

Natural Resource Advisory Board
Minutes (approved 3 - 0, January 5, 2004)
December 8, 2003
Town Hall Hearing Room

Present: Doug Franklin, Chair, Lezli Rowell, clerk and John Riehl.
Absent: Glenn Shields and Bill Knittle.

Attending: Rex Peterson - Asst. TA / Planner, Tom Flynn and Bob Paine - Coastal / Pond Access Committee, Ben Gitlow, Andy Koch - Shellfish Constable, Gail Ferguson, Abby Franklin - Cons/Com, Tim Hughes, Helen Miranda Wilson and Mike May - BOS, Steve Tucker - CCC.

Distributed: 11/11/03 Memo to BoS - re: Goals / Policy workshop
12/4/03 Memo to BoH, Cons/Com, Planning Board, Open Space, ZBA - re: HMP update chapters III, Natural Resources and VII, Shoreline Land Use.
.12/7/03 Draft NRAB submittal for the Annual Town Report
Agenda -- items prepared by the Chair.
12/3/03 Memo from Rex Peterson - re: Subdivision of the Sandpit
'Wellfleet Harbor ACEC' publication submitted by Katie Lund, CZM.
'Wellfleet Harbor Conference' sign-in sheet copy for NRAB binder, provided by Abby Franklin.

With a quorum present, the Chair opened the meeting at 7:06 PM. With a minor amendment (striking reference to receipt of FY'05 budget requests) the minutes were moved approved by John Riehl, seconded by Lezli Rowell. With no further discussion the minutes were approved unanimously. The Chair noted posting of next meeting for January 5, 2004, 7 PM at THHR. Doug has invited Health / Conservation Agent Emily Beebe to the January meeting to discuss the status of the 'Estuaries Project' and the ACEC designation as relates to updating the Shoreline chapter. John asked whether there has been any reply to the requests from the Chair to schedule the H/C Agent; the response was no. John encouraged follow up with a phone call to secure the agenda time.

Old Business: The Chair noted attending the BoS 'Goals / Policy Workshop' with audience of 30 - 35 people, and that Selectman Jerry Houk had read the NRAB's submittal into the record. Rex commented that the BoS would review the minutes of the workshop before further discussion. Doug noted receipt of a letter from the BoS congratulating the advisory board for leadership in co-sponsoring the successful 'Wellfleet Harbor Conference'. From the audience, Abby commented that the video will become available at the library, once formatting / editing issues have been resolved. Draft "Annual Town Report" submittal was reviewed by the board and the Chair was encouraged to submit by deadline. There was report of the 12/1/03 meeting to initiate the 'Local Comprehensive Plan' update at the Senior Center with 20-25 in attendance including CCC representatives John Lipman and Stacey Justice. Lezli commented that the mid-day scheduling may have been difficult for the attendance of those working and she hoped future workshops toward the LCP will offer evening or weekend scheduling to capture the broadest possible participation. Doug asked Rex Peterson what the timeframe for the LCP update would be. Rex responded that the BoS will appoint a Local Planning Committee at an upcoming meeting. He did not think it would take 2 - 3 years to update as the existing plan does not need to be rewritten. The Assistant TA provided the NRAB with

a listing of 'Action Plan' items and status of recommendations from the 1995 LCP. Doug noted the timeframe dovetailed nicely with the NRAB's intention to complete update of the HMP for Annual Town Meeting 2005. In discussion an Open Space memo proposing the subdivision of the 'Sandpit' into upland and wetland areas, Doug asked of the origin of the concern to place Conservation Restriction on the undevelopable lowlands. Lezli relayed that it may have been a response to the petitioned article to Town Meeting which sought private opportunity to develop the upland area to then be managed as a lease from the Town.

Doug introduced and welcomed the new Shellfish Constable, Andy Koch, and then invited Asst. TA Rex Peterson and Coastal / Pond Access Committee Chair Tom Flynn to the table as scheduled on agenda for discussion of the progress on the "Public Access Inventory" project conducted by consultant Horsely and Whitton.

