

Present: Warren Doty, Frank Fenner, Riggs Parker, Tim Carroll, Jonathan Revere, Andy Goldman, Rick Karney, Rodney Bunker, Jill Hobby Napior, Jonathan Mayhew, Scott McDowell, Elise Elliston, Robert Elliston, Jeff Lynch, Julia Rappaport, Thomas Bena, Alexis Russillo, David Norton, Don Sexton, Isaiah Scheffer, Brian Cioffi, Dennis Jason, John Armstrong, Jonathan Revere, Dennis daRosa, Will Parry, Tom Osmer, and two people that did not sign in.

Meeting called to order at 7:32 PM in the Selectmen's Meeting Room.

#### Waterways Rules and Regulations – Public Hearing

Mr. Doty opened the public hearing. Mr. Fenner read a summary prepared by Town Counsel. *“PROVISIONAL MODIFICATION TO THE APPLICATION DEADLINES IN THE TOWN OF CHILMARK WATERWAYS RULES AND REGULATIONS (November 7, 2005)”*. *The Board has determined that a one year, temporary modification of the application deadlines contained in the Town's Waterways Rules and Regulations is necessary for the fair and equitable renewal of existing mooring permits and for the fair and equitable assignment from the waiting list for use of new or vacant moorings. There has been an unusually high number of either of un-received or late applications for permits and requests for renewal of waiting list status this year, and the Board is concerned whether all eligible applicants received sufficient notice. In order to provide more time for the Town to complete a comprehensive review of its permitting processes and to ensure a fair procedure for the calendar year 2008, the provisional modification is necessary.”*

Mr. Doty said that this hearing was to address for one year to extend the deadline to February 15<sup>th</sup> 2008. Scott McDowell asked why. Mr. Fenner said that 67 people are affected and explained how the future regulations would change this. Mr. Parker said that was the subject of a future public hearing and asked to focus on tonight's agenda item. Mr. Doty called for public comments.

Mr. Elliston asked which lists were being considered for the one month extension. Mr. Fenner said all lists. Jonathan Mayhew read a letter from Spider Andresen.

“Dear Selectmen: I am sorry that I could not be present tonight, but I hope that my thoughts on this evenings hearing may be read into the record.

First I have to state that I attended the meeting last summer on this same issue. When I left that meeting it was my understanding, and the understanding of others, that a 30 days grace period for harbor renewal application had been voted on, and passed by a 2 to 1 vote of the selectmen.

I believe that the majority of the people at that meeting agreed and hoped that Chilmark Town Government could be a little kinder and a little gentler. We hope that as we watch Chilmark turn into suburbia we can step back once and awhile and remember who we are and perhaps be more tolerant of our own humanity. Every now and then our lives get hectic and we are late with a payment. When we miss a mortgage payment deadline, the bank does not come to take our house away. When we are late with a car payment GMAC does not come tow our cars away. There are laws against treating people that way; this is not that complicated. It is called common sense and common decency.

I would urge the Selectmen in the strongest way possible to remember this is still Chilmark and we can treat our neighbors more kindly. Please change the current harbor regulations to include a 30 day grace period between January 15th and February 15th for people to submit their renewal harbor applications.

If clerical personnel to notify contracts holder of their tardiness is a major issue, I will volunteer my time to take care of notifying those contract holders that they are late.

Sincerely, Spider Andresen

Dennis Jason said he did not remember such a vote last summer. Scott McDowell said that it was a great idea.

Dennis Jason referenced a memo he had sent the Selectmen this afternoon. He said 6-8% of people didn't respond. He said the trouble was that the Selectmen had decided to fix something that wasn't broken. He said he could work with this one time change, but that he doesn't want it to drag out until spring. Mr. Fenner

asked that with the Harbor Department's support, if we could get this resolved. Mr. Jason said yes, if approved by Town Counsel.

Mr. Doty read the motion prepared by Town Counsel at the request of two selectmen. *"The Board of Selectmen hereby vote to approve the following modification to the Town of Chilmark Waterways Rules and Regulations (November 7, 2005) ("CWRR"):*

*The deadline to: a.) submit all "Mooring Applications" under Section II(H) of the CWRR; b.) file a written request or e.mail to be on (or renew placement on) the "Mooring Waiting List" under Section II(I) of the CWRR; and c.) submit any Mooring Application renewal as described in Section IV(D) of the CWRR is modified, for the calendar year 2008 only, from January 15, 2008, to February 15, 2008. For all successive years, the deadline will remain as January 15th until otherwise amended or changed."*

Ginny Jones spoke in opposition of allowing people to use email for submissions to the waiting lists. She said that not all emails are received by the town due to (spam) filtering. She also said that the motion did not address the slip waiting lists and that it wouldn't fix all the problems the Selectmen are talking about tonight.

