

**Borough of Fenwick
Harbor Management Commission
Special Meeting – August 18, 2018**

The Special Meeting of the Borough of Fenwick Harbor Management Commission was held on Saturday, August 18, 2018 at 4 Nibang Avenue.

MEMBERS PRESENT: Jamie Gay, Jonathan Gengras, Charles Renshaw, Sam Scatterday, Wayne Arute, Peter Duncan (Alternate); William Christensen, Harbormaster, ex officio.

MEMBERS ABSENT: Chip Gengras (Alternate), Chris Jones (Alternate).

OTHERS PRESENT: Marilyn Ozols, Land Use Administrator; Geoff Steadman, Coastal Planning Consultant; Frank Keeney; Chuck Chadwick.

1. Call to Order.

Chairman Gay called the meeting to order at 9:05 a.m. A quorum was established (Gay, Gengras, Renshaw, Scatterday, Arute).

2. Election of Officers.

J. Gay stated that his is not seeking to continue in the Chair position since he does not believe he can give the time that the position deserves and requires.

Sam Scatterday was nominated for Chair. He declined but indicated that he was willing to continue to serve as Vice Chair. There was no second and the motion failed.

Charlie Renshaw was nominated for Chair. He declined but indicated that he was willing to continue to serve as Secretary. There was no second and the motion failed.

After discussion, J. Gay moved to nominate S. Scatterday as Vice Chairman of the Harbor Management Commission, C. Renshaw as Secretary, and to temporarily leave the position of Chairman vacant pending conversations with the Warden. S. Scatterday seconded the motion and the slate was approved unanimously.

For: Gay, Gengras, Renshaw, Scatterday, Arute

Against: None

Abstained: None

3. Resident Comment.

At this time the floor was opened for resident comment. No residents spoke.

4. Harbor Management Plan / Extension of Shoreline Planning Unit. Geoff Steadman, Coastal Management Consultant, to attend.

G. Steadman stated that he had worked for the original Commission that wrote the Plan in 2004 and again in 2011 when the Plan was amended to create the Fenwick Proper Shore planning unit, which prevents docks between the west property line of Walton and the pier. The Harbor Management statute was adopted in the mid 1980's to create harbor management commissions with the authority to allow municipalities more control over their harbors and shoreline. The goal of the Fenwick Management Plan was to protect the natural environment, which DEP agreed to at the time. The Commission receives referrals of permit applications made to both DEEP and the municipality. In the case of a DEEP permit, the applicant must come to the Commission before submitting his/her application to DEEP. The Plan does not eliminate the public trust rights to the beach or the state permit program, but DEEP has recently

agreed that harbor management commissions can make their own decisions based on the proposals before them and these should be binding on the State, unless DEEP can show cause as to why they should not be.

S. Scatterday asked if there have been any changes in the statutes since 2010 that the Commission should consider. G. Steadman replied that there is nothing that would affect the current Plan but that a State Port Authority has now replaced the DOT Maritime Division. Its authority has been expanded to include all municipalities, not just the three main ports, and it oversees a grant in aid program open to all municipalities. Authority over harbor management commissions was given to DEEP.

Members discussed recent cases regarding the right of access over private property to the public trust area of the beach and the right to move freely within the public trust area, but did not find them significant to the Borough.

J. Gay reminded members that the discussion about extending the current shoreline planning unit or adding new ones began with the application for a dock just east of the existing Fenwick Proper Shore. Members noted the need to look to the future and protect all of the shoreline, but recognized the need to allow existing structures, such as those at the Yacht Club, to remain or be modified down the road, as well as the need to protect property owner rights. They also noted that when the prohibition in the current planning unit was established, it was thought that there was no other area of the shoreline with the potential to build docks. This has changed over time and there are many areas where docks may be considered. Under the current language in the Plan, it is not easy to turn down a dock in any of these other areas.

G. Steadman stated that DEEP may object to a blanket prohibition that affects property rights, but it was noted that the Borough's resiliency efforts may be adversely affected by additional projections into the water and there is a reasonable argument that a prohibition will protect the beaches and properties, as well as prevent hazards to navigation in the river.

G. Steadman noted that the 2010 amendment recognizes that other planning units may be created in the future: "the Commission may identify discrete 'shoreline planning units' on, in, or contiguous to the HMA. Designation of such units, for inclusion in the Plan, should be based on the Commission's review of existing shoreline conditions, natural features, current and potential water and waterfront uses, harbor management issues, and any other pertinent considerations. The Commission may formulate recommendations, including guidelines and recommendations for the planning, design, and review of proposed docks, floats, piers, and other water-access structures in each identified unit."