Public Access (Shoreline Land Use chapter) - Rex explained the Town's contract with the consultant as essentially two projects, an inventory of all Town owned properties with a subset listing public access points to the Harbor. While he had hoped to get started on this a couple of months ago, it was first necessary to update the base maps to reflect subdivision activities since 1992. The most recent Assessors' series prepared by Slade, Assoc. had to go to the Cape Cod Commission where there were problems with the data base to work out. H & W did not want to start the project until the Town got parcel data sorted and a map with current lot lines produced; the consultant will do the legal research at the Registry to complement the mapping work. The goal is to be able to layer in new data as Land Bank closings or tax-takings add to the Town's holdings to remain an accurate, current tool. The problem has been with various lists held by different departments without a centralized resource. Rex commented that the project should be complete by Spring. Doug asked about the reference in the 1995 LCP to an inventory of Town Landings prepared by Slade Assoc.; Rex responded that this is the appendix of the 1995 HMP listing 58 public landings and holdings. He did not know the origin of the appendix. Lezli responded that it had been the initiative of Etch (Durand Echeverria) to form the Coastal / Pond Access Committee to add the inventory to the HMP.

Tom commented to the advisory committee's current work of cleaning up the appendix, noting that some features inventoried are pond accesses, the marina or Town Beaches, which are categorically distinct from identified "Ways to Water" harbor public access points. He noted the C/P Access Committee assists with disputes as a "pre-adjudiciary body" with the Town Administrator as the final arbitrator. Doug asked if the advisory board works with a budget; Tom responded negatively but did report the 'breakthrough' of securing maps for their work. Tom reported that the C/P Access mandate is to identify, categorize and take action to protect Town landings. The committee has moved along well with the 'identify' task and is using site evaluation sheets, walking the locations and characterizing conditions, describing physical data, toward the 'categorize' task. This process will lead into the recommendations to the BoS toward the 'protection' task. Tom emphasized the preferred semantics of "Ways to the Water" rather than "landings" to avoid the confusion that every site identified will be appropriate for boat trailer launching activities.

Tom anticipated that identified "Ways" will need to be usefully categorized into types of access points, such as foot access only, appropriate for a kayak launch, appropriate to launch a trailered boat, etc. This will take the collection of reasonable data to support the categorical recommendations, to be forwarded to the BoS as the ultimate caretakers of Town holdings. Rex questioned whether there would be recommendations as to vehicle access associated with each "Way" to which Tom noted that statutes protecting public landings were crafted to recognize boat access to land materials but the emphasis of contemporary use is parking near landings to drop off recreational users, moor or launch boats. John noted that May Harbor Management Plan recommendations in the Shoreline chapter had come from the access committee and hoped the NRAB would receive submission of recommendations as well. Doug asked about inventory of Town properties held by the Conservation Commission. Tom commented that the Ernst property [Town Meeting expenditure of Land Bank funds on undevelopable lowlands] has not yet been developed as designated for passive recreation and a public access to the Harbor. Doug noted that the high shoreline real estate values drive the loss of neighborhood dingy storage and launch sites; he asked Tom if the committee might recommend the development of new beaches? (Not, as some mistakenly thought, nude beaches). Tom thought that the NE corner of Indian Neck, purchased for dewatering dredge spoils, might be recommended on the east side, by the Cove, for dingy storage - basically a codification of the use existing. He also noted an area leading toward a conflict out Kendrick Ave. before Currier's, which the Conservation Agent is seeking funding to stabilize.

John asked by what process the consultant would determine Town ownership of parcels leading to the C/P Access recommendations? Rex responded that H & W will prioritize titles by condition, pull out all existing deed research and search the Registry for all titles with the Town as grantor or grantee to examine which properties the Town clearly holds. Tom added the difficulty of the task is in that the Town possesses easements which are attached to separate deeds. Doug noted that the situation described in the 1995 HMP of controversy as private property owners overtake publicly held areas has not abated. Tom agreed, noting that few parcels are actually surveyed, and that coastal land boundaries are subject to change. Lezli asked Rex whether the consultant's research would identify privately held tidelands which have not been severed from contiguous uplands, to which Rex responded that the Ton is only identifying its own holdings. He noted some difficulty arising from misinterpretation of the Colonial Ordinances which hold the public right to fish, fowl and navigate the tidelands by inland owners seeking to trespass over shoreline property to gain access. The statutes protect lateral use along the tidelands. Tom spoke to certain examples where previously identified accesses were trespasses through properties allowed but with changes of ownership became disallowed, or accesses eroded away, or dependent upon roads which were never laid out. In some situations it is up to the neighborhood, not the Town, to work out an access resolution. Examples involving King Philip Road and a fence constructed on Cove Road were discussed.