Jonathan Mayhew said that this was *deja vu* from this past summer. He said that there was a problem with the regulation since it was created and he thought that the Selectmen were going to revisit the regulation to create a timeframe to fix any one's lateness. Mr. Mayhew said that he gave his check to the Harbor Master on January 16<sup>th</sup> and the town deposited it. He said he was disappointed that Mr. Jason hadn't even called him personally to tell him that the rules were being applied to deny him his renewal.

Jill Hobby Napior said she delivered her renewal on the date it was due, but at 2:00 PM instead of Noon. She said she cherished her mooring and asked the Selectmen to extend the deadline this time. She also explained that the timing of the bill was a problem for her and some others. It was discussed that when people receive a bill that is not due for 2 months that they put it aside. Then it is 2 weeks after the holidays when people might not have much cash on hand to pay the bill if they even remember it.

Bob Elliston said that he was hearing a discrepancy and asked again what lists were being considered. Mr. Doty said the mooring lists. Mr. McDowell asked why not apply the extension across the board. Mr. Jason objected.

Ginny Jones said that the bills were sent out in November with a large colorful sticker on the face of the envelope, that there was a red sheet of paper inside and January 15<sup>th</sup> was clearly the due date. She said 360 were sent in Harbor Master envelopes with address correction requested.

Mr. Doty said that the Harbor staff had the best intentions and did a good job. Mr. Fenner said this discussion was about the regulations that have room to make them more friendly to the public. He said that it was little enough to have the town make a courtesy call to people to save their position on the waiting lists. Mr. McDowell said it was good to hear from the Selectmen on this issue.

Thomas Bena said that the reason he lives here is because it is a special place and he asked the Selectmen to give people a break. Dennis Jason said that he thought Frank Fenner was sincere in his effort to make the harbor kinder and gentler, but that you can not put a safety net under everyone.

Mr. Fenner told the meeting that if the Selectmen did not vote the proposed extension, that his family stood to gain two mooring permits. He said that he didn't want that to happen. Mr. Doty asked if anyone else wanted to speak on this issue. Seeing none, he closed the public hearing at 8:07 PM.

Mr. Fenner moved that the Board of Selectmen vote to approve the following modification to the Town of Chilmark Waterways Rules and Regulations (November 7, 2005)("CWRR"): *The deadline to submit any Mooring or Slip Application, or renewal, or any written or emailed Mooring or Slip Waiting List application or renewal is modified, for the calendar year 2008 only, from January 15, 2008, to February 15, 2008. For all successive years, the deadline will remain as January 15th until otherwise amended or changed* and Mr. Parker seconded for discussion purposes and requested the floor.

Mr. Parker said that saying something was "fair and equitable" did not make it so. He referenced the Massachusetts Inspector General's investigation of the Town of Harwich. He said that any slack for current assignees adversely impacts people on the waiting list. He said it is not the same as paying your mortgage. He disagreed that the town had not provided adequate notice and said two months is more than people get for other bills. Mr. Parker explained that this would be an Ex Post Facto rule that applies retroactively to all those on the waiting list. He said that he didn't think that was right or the American way. Mr. Parker said this destroys the government's integrity. He said this is not the right thing to do and that he hoped the motion was defeated.

Dennis daRosa said he had a boat when his children were little. He said that if he had to tell his kids we had lost our mooring because daddy didn't get the check in the mail, it would be terrible. He said he wouldn't

want to get a mooring that his neighbor had lost in that situation. He said the town has to have more latitude in the regulations. He asked the Selectmen to reflect and put themselves in their shoes.

Dennis Jason said that he had a touching story about a family on the waiting list that never got the opportunity to have a mooring and now their child is an adult. Mr. McDowell said he agreed with Riggs, but that enough people on the waiting list missed the deadline this year that an extension is appropriate.