Members concurred that there should be separate planning units for different areas of the Borough and requested that G. Steadman provide an estimate of the cost for him to develop the text for each area in order for funds to be requested from the Burgesses. G. Steadman added that the process will also include public input, approval from the CT Port Authority and DEEP, and ultimately approval by the Burgesses. The specific language for each unit will differ, but the overall goal is to protect the natural environment and scenic views, while maintaining reasonable access, but not allowing new permanent structures.

Members discussed the boundaries for each area and concurred that there should be four:

- Fenwick Proper Shore to the breakwater
- the outer light to the inner light
- the former Brainard property to the causeway
- Fenwick Proper Shore west to the Borough boundary

On a motion by J. Gengras, seconded by J. Gay, it was voted unanimously to request G. Steadman to review the proposed planning unit areas (Fenwick Proper Shore to the breakwater, the outer light to the inner light, the former Brainard property to the causeway, Fenwick Proper Shore west to the Borough boundary) and prepare a budget which will be submitted to the Burgesses for consideration and funding.

For: Gay, Gengras, Renshaw, Scatterday, Arute
Against: None
Abstained: None

During discussion of the motion, members reviewed the proposed areas and noted that there can be different language for each unit that addresses its character as well as the realities of the existing uses.

G. Steadman clarified that his charge will be to look at each of the proposed additional shoreline planning units and come up with recommended policies for each. He noted that the original plan was more general and the Commission is now focusing on more specific areas of the shoreline. He added that he will also contact DEEP to discuss the general proposal with them in order to understand what their recommendations and concerns may be.

5. Approval of Minutes of Previous Meeting (September 8, 2017).

J. Gengras moved to accept the minutes of the September 8, 2017 meeting as submitted. C. Renshaw seconded the motion and it was approved unanimously.

For: Gay, Gengras, Renshaw, Scatterday, Arute
Against: None
Abstained: None

6. Update - Hepburn Preserve & Sequassen Avenue Resiliency Planning.

M. Ozols reported that Burgesses and LPLT had selected a hybrid option utilizing construction of a living shoreline (stone sills and salt marsh creation) for the Hepburn Preserve area. The Borough was awarded a grant from the Connecticut Institute for Resilience and Climate Adaptation (CIRCA) for the full cost to develop the engineering plan (just over \$66,000) and GZA Geotechnical has started working on the plans. The property belongs to the LPLT and it is now actively seeking funds for construction. Once the plans are complete they will need to be referred to HMC for a determination of consistency with the Harbor Management Plan. GZA has also submitted a proposal to develop concept plans for the Sequassen Avenue dune area for both a living shoreline and raising the road. No action has been taken on this, but the Connecticut River Conservancy is assisting the Borough in seeking funds. Information on both of these areas was presented at a meeting on August 4 and a video of this meeting will be posted on the Borough website.

J. Gay noted that the language in any future Shoreline Planning Units should not prohibit resiliency work.

7. Harbor Master Report.

W. Christensen reported that

- he had attended Harbor Master training, an 8-10 week course run by the State;
- the moorings are fairly full and J. Mitchell does a good job getting them set;
- there have been no accidents or injuries to report;
- the channel is shoaling and there has been some discussion of dredging two to three feet, which the Harbor Management Commission may want to consider;
- there has also been discussion of enlarging the dock with floating docks which can be removed in the winter; the Yacht Club has some funds which may cover this;
- Fish-O-Rama is tomorrow.

8. Other Business.

S. Scatterday expressed concern with the lack of a speed zone to North Cove – people do not slow down and the wakes affect boats docked along the shore. W. Christensen stated that boats in the Yacht Club are

more affected by waves bouncing back from the breakwater during nor'easters. F. Keeney stated that GZA has indicated that the wakes do contribute to beach erosion and this is a concern.

P. Duncan asked the high water channel depth to the Yacht Club. W. Christensen stated that it is about 5 feet to 5½ feet. Discussion followed on dredging options, the cost of dredging, and dredge material disposal options. G. Steadman indicated that one of the purposes of the Port Authority grant program is to support dredging and dock construction, including feasibility studies, and this is something the Commission could consider.

F. Keeney brought up the issue of the swan population in the Cove, which is detrimental to the water quality. C. Renshaw stated that there have been programs in the past to control the population by shaking eggs. He had checked on this with both Old Saybrook and DEEP. Old Saybrook has no plans for any action in the near future. DEEP has a plan to reduce the statewide population to 150 but has no funding to implement the plan. F. Keeney also noted that the wintering over of Canada geese has increased significantly.

9. Adjournment.

J. Gengras moved to adjourn the meeting at 10:37 a.m. C. Renshaw seconded the motion and it was approved unanimously. (Gay, Gengras, Renshaw, Scatterday, Arute)

Respectfully submitted,

Marilyn M. Ozols
Acting Recording Secretary