Doug asked if the 1995 HMP recommendation to develop a landing at Loagy Bay would be considered by the access committee? Tom noted that the area has silted in alot, the shoreline has moved and there is no way to get to the previously proposed landing area; there are several like that. The C/P Access committee would not recommend development of harbor access points in these

circumstances. Tom spoke to the delicacy of certain public landings requiring management that prevents "Coney Island"-like use and conversely, the well-intentioned closures of areas which could be better addressed by improvements. He noted the dilemma of widening roads leading to overuse. Doug asked if the Town had ever or could consider an eminent domain taking to procure a Town Landing? Neither Tom or Rex knew of any. Doug asked about tax title takings of shorefront parcels. Tom commented that this usually occurred where washout rendered land unbuildable.

John spoke to the issue of vehicle access by shellfisherman, asking if the access committee would work out any recommended changes with the Shellfish Advisory Committee. Tom recalled working out previous issues near the Yacht Club with a prior Shellfish Constable - while the town has an access, it is by the steep seawall, not the driveway. Tom clarified that the only 4WD access to the tidelands is granted with Shellfish licenses, by the Constable. Lezli commented that the Harborshore is not as traveled as the CCNS backside beaches through the oversands permit program. Doug noted that Truro allows driving on the bayside beaches between Corn Hill south to the Pamet.

Doug asked about the status of the 1995 HMP recommendation to develop a public landing at the old Fire Station site on Commercial Street. Tom noted encroachment by the abutters septic system, considered it potentially a kayak launch site but presently in a dangerous condition, but not appropriate to trailer launching. He further considered the increased use of parking that would accompany designation as a launch / access point, impacting traffic to a seasonally congested area. Tom noted that any designation for a use would require some physical improvements to the site such as stabilizing the bank. From the audience, Gail Ferguson inquired whether current status of the HMP recommendation for a landing at the old Fire Station site prohibited or prevented one from accessing the harbor there, to which Tom responded that nothing prevents a boater from use of the public site other than dangerous, inaccessible condition. From the audience, Tim Hughes questioned whether a launch site would be recommended on Chipman's Cove, near Silverman's. Tom noted that recommendations are always welcome at the Coastal / Pond Access committee meetings. He hadn't considered the specific location but the committee could review the site if the recommendation is made.

From the audience, Shellfish Constable asked for advice in directing controversial use at Old Pier Road, noting that parking on the left seems okay but parking or vehicular traffic going to the right raises complaints from the upland owners. While he noted that it is not in his jurisdiction he would be "constantly dealing with" due to the "fisherman's mentality of use it or lose it". Tom responded that it can be difficult to tell where the road is as it sands over and there are encroaching plantings. He felt it may be necessary to stake the roadbed out to widen the access. Andy commented that the biggest beef tends to be with driving down the beach and wanted comment about directing vehicles to the right. Tom recalled that the landing was deeded by a previous property owner (who may have secured the right to build the house in the swamp in exchange). He felt conditions are too soft for driving down the right hence the tendency of shellfishermen to go left.

Doug asked rhetorically if it would be a reasonable goal that Wellfleet citizen's should not have to walk more than 10 minutes to reach a neighborhood landing. He noted that as property becomes more and more expensive there will

be increasing pressure on public landings; he felt that it is an integral part of the Wellfleet experience to be able to access the Harbor shore. Tom commented to maintaining small, neighborhood landings as "jewels" with a private feel and little public attention. A NY Times article of last summer which identified several such jewels encouraged increased attention, which may result in greater need to protect areas through restriction. He felt that public access recommendations were likely to focus more on "Ways to the Water" which have been blocked or lost than on creating more. Doug countered with analogy to the urban 'pocket park' approach of preserving limited, neighborhood access points. Tom noted that there is really only Power's Landing and Indian Neck as public accesses to the Harbor (in addition to the marina) in any useful way.

