

Special Meeting of the Harbor and Waterfront Committee

Minutes of September 15, 2015

Members present: Burr Taylor, Chairman; Jack Dostie and Jane Jukes

Staff present: Jim Hays, Harbormaster; Kristi Eiane, Town Administrator; Amy Tchao, Town Attorney

Others present: Chris Tucker, Jack Tucker, Donald Tucker and Rick Campbell

Chairman Taylor called the meeting to order at 7:00pm and declared the public hearing open.

The Town Attorney reviewed hearing procedures and explained that the purpose of the hearing is to ensure that due process is afforded the appellant, Mr. Jamie Crosman.

The issue came to the Committee as a result of the Harbormaster sending a letter to Mr. Crosman notifying him that he was in violation of the Town's Harbor and Waterfront Ordinance. The letter, dated August 12, was hand-delivered to Mr. Crosman by the Harbormaster. Mr. Crosman then notified the Town that he wished to appeal the Harbormaster's decision. It was explained that a decision made by the Harbormaster is appealable to the Harbor and Waterfront Committee. The Town Attorney noted that Mr. Crosman has the burden of proof.

Since Mr. Crosman was not present at the start of the hearing, the Town Attorney instructed the Harbormaster to begin his presentation. The Harbormaster explained that this situation has to do with a mooring being too far from the required point of access. The Harbormaster approved the application with the understanding that the mooring had to be within ½ mile of Mr. Crosman's point of access. The initial application had the Town Dock at Pott's Point named as the point of access. Mr. Crosman subsequently provided the Harbormaster with a letter from a property owner (Mr. Rakovan), whose property is closer to Ash Cove, giving Mr. Crosman permission to cross Mr. Rakovan's property. However, the Harbormaster noted that Mr. Crosman continually used the Town Dock as his access point and the Harbormaster also stated that the alternate access point was not a viable one in his opinion. The Committee was provided with a packet of documents from the Harbormaster containing the following: 1. New Mooring Application of April 17, 2015; 2. Permission to Use Property for Access; 3. Map of Ash Cove Mooring Field; 4. Map Showing Distance from Crosman Mooring to Town Dock Point of Access; 5. Letter of August 12, 2015 from Harbormaster to Mr. Crosman and 6. Section 5.2.1., Assignment of Mooring Space, from the Harbor and Waterfront Ordinance.

The Harbormaster reviewed the map depicting Mr. Crosman's mooring as being 3,507 feet from his point of access at the Town Dock.

Committee member Dostie noted that there was a Crosman mooring shown in the Town Dock Mooring field. The Harbormaster indicated that Mr. Crosman has two moorings in that mooring

field—one for a dinghy and one for float. The Harbormaster noted that many people have contacted him about Mr. Crosman using the Town Dock as his point of access to the Ash Cove mooring. Committee member Jukes asked how a point of access is determined. The Harbormaster responded that the applicant selects an access point—it can be a public access point or private access point, from one's own property or from another private property with the owner's permission. The Harbormaster reviews it as part of the approval process. Chairman Taylor asked if an applicant has to use the point of access. The Harbormaster indicated it should be used and noted that he did not believe it was practical for Mr. Crosman to use the Rakovan property. The Harbormaster expressed that he has never seen Mr. Crosman use this new point of access, and that Mr. Crosman continues to use the Town Dock.

At approximately 7:20pm the appellant, Mr. Crosman, arrived. Mr. Crosman stated he did not have much prepared, and he did not understand what the big deal was. Mr. Crosman indicated that he owned the mooring and has an access point within a ½ mile. Since Ash Cove Lobster was not going to register the mooring as it had done previously, he took the initiative and registered it. The mooring is important to him in this location because it is less affected by wind and ice. He stated he needed this mooring and has had it for 17 years.

Chairman Taylor asked if Mr. Crosman ever used the Rakovan property. Mr. Crosman replied that he had not at this point. In winter, when the float is taken up at the Town Landing, Mr. Crosman explained that he climbs down the embankment at the Town Landing and takes his skiff from the shore over to Ash Cove. Mr. Crosman reiterated that he did not know what this was all about, and that the issue is deeper than just this mooring location, and that they [Ash Cove Lobster] have not abolished him legally from the company.