Brian Cioffi asked if the forty people that missed the deadline were more on the waiting list or the assignments. Mr. Jason said there was no clear answer.

Jonathan Mayhew told the Selectmen that the unintended consequences of not granting the extension would be more than 35 moorings would have to be accessed from the town landing, meaning more cars at the Hariph's Creek bridge if he is shut down. Mr. Mayhew said that the Selectmen should have fixed this problem four years ago when a firefighter and his wife were here crying because they were denied their mooring for missing a deadline.

Mr. Parker said that there is a problem with Mr. Mayhew's business that I don't want to address. Mr. Doty said that it was time for the Selectmen to decide and called the vote. SO VOTED: Two Ayes, One Nay.

### Mussel Aquafarming

Mr. Doty introduced an ongoing research project to grow mussels in town waters around Nomansland Island and the North Shore of Vineyard Sound. Rick Karney told the Selectmen he was excited to be in on the ground floor of this. He said that the SE Mass, Vineyard Permanent Endowment Fund, the Menemsha Fisheries Fund and the Marine Biological Laboratories have applied for a grant. They are proposing that the three up island towns set up off shore aquaculture zones and apply to the state and federal governments. Once set up, individual fishermen could apply to the Selectmen for a site in those zones. They hope to set this up by March 2009. The zone would be 25 acres to fit under the PGP. One site in West Tisbury, three in Chilmark and one in Aquinnah.

Mr. Parker asked how many people on a site. Mr. Karney said that quite a few could be accommodated and explained that they were using 600 foot lines with 300 feet between them. The submerged line is 40 feet deep between the buoys.

Jonathan Mayhew said that he was impressed with this project. He recommended going for the maximum size possible at each site. He said that it should not impact the one local dragger. Mr. Mayhew said that local control would give flexibility to keep the most local people working the sites.

Mr. Fenner commended the group for doing this. He asked if each town could apply for 25 acres. Mr. Karney said yes. Mr. Fenner asked if the three towns could have common regulations. Mr. Karney said that the group was looking for samples to propose. Mr. Parker asked how long the zones would be authorized for. Mr. Karney said the assignments were permanent or at least renewable.

Mr. Fenner moved and Mr. Parker seconded a motion to authorize the Chairman to write a letter of support to the state. SO VOTED: Three Ayes.

Mr. Doty recognized Jeff Lynch, Jeff Cotting, Tom Osmer and John Armstrong as the fishermen participating in this project. He said there could be two demonstration farms under this grant, that the fishermen would not get paid for their labor, but that they would be paid for their boats, be allowed to keep the \$7,000 worth of gear and any mussels grown. Tom Osmer spoke about seed collection. Rick Karney said that it was necessary to collect seed at first, but that the farms would be self sustaining in future years. He said that they would like to collect seed in town waters. Mr. Doty reminded everyone that all shellfish projects need to look neat and orderly. Mr. Karney said they would deploy the seed in the spring.

### Community Center

Rodney Bunker, town custodian, came before the Selectmen to request permission to move forward with the replacement of the stage and tennis court facing doors. He said that 54" was the required opening and that we were going to use two 30" doors giving us 60". He said that the cost was going to be \$5,400 out of the \$27,000 warrant article. Mr. Fenner moved and Mr. Parker seconded a motion to award the contract for the work to Carl Flanders, Buzz Blankenship and Hinckley's. SO VOTED: Three Ayes.

Mr. Carroll reviewed the vestibule proposal with the Selectmen. The need for the handicap access to have 36" opening with only one door was discussed. The Selectmen said they needed a clear plan before proceeding. It was agreed to ask the state about the need for a ramp to this vestibule. It was agreed to replace the current ramp door with two 36" doors if it continued to be used as the handicapped ramp.

Mr. Fenner moved and Mr. Parker seconded a motion to purchase the 9 gauge chain link backstop for the ballfield from Summit Supply of Durango Colorado. SO VOTED: Three Ayes.

Mr. Carroll reported that he had a proposal from Brent Bandi for two men to install the backstop over two days.

#### MVIFF

Thomas Bena came before the Selectmen for a new set of dates for the Independent Film Festival. He requested March 13<sup>th</sup> through March 17<sup>th</sup>. The Selectmen agreed to these extended dates as long as he worked around the other users of the Community Center without displacing them. They agreed to allow the same tents as last year.