John commented to the dovetailing the harbor Management Plan, updated and brought to Annual Town Meeting 2005 with the updated Local Comprehensive Plan; he questioned when the consultant's work on Town properties and public landings would be complete and ready to hand off to C/P Access and the NRAB? Tom summarized that the access committee has 15 landings agreed upon to be marked by the Town with signage, 12+ site evaluations completed which will have recommendations ready within a few meetings. About half of the Town's inventoried landings will be categorized with use recommendations by Spring, and with the work received from H & W, hopefully the remainder by the end of the year. Tom noted that the C / P Access committee needs to be backed up by the Administration as they have no powers other than ability to make recommendation to the BOS. Doug asked whether some sites might be best managed by recreation? Tom responded that there is already management split between DPW, the Harbormasters' Department, the Beach program and other interests; with the recreation staff already very busy he had never considered this. The issue is more how to dovetail the management of these holdings which fall under the various jurisdictions. Doug asked whether the Town might consider hiring a "steward" or part-time advocate to administer the public lands. Tom responded that the access committee had not addressed creating new positions.

To Tom's comment of advisory board's depending upon "back up" Lezli noted that the NRAB should receive the Coastal / Pond Access committee's inventory and recommendations as submitted to the BOS, to be entered into the Harbor Management Plan chapter on Shoreline Land Uses, lending advocacy and support for the endeavor. Doug asked if the eventual recommendations might be "zoning" of use classifications, to which Tom responded that the product of the access committee's work will be usable categories without being overly narrow. To modify Lezli's suggestion, John recommended that the NRAB and C/P Access committee reconvene next September, post consultant work, to consider, critique and evaluate the committee's progress, raise any issues of management, and then consider incorporating the inventory and use recommendations into the HMP. Tom concurred, noting that many of the 1995 HMP recommendations are still his committee's work in progress. From the audience Helen Wilson cautioned letting things fall between the cracks using categories to frame recommendations; she emphasized reviewing whether public accesses are reachable by public ways, noting the difficulty with certain examples where public landings are isolated by private roads or properties. In such instances she noted that while boats can still make use from the water of a public landing there is controversy when the public cannot reach the landing by car. From the audience Ben Gitlow gave an example of a Town public landing

physically blocked by telephone poles installed by Audubon to restrict a beach access needed by shellfisherman. Andy Koch noted using the same area to fish for stripers. Tom had also received complaints about the blocked access of the Town's causeway. In conclusion, John moved that the NRAB go on the record in support of the Coastal / Pond Access committee's ongoing work to identify, categorize, protect and recommend use and maintenance of Wellfleet's public "Ways to the Water" for the harborshore. Lezli seconded. The motion was accepted unanimously.

Doug asked Asst. TA Rex Pterson to comment about the GIS work by Brett Still. Rex responded that the maps were produced by a NOAA grant for the "Wellfleet Harbor Map Project" described as establishing GPS location of natural and manmade features overlaid on aerial photographs. Doug asked if Mr. Still would be back to further the project to which Rex responded that the funds are spent with the Town's contribution being the computer storing the information. He felt GIS survey could continue in this way without Brett. Doug asked who could shoot the coordinates for the Town in continuing data collection. Tom Flynn noted that the C / P Access committee site evaluation forms include GPS coordinates. Doug hoped such data could be added to the Town's information storage, to which Rex responded that as many layers of data as the Town wishes may be added.

Doug asked Rex for comment about the Town's involvement with the State Estuaries Project. Rex noted that the Conservation Agent continues a water sampling schedule for the project while seeking grant moneys to fund the Town's contribution. He noted the need for three years sampling data. John reiterated the NRAB's desire to have information from Emily Beebe regarding the Estuaries Project with more detail at the January, 2004 meeting. Rix commented that the Conservation Agent is also interested in finding funding for a 'Sand Migration Study' utilizing historical and current aerial photography for baseline trends to compare impacts of coastal armoring. John commented that he thought Jim O'Connell of WHOI spoke of a similar project with Erik Mitchell. Rex responded that the referenced study covered erosional trends. Doug asked Rex about procuring State mapping records of historical eelgrass distribution as available through CZM or NOAA; Rex responded that Brett Still had accessed all sets of available data through various department records without field verification - he didn't know of any eelgrass documentation.

John commented how difficult it is to access the 'Wellfleet Harbor Mapping Project' data and information on the home computer; he questioned whether the Town's storage computer will be an available terminal for users such as the C / P Access committee and the NRAB? Doug noted that it took the expertise and assistance of CCNS' Mark Adams to print the maps in format. Rex responded that he would be happy to help the advisory boards access information but he doesn't have experience printing this scale. He responded to John's question by recommending the ARC-view program allowing review, but not amendment of, the data stored in MASS GIS. John commented that there may be eelgrass data on Brett Still's software but it is difficult to view.

