Board of Selectmen Meeting
Tuesday, 5/7/13

A Board of Selectmen meeting was held at 7pm on Tuesday, May 7, 2013 in Conference Room A in Town Hall with five selectpersons and the Town Administrator.

Chairperson Battistelli opened the meeting at 7pm.

Enforcement times and parking meter rates become effective 5/8/13. Motion Approved

Selectperson Fleming moved that the effective rates and enforcement times for parking meters, voted on at the 4/30/13 public hearing, become effective 5/8/13, seconded by Selectperson Murphy, Vote: 4-0. Selectperson Wilkinson arrived late.

DEP hold public hearing on new Chapter 91 License for Tuna Wharf Motion Approved

Selectperson Murphy moved that the DEP hold a public hearing on the new Chapter 91 license proposed for Tuna Wharf pursuant to our policy, Selectperson Fleming seconded, Vote: 4-0, Selectperson Wilkinson arrived late.

<u>Public Hearing – Cape Ann Tool Company:</u>

DEP Public Hearing on Cape Ann Tool Company

Mr. Alex Strysky/DEP said the proposal was submitted by C. A. Tool LLC, it is a reconfiguration of what was permitted (residential structures) with docks and floats. He read the public notice along with the appeal rights; he stated that they will be accepting comments on the Tool Company here tonight and in writing.

T. Arsenian, 95 Granite Street, commented that this should be a considered a new license not an amended license.

Mr. Strysky said they chose for this to be a license amendment, though there is no difference in how they view the project and what regulations they apply, taking public comment, etc.

Jim Waddell, 13 Prospect Street questioned who sent the notice out.

Mr. Strysky said the DEP prepared it; the applicant is required to see that it is distributed.

Michael Polisson, 5 Poole's Terrace, stated that it needs to be re-distributed because information incorrect.

Mr. Strysky said if anyone has been harmed in the distribution process, they can talk about that at the end of the comment period.

Zenas Seppela inquired what individuals should do if the deadline is nearing and they can't reach Mr. Strysky.

Mr. Strysky said individuals should drop comments off at the DEP; he said they will be date stamped at the receptionist desk.

Atty. Jami Buchanan stated that the residents' participation will be responded to; it's traditionally done in writing, but directed those in attendance to voice the comments tonight. She stated that this is a Chapter 91 Public Hearing. This is the opportunity to hear what the differences are between what was already licensed and what is being proposed now. She stated that the old project is not being built. If she doesn't say that something has been changed, then it's the same. In the application, they stated what has changed. The density and water dependent activity is different. The house lots have visual pass through with homes that fit into the area, they are not cookie cutter; there is a variety of designs. She continued that parking is pulled back from the water, where the bathrooms are. There were five public parking spaces, it is now 31; each home has its own parking. This is an amendment to the existing license. Under each home is parking, there is more water access. This plan is less dense. The water taxi is new in this proposal with two transient slips. They are adding dozens of slips at water's edge, not out in the harbor. These are public slips, not just for the houses. There has been a waiting list for decades to get on the water. There are 34 new slips, they may be displacing 7 boats, they will get priority. Nobody has to lose their mooring, 27 new boats can get on the water. The seawall is owned by the town and it's expensive to maintain. Private funds will maintain that, so a source of income is not necessary. With the potential sea level rise, this harbor needs to change. This is a solid proposal. There will be times when the harbor walk is used – there are concerns about speedy removal of docks in storms. Well engineered, sophisticated docks are being proposed that are proven to withstand severe weather; they are made of composite materials. There are times when the docks will be on the harbor walk. This will be written into the mandated conditions. An expanded fisherman and lobsterman staging area is included; same benches, and lighting. The applicant is willing to pay for one gas fueling station, he doesn't care to maintain it, but if it is desired they'll put it in, it is the town's decision.

She continued that they hope that the abutters will see this as positive. It will improve property values, boat excises, this will be a demand for the Harbormaster. The applicant is committed to an on-site private manager for removing docks, getting vessels out, etc. She continued that the owner has received calls that residents are hopeful that this project will move forward.

Selectperson Fleming stated that in the original plan the public walk area was to be 13' wide and went around the whole harbor, in the new plans the walk looks narrow and doesn't go as far around.

Atty. Jami Buchanan said the walkway is remaining 10' wide and will go around to the back of the building.

Chairperson Battistelli inquired if the additional slips would be available to those on the mooring list.

Atty. Jami Buchanan said they would like to make those available to Rockport residents first.

Scott Story, co-harbormaster, said his calculations look like 16 moorings that are going to be displaced.

Atty. Jami Buchanan said the displaced moorings will be replaced by slips. In 902 Chapter 91, moorings can be re-assigned on an annual basis; they have to be seasonal or transient.

Eric Hutchings, Applecart Road, questioned what the term "public slips" meant.

Atty. Jami Buchanan said they are open to the general public, they don't have to belong to any group or club; they're privately owned.