Mr. Bena asked about splitting the cost with the town to improve the sound system using Bill Bennett. The Selectmen said they would need a specific proposal. Mr. Carroll asked Mr. Bena to meet with him and Jack Wildauer on this idea.

#### Town Report

Dennis daRosa came before the board asking them to consider the proposal from MV Printing (daRosa's) to print the 2007 annual town report. Mr. Fenner said that he would like to keep the job local if possible. Thomas Bena said that as a taxpayer he would support the \$500 extra cost to keep it local. There was discussion. Mr. Parker moved and Mr. Fenner seconded a motion to authorize the chairman to chose the vendor that is in the best interests of the town after review of the materials tomorrow. SO VOTED: Three Ayes.

#### Historical Commission

The Historical Commission wrote the board saying that no one had come forward to save the house at 49 North Road and that the building inspector could issue a permit for its demolition now. Mr. Parker moved and Mr. Fenner seconded a motion to authorize the Building Inspector to issue permits to 49 North Road. SO VOTED: Three Ayes.

#### Dukes County Budget

The board discussed the Health Care Access program and how the county was only funding it at 50% next fiscal year. The Selectmen supported the funding for the Health Care Access, but not the county. Jonathan Revere suggested they attend the public hearing at 7:30 PM on February 21<sup>st</sup> that the county was having for their budget.

#### US Coast Guard

Mr. Carroll suggested that the Peaked Hill tower discussion be postponed until the next meeting on February 19<sup>th</sup>.

#### Special Town Meeting

Mr. Parker moved and Mr. Fenner seconded a motion to set the warrant and call a Special Town Meeting on March 3<sup>rd</sup> with three articles drafted by legal counsel today as follows:

**Article 1.** To see if the Town will vote to appropriate the sum of Two Hundred Seventy-Five Thousand and 00/100 Dollars (\$275,000.00) to purchase, acquire, or, if necessary, take by Eminent Domain, and other related expenses, pursuant to M.G.L. c. 79, and any other enabling authority, a parcel of land with the improvements thereon situated on Tabor House Road in Chilmark, County of Dukes County, Massachusetts, shown as Parcel 29 on Chilmark Assessor's Map 13, and more particularly described in a deed from Eugenia C. Gillis and Beverly J. Gillis, dated October 4, 1960 and recorded in the Dukes County Registry of Deeds in Book 239, Page 464, together with all appurtenant rights and easements, for the purposes of creating and supporting affordable housing and for creating open space. The land identified in the preceding sentence excludes the land conveyed in a deed from Beverly Gillis Jaksa, f/k/a Beverly J. Gillis, to Billie R. Weaver, dated February 18, 1983, and recorded in the Dukes County Registry of Deeds in Book 399, Page 588. The funding for this purchase, acquisition, or taking is to be appropriated from the Community Preservation Open Space

Reserve (\$137,500.00) and from the Community Preservation Affordable Housing Reserve (\$137,500.00). Passage of this article is contingent upon the passage of Article 2.

**Article 2.** To see if the Town will vote to appropriate the sum of Two Hundred Twenty-Five Thousand and 00/100 Dollars (\$225,000.00) to purchase, acquire, or, if necessary, take by Eminent Domain, and other related expenses, pursuant to M.G.L. c. 79, and any other enabling authority, a parcel of land with the improvements thereon situated on Tabor House Road in Chilmark, County of Dukes County, Massachusetts, shown as Parcel 30 on Chilmark Assessor's Map 13, and more particularly described in a Treasurer's Deed, dated February 17, 1948 and recorded in the Dukes County Registry of Deeds in Book 213, Page 510, and in a Treasurer's Deed, dated February 17, 1948 and recorded in the Dukes County Registry of Deeds in Book 213, Page 511, together with all appurtenant rights and easements, for the purposes of creating and supporting affordable housing and for creating open space. The land identified in the preceding sentence excludes the following interests:

1. the land described in a deed from Walter G. Jenkinson and Fannie Jenkinson to the Inhabitants of the Town of Chilmark, dated November 20, 1953 and recorded with the Dukes County Registry of Deeds in Book 225, Page 259;
2. the land described in a deed from Fannie Jenkinson to Araldo A. Cossutta and Thelma B. Cossutta, dated September 17, 1974 and recorded with the Dukes County Registry of Deeds in Book 320, Page 412;
3. the land described in a deed from Fannie Jenkinson to Walter A. Jenkinson and Sarah Jenkinson, dated November 22, 1974 and recorded with the Dukes County Registry of Deeds in Book 322, Page 29;
4. the land described in a deed from Fannie S. Jenkinson to Walter A. Jenkinson, Jr., dated February 16, 1982 and recorded with the Dukes County Registry of Deeds in Book 389, Page 557; and
5. the land described in a deed from Fannie S. Jenkinson to Blair J. Emin and Keith L. Emin, dated February 16, 1982 and recorded with the Dukes County Registry of Deeds in Book 389, Page 558.