Doug asked the Asst.TA if there are any new proposals before the Planning Board for zoning bylaw amendment that may affect the HMP. Rex responded that the board is considering whether or not to control residential development and redevelopment. From the audience, Planning Board member Ben Gitlow spoke to

the two huge developments impacting any Harbor Management Plan recommendations: any decision by the Town to provide consumers with public water supply in the Central District, and if so, a community decision of whether or not to maintain strict controls on intensity of use and types of uses. At present, there has not been a presentation of the alternatives to the Planning Board. Ben noted the current policy of "no new connections" but commented that the water main sizing and branch points lend to "availability" of water supply. Water Commissioners Chair Helen Wilson commented that the Planning Board can not address the Central District sensibly until there is a decision regarding the service / availability of public water, as there is no feasibility in developing or redeveloping the area without centralized water.

Doug asked Ben if he could comment to the failing to implement the 1995 HMP recommendation to designate the downtown an 'Historic District'. Ben recalled that the recommendation had come from Helen Purcell of the Wellfleet Historical Society but that the Town was ambivalent about it. Many considered the restrictions on design and configuration of structures too cumbersome. The Planning Board and Historical Commission held public hearings but did not find any support for advancing the recommendation.

John asked Rex how the Town could proceed with mapping the historic and present salt marsh range to document areas of species growth or decrease - by what process could the advisory board reasonably answer questions of spartina distribution? Rex had no particular answer for the Town to proceed but recommended contact with SMASS or URI for support; he contended that there is no staff time to devote to that issue[as there is for erosion, sand migration and marine water sampling]. John asked where historical data may exist. Rex recommended contacting Jim O'Connell of WHOI for data. Lezli commented that the advisory board could extrapolate from 'ballpark' data rather than requiring salt marsh extent calculated to the accuracy of square footage. Ben Gitlow noted the trend of increasing salt marsh in Blackfish Creek as the area is silting in, becoming more shallow where there used to be a boatyard where Rt. 6 is now. He suggested consulting the anecdotal observations of citizens and putting the question to Graham Giese to get a handle on the rate of landward salt marsh migration.

Doug asked whether there are any plans to expand Planning into a department to coordinate all the ongoing management and policy plans and studies to which Rex responded negatively; he commented that the Suffolk program is always looking to place interns, but that requires staff supervision. Doug asked whether Rex considered the Harbor so important as to recommend two part-time, \$25,000 / year positions to meet these needs. Rex handed out a 1998 vetting of 'Action Steps' noting the status of various 1995 HMP and LCP recommendations, possibly prepared at the time by Dale Donovan. The board thanked him for this publication, and his time.

Doug noted that the agenda includes kicking off the Marina / Dredging chapter and asked whether any members or the public had comments or concerns ready for this section. There were no comments. He informed the board that the letters to board and committees requesting input to the HMP update had just gone before the weekend through the Town Administrator, and felt that some written responses will contribute to the ongoing discussions of the Natural Resources

and Shoreline chapters. Discussion regarding upcoming meeting schedules and agenda topics ensued, with the result being a consensus for:

January 5, 2004 - Consultation w/ H&C Agent, ACEC and Estuaries projects, Water Quality sampling and HMP chapter.

February 2, 2004 - Intertidal Land Use chapter w/ Shellfish Constable and Chair of SAC, any comments from the shellfishing community.

March 1, 2004 - continuing Natural Resource, Shoreline and Intertidal chapters.

April 12, 2004 (tentative date) - continuing Marina / Dredging chapter.

May (date TBA) - Economy of Wellfleet Harbor chapter, cont. Marina chapter.

June and July (dates TBA) - Water Quality chapter.

It was reported by the Shellfish Constable that the Shellfish Advisory Committee has been working on the update of the Shellfish Management Plan, working from a 1999 document. Doug noted that NRAB concerns in the Intertidal chapter may be broader and that the SAC plan will address details not necessary for the NRAB to get into but that the advisory boards have mutual considerations.

Lezli asked the Chair to also direct memos to the specific Chairs of boards and committees when seeking chapter input, in addition to disseminating through the TA. As example she noted that the September memo giving fall meeting dates and agenda topics had never been received by the Board of Health. Doug agreed to "wallpaper" with his requests. The board thanked Abby Franklin for providing wonderful cookies!

John moved adjournment of the meeting at 9 PM, seconded by Lezli and voted unanimously.

Respectfully submitted,



Lezli Rowell