Chairperson Battistelli said when the briefing was received from the applicant, it was introduced as an amendment. She thought a public hearing was necessary and wanted to thank the DEP. She had two major issues, public access and the harbor. She is concerned about public access in the new plan and concerned about the magnitude and number of slips proposed. She said that she could entertain the idea of more slips, but displacing those on existing moorings isn't possible. She continued that the water taxi might be viable and a good thing. She is not opposed to some water dependent activities on this site; and would love to see the site developed.

Hank Betts, Penzance Road, from the Planning Board, inquired if there might be any unexpected consequences, has anything been overlooked. He continued that the walkway extends beyond (13'), and that lighting fixtures go all along the walkway, and that the parking requirements are clear. He is concerned about the cost of buying slips. He stated that currently a mooring costs about $130/year. He stated that the water taxi may never materialize. He would like to see clarification on the accessory building. These will be ANR lots, if the frontage is sufficient with proper setbacks, people can go ahead.

David Williams, 188 Granite Street, said he supports the idea of a gas station on the property which is also marine gas & diesel, as it was on the previous proposal for the property.

Susan Waller, Granite Street inquired about any assurances that when the buildings are demolished, the pollution will be removed from the land.

Steven Goldin, 33 Rockport Road, Gloucester, thanked the Board of Selectmen for the public hearing. He believes the Chapter 91 license is premature; this should have been worked out already. This is the wrong procedure; this should have been a new application. The documented pollution needs to be eliminated. The Army Corp of Engineers planning to dredge the harbor, they took borings in 1983 and the PCB levels were off the chart, this process was over many years. He stated that the elimination of the park is concerning. He said due to the dock, this should be a new application. He commented that the historic chimney is a landmark that should be preserved; there should be an independent analysis on the condition of the chimney. Legally the lots that make those buildings buildable are well within the tidelands. The change of use for the old machine shop building is to be used for light maintenance, we don't get public access and it's not a real boatyard which could employ folks.

James Waddell, 13 Prospect Street, opposed for following reasons, threat repercussions, wrong approach to take, existing mooring holders, why should they take that and give it to private, safety-pulling out floats, 23-25 slips, are you proposing to pull all those out. He continued that he was in favor of the prior plan. He questioned who is responsible for the clean-up with water and oil running into the harbor.

Harold Mallette, Granite Street spoke about the responsibility for the seawall, in case of sea rise, the latest FEMA maps (not accepted yet). He questioned if the project is taking that into consideration.

Larry Stepenuck, 16B Bearskin Neck, study on borings, Coastal Zone Management, don't give up public rights. He requested that they extend the opportunity for comments.

Kelly Fureh, Pigeon Hill Street, it's not that easy to be for or against this plan. Changes need to be made to the plans. She stated that she approved of the prior plan. She continued that the public

walkway should be 13' wide extending all along the waterfront with access that ends at the breakwater and Granite Street. If docks are on the public walkway, then it isn't public.

T. Arsenian said that Mr. Goldin and Mr. Betts have covered some points. They are free to remove the industrial buildings. The buildings are non-conforming that have set for 2 years. He doesn't believe the water taxi will survive one season, that's just being proposed to get credit to appeal to the DEP. It should be stipulated that it will exist for a 30 year license for so many days/year. He questioned who is going to collect the money from transient boaters. Parking is required for zoning. He questioned if anyone has asked the fishermen how they feel about this. Are there boiler plate conditions that the property will be maintained properly; what if the seawall collapses into the harbor.

Frederick Tarr, 95 Main Street, stated that solid figures are needed, how many slips; where are the moorings going to be displaced. There are too many unanswered questions; he questioned who will be responsible for the seawall.

Eric Hutchins, Applecart Road, said the docks maybe good docks, but questioned if an engineering study has been done with similar conditions. There's nothing written for anyone to review, how can people know if they like this plan or don't. These are very significant changes to public property, federal anchorages are very seldom de-authorized. He questioned if a deed restriction had been drafted.

Bruce Reed, 32 Pigeon Hill Street, stated that all those floats would displace a lot of boats; he doesn't see any channels for boats to go in and out. He stated we are hearing about pulling the floats out in storms and 10' walkways, he questioned how that is possible.

Albert Olson, Stockholm Avenue, stated he is a commercial boater; he has been on his mooring for 23 years. He questioned how a private entity can come in and move him. How is a fisherman going to get in there at low tide; he's against this plan.

M. Siegel, abutter, and member of the Rights of Way Committee. Questioned what happens to the floats in the off-season.

Bob MacIsaac, 2 Clark Avenue, questioned who is going to pay for moving the moorings.

Susan Wallick, Granite Street, stated that no one has notified the people with the moorings.

Richard Poore, 80 Phillips, stated that everyone wants to see that tin building torn down. He suggests that they can tear down and improve the site and leave everything else status quo.

Fred Hillier, 2 Castle Lane, stated he has fished for 60 years, it is very congested there in the summer, another 30 boats or so would make it a very dangerous little harbor.

Hank Betts stated that the Planning Board has an order on the smoke stack; it needs to be removed.