The funding for this purchase, acquisition, or taking is to be appropriated from the Community Preservation Open Space Reserve (\$112,500.00) and from the Community Preservation Affordable Housing Reserve (\$112,500.00). Passage of this Article is contingent upon the passage of Article 1.

**Article 3.** Contingent upon the passage of Articles 1 and 2, to see if the Town will vote to authorize the Board of Selectmen to take the necessary steps to close the present juncture of Tabor House Road and Middle Line Road for vehicular access and ingress thereto (but not for the laying of underground utilities) and, if necessary, to acquire or take by Eminent Domain, pursuant to M.G.L. c. 79, and any other enabling authority, all existing rights in and to said juncture for the purpose of creating and supporting affordable housing and open space, and to relocate the connection between Middle Line Road and Tabor House Road over the two parcels of land referenced in Articles 1 and 2, as shown on a plan of land prepared by Vineyard Land Surveying in connection with the Middle Line Road Affordable Housing Project (which plan is available for viewing in the Office of the Town Clerk), and to grant, to those parties whose rights for vehicular ingress and egress over Middle Line Road at its present juncture with Tabor House Road will be foreclosed or taken by Eminent Domain, as set forth above, an easement for ingress, egress and for all other rights for which roads and ways are used in the Town of Chilmark (except for the laying of underground utilities), over the new juncture of Middle Line Road and Tabor House Road, to be constructed by the Town.

SO VOTED: Three Ayes.

#### Wiring Inspector

Cole Powers requested that his fee be increased from \$50 per inspection to \$60 in order to cover his office expenses. Mr. Fenner moved and Mr. Parker seconded increasing the per inspection fee for the wiring inspector to \$60. SO VOTED: Three Ayes.

#### Distributed Antenna System

Mr. Carroll gave a draft Memorandum of Understanding to the Selectmen for review. Mr. Parker asked to have it sent to Aquinnah and West Tisbury and have counsel review it. Mr. Fenner moved and Mr. Doty seconded a motion to do so. SO VOTED: Three Ayes.

#### Hariph's Creek

Mr. Carroll reported that the estimated cost from the surveyor and engineer to design and obtain permits was \$5,000 for the finger pier located next to the boat ramp. Mr. Fenner asked for a full proposal from the Harbor Department on design and construction costs.

#### MV Land Bank

The Selectmen discussed the trailhead relocation for Tea Lane Farm. They agreed the idea was good, but that perpendicular parking was too tight. Mr. Doty agreed to ask for a better plan from the Land Bank.

#### Homerule Petition

No action taken.

#### Regional Schools

Mr. Doty said he wanted the school staff to provide a clear explanation as to why the assessment to Chilmark was increased by over \$300,000. The board discussed the statutory formula being used for the MV Regional High School District. The Selectmen agreed to ask about the wastewater bonding at Thursday's budget meeting. The board noted that they had not received a copy of the Tisbury lawsuit yet for review.

#### Conservation Commission

Mr. Fenner moved and Mr. Doty seconded a motion to appoint Helen Parker as an Associate Member of the Conservation Commission through May 2008. SO VOTED: Two Ayes, Mr. Parker Abstaining.

#### Beach Committee

Mr. Fenner moved and Mr. Parker seconded a motion to appoint Steve McQuiggan and Kristen Maloney to the Beach Committee through May 2008. SO VOTED: Three Ayes.

#### PreDisaster Mitigation Plan

At the request of the MV Commission, Mr. Doty moved and Mr. Fenner seconded a motion to authorize the executive secretary to write and the chairman to sign a letter of support for the Pre Disaster Mitigation Plan. SO VOTED: Three Ayes.

Meeting adjourned at 10:00 PM.

Approved: February 19<sup>th</sup> 2008