

Special Selectmen's Meeting
November 2, 2015
Approved December 3, 2015

Selectmen present: Richard A. Daniel, Chair; Elinor Multer and Kevin E. Johnson

Staff present: Kristi Eiane, Town Administrator and Terri Sawyer, Deputy Town Administrator

Executive Session

Chairman Daniel called the meeting to order at approximately 6:00pm and moved to enter executive session for consultation with the Town Attorney pursuant to 1 M.R.S.A. § 405 (6) (e) regarding a Town property matter.

At approximately 6:45pm, the Board returned to open session and recessed until 7:00pm for a hearing regarding a mooring matter.

7:00 P.M. Hearing

Present: Richard A. Daniel, Chairman, Elinor Multer and Kevin Johnson

Others Present: Town Attorney Amy Tchao, Town Administrator Kristi Eiane, Harbormaster Jim Hays and Jamie Crosman, appellant

Chairman Daniel opened the hearing at approximately 7:00pm. [The hearing was held at the request of Mr. Crosman who is appealing the decision of the Harbor and Waterfront Committee which found him out of compliance with the Town's Harbor and Waterfront Ordinance.]

Mr. Crosman indicated that he took into consideration the Harbormaster's concerns about his access points, particularly the Rakovan access point. He said he now has another feasible access point with stairs unlike the Rakovan property with rock stairs. The property is at 179 Ash Point Road and the property owner is Richard Conniff. Mr. Crosman stated that he had to have a commercial mooring in a safe place to run his business.

Selectman Multer: *Do you intend to access your boat from this property?*

Mr. Crosman: *Yes.* Mr. Crosman indicated that he leaves his boat in year-round, and has had it in its current location for over 17 years.

Selectman Multer: *Are you going to stop using the Town Wharf?*

Mr. Crosman: *I will use it here and there. It is a Town Dock.* Mr. Crosman stated that he would not be bringing lobsters up over the Town Dock any more. For the winter, he will use the new access point [179 Ash Point Road].

Chairman Daniel: *Will this new access point be year-round?*

Mr. Crosman: *I think so.*

Harbormaster: *I have been dealing with this situation since April.* The Harbormaster then explained that Mr. Crosman has a new point of access if it's within ½ mile. The Harbormaster noted that Mr. Crosman had put on his mooring application that the Town Dock was his point of access. Then he changed the point of access on his application [listing the Rakovan property], but he didn't use it. The Harbor and Waterfront Committee agreed that if the point of access one uses is more than a ½ mile from your mooring, it is a violation of the ordinance. The Harbormaster stated that he has not investigated this new point of access, but has seen Mr. Crosman using the Town Dock as his point of access.

Selectman Johnson: *Will you do a site visit?*

Harbormaster: *Yes.* The Harbormaster noted Mr. Crosman may still have icing problems.

Mr. Crosman: Mr. Crosman responded that the location is a few houses down from Ash Cove, and it doesn't ice in and would give him direct access to his boat.

Selectman Multer: *You are not entitled to go back to the Town Dock if this doesn't work out.*

Mr. Crosman: *I am trying to hold on to this mooring spot and trying to follow the guidelines. I am being put on the spot.*

Chairman Daniel: *Do we let the Harbormaster check out the new point of access?*

Selectman Multer: *Mr. Crosman should re-submit with the new point of access. It then falls to the Harbormaster to see if it's within ½ mile and if he [Mr. Crosman] uses it.*

Mr. Crosman: *I may have a new [different] access in May. If you are trying to change my access point, it doesn't say I have to use it every time.*

Selectman Multer: *It would be making a mockery of the ordinance if you don't use the point of access.*

Mr. Crosman: *Who is to say that I have to use it every time?*

Chairman Daniel: *As a general point, it should be used primarily.*

Attorney Tchao: *Procedurally, this is a de novo appeal. You are looking at it fresh and taking new evidence.* Attorney Tchao explained that Mr. Crosman has indicated he has a new point of access. She advised that if it is customary for the Harbormaster to check this out, then the Board could table, and may or may not have to re-convene depending upon the findings of the Harbormaster. If the Harbormaster's finding is negative, the Board could continue the hearing at a mutually convenient time.

Selectman Multer: *How much does he have to use it [point of access] if not defined in the ordinance?*

Attorney Tchao: *You are the body to define/interpret the ordinance.* She noted that it is up to the Board to determine what is meant and what level of tolerance there should be.

Selectman Johnson: *I take his word.*

Harbormaster: *I verify the point of access when they fill out the application.* The Harbormaster further explained that the mooring has to be ½ mile or less from the point of access that is being used, and noted that Mr. Crosman has been using the Town Dock. With the new point of access that has come to light, the Harbormaster noted that it remains to be seen if Mr. Crosman will use the new point of access daily as his primary point of access.

Chairman Daniel: *The skiff has been a problem at the Town Dock.*

Selectman Multer: *Whether the boat [skiff] fits at the Town Dock is a different question.*

Chairman Daniel: *It does affect how often he uses the Town Dock as access.*

Mr. Crosman: *We have a different skiff that fits. My larger skiff will be at the new point of access and smaller will stay for my son. I apologize for use of the Town Dock. I've been pushed from where I belong. I am bound and determined to come up with legal access that satisfies the Harbormaster. I have a year-round commercial fishing business.*

Chairman Daniel: *I move to table pending the Harbormaster's review of property at 179 Ash Point Road and the Harbormaster reporting back to the Town Administrator by November 12, and if we need there will be a continuation.*

Selectman Johnson: *I second that.*

The motion carried 3-0.

The meeting adjourned at 7:44pm.

Respectfully submitted,

Kristi Eiane
Town Administrator