Steven Goldin, 33 Rockport Road, Gloucester, there are two streams going through the property. He questioned what happened to the affordable housing units; they were in the last proposal, there should be at least three. He stated that the cast iron shed should have been taken down years ago. It

should be made a condition of the new permitting. He stated that this is a bad place for a water taxi. There have been a number of proposals that have never focused on what's best for the town.

Zenas Seppala, 92 Granite, read from Section 951, water dependent use.

Tim Corrigan, Curtis Street, has been in Pigeon Cove for 33 years, the Tool Company was a vibrant business. He inquired who is going to maintain the seawall. It's not being maintained now. We do need to develop that property. They'll have to go through the review before anything goes there.

Selectperson Murphy stated it's important to get both sides of the story – to get everyone's opinion.

Mike Barnhard, Yankee Clipper Mgr., stated that those buildings need to come down. He spoke about the objections to the water taxi; he stated he believes visitors to the Yankee Clipper and others in the area would use the water taxi as viable transportation from downtown.

Nancy Potts, 63 Phillips Avenue, spoke on the water taxi, she is familiar with Boston's water taxi, when they were trying to develop water taxi, for the first 2 years it was a struggle. Now it's profitable, she doesn't believe it can be supported in Rockport.

Michael Polisson, 5 Poole's Terrace, stated it's an unsightly bldg., that building isn't going anywhere, it's non-conforming. No one is going to want to take it down then have 2 years to do something.

Bill Wagner, 147 Granite Street, stated that he is a fairly new resident and a member of the Finance Committee. He stated that this is the time for residents to bury their dead puppies, there are lots of comments about the public walkway, and park; neither is there now. This is privately owned property. He stated that this plan can work; the kinks just need to be worked out.

Hank Betts said the Planning Board isn't against this project. There are some issues we want to avoid, we want to discuss this with the owner and work through it. There will be a plan that works.

Chairperson Battistelli stated the various groups should get together to discuss this at the same time (Conservation Commission, local fishermen and lobstermen, Rights of Way Committee, Harbormaster, Planning Board). She said we'd like to work with the owners in a setting that makes sense.

Selectperson Wilkinson questioned the process and questioned what happens with the DEP now. She stated that she likes the idea of the houses, however she has issues with the amount of the water dependent activities and displacement of boats.

Eric Hutchins, Applecart Road, stated that he was on the Planning Board when the prior plan was approved. Some aspects of this project are beneficial to the town. This project should go back to MEPA. Many things brought up tonight have nothing to do with Chapter 91. The significant difference is the waiting list (400) for moorings, displacing is wrong.

T. Arsenian, 95 Granite Street, said people are still in favor of the 20,000 sf park on the waterfront.

John Knowlton, North Village, stated that he is one of the displaced moorings. He questioned where is he supposed go; why should Rockport give up any water rights.

Zenas Seppala said he would like the DEP to be present at any meeting of interested parties.

William Rapp, 11 Prospect Street, 192 Granite Street, said he worked at the Tool Company for 12 years. The building is going to come down. He stated that there are contaminants on the surface of that building, chemicals, petroleum forging compounds. He asked what will contain the contaminants if the wind is blowing. They could blow into the harbor or the neighborhood. He stated that the metal building is acting as an umbrella, rain runs off the building and goes out through pipe to harbor. Once the building is down, the umbrella is gone. He questioned who will be responsible, which landowner, for the contaminant clean-up.

Herman Williams stated that he is a retired, board certified toxicologist. He stated that none of it is considered toxic at this point. The work that has been done should not be dismissed, don't be overly concerned. He stated if you grew up in Pigeon Cove, you want that place cleaned up. There is a way to work together on the project.

Rob Claypool, Curtis Street, believes we have the cart in front of the horse; we haven't seen details on the plan. There are conflicting opinions, the number of slips; the number of displaced moorings. He questioned how much time is there before the Chapter 91 License is issued.

Senator Bruce Tarr thanked the DEP, and stated that this is the beginning not the end of conversations. He stated that every person wants something productive in Pigeon Cove. The Pigeon Cove boat owners stepped up to the plate to make the wharf public. This is a strategically important place and it is still a public place. The boat owners are under stress for their survival. We can't risk losing the livelihood of these folks. Don't sacrifice existing public access to secure new access. Inclusive conversation is necessary. He said let's not chase this developer away. He won't stand for the loss of public access. He stated that congestion sometimes occurs in Pigeon Cove. Chapter 91 is public trust; we can get there. He said that he has confidence in the DEP, and no one's participation should be discounted.

Zenas Seppela, stated that things won't happen with just a private developer. He stated that the prior plan's buildings were huge. He likes the water taxi.

Steve Goldin stated that he disagrees that the site is safe.

Mr. Strysky said the 23rd closes the public hearing period; he recommended that written comments be submitted as well. He stated that the DEP drafts a decision, with their written determination. It's appealable; the license is issued if there is no appeal.

9:31 the public hearing was closed.

Selectperson Murphy moved to close the public hearing and the meeting, Selectperson Wilkinson seconded, Vote: 5-0.

Warrant signed:
Warrant signed for the Fiscal Year 2013 Payroll and Expenses for the week of 5/9/13 in the amounts of $101,830.74 and $508,269.36 respectively.