

MINUTES

Board of Selectmen

with Board of Selectmen from Orleans

Regular Session -

Monday, July 9, 2012 - 5:00 p.m.

'12 SEP 7 10:24AM

C. May

ORLEANS TOWN CLERK

Location: Earle Mountain Room

Present - Town of Eastham

Selectman Aimee J. Eckman, Chair; Selectman John F. Knight, Vice-Chair;
Selectman Wallace F. Adams, Clerk ; Selectman Linda S. Burt and
Selectman Martin F. McDonald

Town Administrator Sheila Vanderhoef
Assistant Town Administrator Nan Balmer

Present - Town of Orleans

Selectman Jon Fuller, Chair; Selectman David Dunford, Vice-Chair;
Selectman Susan Christie, Clerk; Selectman Sims McGrath
and Selectman John Hodgson

Town Administrator John Kelly

Selectman Eckman, Chair, called the meeting to order for the Town of Eastham Selectmen at 5:00 p.m.

Selectman Jon Fuller, Chair, called the meeting to order for the Town of Orleans Selectmen at 5:01 p.m.

Selectman Eckman said that the first item on the Agenda would be the Reclassification of Rock Harbor and called on Jane Crowley, Health Agent to introduce the presentation by Mike Dominica, Consultant, Cape Cod Water Protection Collaborative.

Jane Crowley, Health Agent, noted that Mike Dominica will be giving a power point presentation related to options at Rock Harbor Creek - Water Quality Management Requirements. He is helping us look at options and alternatives related to Rock Harbor. Additionally, Mr. Nate Weeks, GHD, Inc., Consultant, is present to answer questions related to their review of the Draft Nauset Estuary Technical Report. She said they are both here in a continuing effort to offer an opportunity for the exchange of ideas related to these important issues facing the two towns.

Mike Dominica then presented a power point presentation entitled "Rock Harbor Creek - Water Quality Management Requirements." Mr. Dominica said that he also offers tech support to towns regarding Waste Water Management funded by the Cape Cod Water Protection Collaborative.

Mr. Dominica gave a short history related to water quality standards and expectations. He said that Rock Harbor was designated as "fishable and swimmable" under the 1972 Clean Water Act. Under this act, any

cause of non-attainment had to be stipulated via a use attainment study, with a resulting plan for remediation of any pollutant. In the 1970's Rock Harbor was classified as Class A - Saline Water - with the highest use of marine water (i.e., fish habitat; primary and secondary contact recreation and shellfish harvesting without depuration). However, existing use is not consistent with that designation and proposed TMDLs are very stringent.

Mr. Dominica also went over the Massachusetts Environmental Protection (MEP) Study Conclusions, which indicates nitrogen loading; key questions, general water quality standards; water quality standards at Rock Harbor; Management and Regulatory Options, WQS Modification; Issues and Discussion and Next Steps.

Mr. Dominica said that key questions include "Are the Class SA designated uses (shell fishing, swimming) compatible with use of the harbor as a functioning marina/boat basin with an active fishing fleet and recreational sight-seeing charter businesses?; Can class SA limits for oil & grease, turbidity and DO be attained with the present uses of the harbor?; Can infaunal habitat be established and maintained in the estuarine segment with the present uses of the harbor?" Mr. Dominica stated that if the answers to the above are "No", what are the options?

Mr. Dick Clark, Citizen, said that he runs a charter boat business (Flying Mist) for many years from Rock Harbor, and is very concerned with the way it is filling in and sees this as a potential detriment to businesses.

Mr. Dominica listed potential different options and outlined possible WQS Modifications. Mr. Dominica stated that any changes in use would have to go through the EPA who he said is reluctant to change standards. Use change is a "downgrading" according to the EPA and they hold to a very high standard. He thought, however, that it could be done, but said that it is a process that needs to be done correctly. The cost of a Use Attainability Analysis (UAA) could be significant. Mr. Dominica noted that it would be good to get multiple parties to the table to share concerns, ideas and costs.

Mr. Andrew Gottlieb, Water Protection Collaborative Director, said that the state does a bi-annual review of water quality standards, and it would be helpful to piggy back on the next scheduled regulatory revision of water quality standards. The process including the public hearing process would be lengthy, and might take at least a year or more to achieve an outcome. He said that the Water Protection Collaborative would be happy to partner with the Town of Eastham and the Town of Orleans and would be willing to take on the technical responsibility of crafting and designing the regulatory language. He noted that it is appropriate for towns to officially support the on-going activities of the county to convey to the state the importance of an issue like this.

The Boards of Selectmen from the Town of Orleans and the Town of Eastham further discussed concerns and remedial options.

On a motion by Town of Orleans Board of Selectman Jon Fuller, seconded by Selectman John Hodgson, to allow Mr. Andrew Gottlieb, Water Protection Collaborative Director to support and pursue

the Barnstable County Water Protection Collaborative Reclassification of Rock Harbor and Use Attainability Information as presented on behalf of the Town of Orleans, the Board so voted 5-0.

On a motion by Town of Eastham Board of Selectmen McDonald, seconded by Selectman Knight, to allow Mr. Andrew Gottlieb, Water Protection Collaborative Director to support and pursue the Barnstable County Water Protection Collaborative Reclassification of Rock Harbor and Use Attainability Information as presented on behalf of the Town of Eastham, the Board so voted 5-0.

A letter will be sent to Mr. Gottlieb reflecting the aforementioned votes by the Town of Orleans and the Town of Eastham.

Mr. Dick Clark asked where the spoils of dredging will be placed. Selectman Eckman noted that a decision related to this question has not been reached at this time.

Selectman Eckman thanked Mr. Dominica and Mr. Gottlieb for their input and interest in the Town of Eastham.

2. Massachusetts Estuaries Project (MEP) - "Draft Nauset Estuary Technical Report" Review - Nathan C. Weeks, GHD, Inc.

Mr. Weeks, referencing the aforementioned Draft Report, said that he hopes this is just the beginning of discussions related to this matter, and summarized the report which he had just received.

Mr. Weeks said that wastewater (septic systems) are the biggest source of nitrogen load to the estuary; eelgrass has nearly disappeared from the estuary due to too much nitrogen; impaired habitat was "observed with the nutrient-enriched basins of Town Cove, Salt Pond, Mill Pond and Wood Cove."

Mr. Weeks said that all of this points to potential next steps and presents another opportunity for the Towns of Eastham and Orleans to coordinate their efforts as they explore these issues.

Selectman Eckman said that after a further review of this report, it would be desirable to meet again to discuss this as well as concerns related to Rock Harbor.

All matters having been discussed, on a motion by Selectman Fuller, seconded by Selectman Christie, to adjourn at 6:45 p.m., the Orleans Board so voted 5-0.

All matters having been discussed, on a motion by Selectmen McDonald, seconded by Selectman Knight, to adjourn at 6:46 p.m., the Eastham Board so voted 5-0.

Respectfully submitted,

Lorraine Speros