Chairman Taylor indicated that the issue of his relationship with Ash Cove Lobster is not one the Committee needs to consider. Chairman Taylor summarized the issue as follows: Mr. Crosman put on his application an access point within ½ mile of his mooring that he does not use.

Committee member Dostie indicated that the point of access should be for continued use not just once. Committee member Dostie indicated that it is the access point that is in question. Mr. Crosman stated he would use the Rakovan access point then. Committee member Dostie stated that was problematic as Mr. Crosman hasn't used the access point he said he would.

Mr. Crosman stated he had to have this mooring. He needed it to protect his boat from ice. Again, he questioned why he was before the Committee. Committee member Dostie indicated that the dispute involves the access point.

Members of Ash Cove Lobster (ACL) who were present indicated they were there as a concerned party and to answer any questions asked of ACL.

The Harbormaster was asked to summarize his earlier presentation as Mr. Crosman arrived late. The Harbormaster explained that he sent the letter because Mr. Crosman's mooring was not

within ½ mile of his access point, and while he provided a second access point, the reality is that Mr. Crosman is using the Town Dock and the other access point is not practical.

The Harbormaster mentioned that Mr. Crosman claims he is still a part owner of Ash Cove Lobster, however, Chairman Taylor indicated that this does not relate to the issue at hand. The Harbormaster further expressed that for Mr. Crosman's operation, it is not practical for him to go over the Rakovan property as it is difficult terrain. Chairman Taylor asked if the Rakovan property would be better for winter access. Mr. Crosman stated that both of his accesses were terrible in the winter time, and that his concern is for his safety and that of his fishing vessel.

Committee member Jukes asked if there are any other alternatives. Mr. Crosman replied not at this time. At 7:42pm, the public hearing was closed.

Committee member Dostie: The mooring that is there [in Ash Cove]—the Town requires that it be accessed within ½ mile and that is not happening here. The Rakovan property is not truly his access point. The Town Dock has become his access point and that is more than ½ mile and not allowed by the ordinance.

Committee member Jukes: There is non-compliance with the rules and regulations of what the Harbormaster is attempting to enforce.

Chairman Taylor: The [Rakovan] point of access is not being used. And while there may be a difference of opinion about the usability of the alternate access point, it is not an access point, because it is not being used as one. The Town Dock access point is more than 900 feet too far away from Mr. Crosman's mooring.

The Town Attorney asked the Committee to outline the relevant facts. The Committee noted the following: Rakovan property is not a point of access because it has not been used; with regard to the impracticality of the Rakovan access point, the Committee is relying on the Harbormaster's opinion that it is across a deck and down an embankment making its use difficult and impractical; evidence presented shows that the Town Dock is being used by Mr. Crosman as his point of access. The relief being asked by the Harbormaster is that the mooring be removed and relocated within ½ mile of its access point. The Committee noted that the relevant sections of the Ordinance are 5.2.1. which requires a mooring to be within ½ mile of its access point and 4.16 the definition of point of access which is "an upland area in Harpswell from which access to the water is achieved."

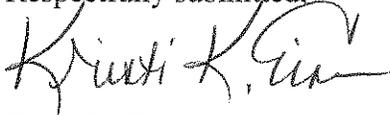
Committee member Dostie moved that the appellant is non-compliant with the current Town Ordinance and should have to become compliant. The motion was seconded by Committee member Jukes and passed 3-0.

The Town Attorney stated that the appeal had been denied and that Mr. Crosman had 30 days to submit an appeal to the Selectmen.

The Committee recessed at 7:59pm, while the Town Attorney prepared the Notice of Decision based on the Committee's deliberations. At 8:08pm, the Committee came back from its recess. The Notice of Decision was read aloud after which Chairman Taylor moved it acceptance. The motion was seconded by Committee member Dostie and passed 3-0.

The meeting was adjourned by unanimous consent at 8:13 pm.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kristi K. Eiane". The signature is written in black ink and is positioned above the printed name.

Kristi K. Eiane
Town Administrator