteran's Day to be observed by closing Town Hall Monday Nov 12:

Mr. Rossi moved to have Town Hall closed on Monday November 12, 2018 in observance of Veterans Day. Mr. Doty seconded the motion. **SO VOTED: 3 Ayes**

Massachusetts Certified Public Purchasing Official class completion on Real Estate:

Mr. Doty thanked Tim Carroll for completing this certification on behalf of the town.

Police - cruiser engine failure - installing used engine for \$4,000:

Police Chief Klarèn described the failed engine report. Chief Klarèn said that he is having the engine replaced to have an operational vehicle. Chief Klarèn said he will be utilizing funds in maintenance budget line. Selectmen supported chief Klarèn plan.

Fire Department - vote to approve Fire Chief's contract:

Chairman Malkin asked if Mr. Rossi and Mr. Doty had fully reviewed the Fire Chief Contract. Selectmen all confirmed they had fully reviewed the Fire Chief contract. Mr. Doty moved to approve the Fire Chief Contract as it has been presented here. Mr. Rossi seconded the motion.

SO VOTED: 3 Ayes

Chairman Malkin asked if there were any further items for discussion. Mr. Carroll said there is a request for an extension of permission granted previously by Selectmen for a Volvo commercial. Mr. Carroll said he forwarded these requests to the Selectmen and Police Chief. Mr. Rossi said these dates should not be a problem concerning this request. Mr. Doty moved to grant permission at Squibnocket but not Lucy Vincent Beach. Mr. Rossi seconded the motion.

SO VOTED: 3 Ayes

At 6:13 PM with no further items for discussion Mr. Doty moved to adjourn. Mr. Rossi seconded the motion. **SO VOTED: 3 Ayes**

Minutes respectfully submitted by Diana DeBlase. **Approved 09/18/18**

Document list:

- Draft selectmen meeting minutes from 02/23/2018 & 08/21/2018
- Advertisement seeking Chilmark voter interested to fill vacated Planning Board seat
- Letter from Cathy Thompson requesting opportunity to serve on Planning Board Committee
- July 14, 2018 document pertaining to Town Owned Fuel dock titled Board of Selectmen Harbor Expectations
- Emails pertaining to Fuel Doc rules from 8/22/2018-8/25/ 2018
- Documents supplied by Marshall Carroll of Marine Fueling Permit and certificates for running fueling in Menemsha with emails between Marshall and Andy Goldman . 42.9.4.9 fueling regulations and Chilmark Waterways Rule & Regulations 2008 indicating fresh water location in Chilmark
- Division of Marine Fisheries notice of grant available for improving access for recreational fishing up to \$15,000
- DEP grant award to Chilmark for Recycling Dividends Program of \$2,800.00
- Letter from Superintendent of Schools requesting appointing a Chilmark representative to the All Island School Committee negotiating committee
- Marijuana awareness letter drafted with the County of Dukes County titled what if eating bananas lowered your IQ

- MVCS request to adopt suicide prevention week September 9th -15th
- Draft Special Town Meeting schedule
- 2019 Annual Town Meeting schedule
- FY2020 Budget Hearings Schedule
- MCPPO letter certifying completion of Real Property Transactions course by Tim Carroll
- Tim Carroll's MCPPO certificate
- Cape Light Compact Energy Efficiency Report for June 2018
- Notice from Insurance Services Office Inc concerning Building Code Effectiveness Grading Schedule for Chilmark
- Martha's Vineyard Schools calendar 2018-1019
- Agenda posting for All Island School Committee Meeting September 6, 2018
- Notice for Registration for MMA Selectmen's Association meeting September 25, 2018
- Invitation to Statewide Municipal Partnership Conference September 24, 2018