dcr
Massachusetts

April 11, 2013

Alex Strysky
DEP Waterways Program
One Winter Street - 5th Floor
Boston, MA 02108

Re: Amendment to Waterways License No. 11960 - Cape Ann Tool, LLC

Dear Mr. Strysky:

The Department of Conservation and Recreation (DCR) is pleased to submit the following comments in response to the Notice of License Amendment Application filed for the proposed project, Redevelopment of Cape Ann Tool Company Site, located on Granite Street in Rockport.

As proposed, the project involves activities within a 100-year floodplain as delineated on the current effective Flood Insurance Rate Map (FIRM) for Essex County, dated July 3, 2012. In its role as the state coordinating agency for the National Flood Insurance Program (NFIP), DCR submits the following comments.

DCR's Flood Hazard Management Program (FHMP), under agreement with the Federal Emergency Management Agency (FEMA), is the state coordinating agency for the NFIP. As such, the FHMP provides technical assistance to communities that participate in the NFIP related directly to the program and also related to floodplain management in general. Communities that participate in the NFIP are required by FEMA, as a condition of their participation, to regulate development within the 100-year floodplain in a manner that meets or exceeds the minimum standards established by FEMA, located at 44 CFR 60.3. Participating communities such as Rockport are required to adopt the NFIP requirements through locally enforceable measures. In Massachusetts, many of the requirements contained in 44 CFR 60.3 are enforced through existing state regulations such as the State Building Code (780 CMR) and Wetlands Protection Act regulations (310 CMR 10.00). Communities typically adopt the remainder of the requirements as part of a zoning ordinance or other locally enforceable measure. Rockport has a zoning ordinance that includes a Floodplain District section which has been accepted by FEMA as meeting their requirements under the NFIP.

Department of Conservation and Recreation
251 Causeway Street, Suite 600
Boston MA 02114-2119
617-626-1250 617-626-1351 Fax
www.mass.gov/dcr

Deval L. Patrick
Governor

Timothy P. Murray
Lt. Governor

Richard K. Sullivan, Jr., Secretary, Executive
Office of Energy & Environmental Affairs

Edward Lambert, Commissioner
Department of Conservation & Recreation

In our role as NFIP coordinator, the FHMP offers comments on the proposed project's relationship to many of the above regulations and requirements. The FHMP does not directly administer any of these requirements and therefore does not provide official determinations as to compliance with them; rather, our comments are provided as an overview of the requirements and the documentation necessary to demonstrate compliance with these requirements.

The project includes the construction of 13 single family dwellings, and the reconstruction of the Cape Ann Tool Company (CATCO) Building. Based on information submitted with the ENF, the proposed structures are all within the 100-year floodplain, a zone VE with a base flood elevation of 14 feet above North American Vertical Datum (NAVD). Because of its location in the 100-year floodplain, compliance with the requirements of several federal, state and local measures related to floodplain development is required. The Massachusetts State Building Code (780 CMR) Eighth Edition, includes specific standards for structures newly constructed or substantially improved in the floodplain.

In earlier filings, the proponent disputed the flood zones as delineated on the FIRM and was in the process of applying for a Letter of Map Revision (LOMR) from FEMA. Because that LOMR was not issued, the site and proposed structures remain in the VE zone and are subject to the requirements for V zones in the State Building Code.

Additionally, projects within the 100-year floodplain involving any federal action (e.g., permit, funding, etc.) must also comply with federal Executive Order 11988, Floodplain Management. This executive order requires an eight-step decision-making process which includes analysis of alternatives, avoiding impacts when possible, and minimizing impacts when avoidance is not possible. The original ENF indicated that the project required a NPDES permit from EPA and therefore this process is required.

DCR appreciates the opportunity to comment on the Waterways License Amendment Application. If you have any questions regarding these comments, or to request additional information or coordination with DCR, please contact Eric Carlson at (617) 626-1362.

Sincerely,

Richard R. Zingarelli

Richard R. Zingarelli, Program Manager
Flood Hazard Management Program

Strysky, Alexander (DEP)

From: DOCCDA@aol.com
Sent: Wednesday, May 08, 2013 3:40 PM
To: Strysky, Alexander (DEP)
Subject: Rockport Chapter 91 license public meeting

Thank you for holding the public meeting on Tuesday 5/7/13. It was informative for me since the scope of the project changes frequently. I am on the Conservation Commission but my questions do note pertain to that organization but are questions as a Rockport citizen. I am concerned about the process that Mr. Rauseo is using to implement his desires to begin the project. We must be consistent with him and others from the town that must get Chapter 91 approval. I do not understand why he can file for an amendment. You stated at the meeting that "relatively minor changes" qualify for amendment status. I feel substantial changes have been requested from the original License 11960. The original license was for a total of five (5) buildings and the new request is for 14+ units. But most importantly, the original license had NO docks, slips, ferry service (which is not going to last since there is no interest and no need, and is only put in the new request to "sweeten" the appearance of doing something for the public) and is a commercial interest with the renting of the slips. Thus the new project involves more individual housing units, impacts the harbor substantially, and is now both commercial and residential, where the first license was for residential use. I am not against developing that property but Mr. Rauseo must get the appropriate licenses, approvals, and follow the processes that are necessary just like any other citizen in Rockport.

Thank you
Charles D. Allen M.D.
20 Longbranch Ave
Rockport, Ma. 01966-1129
DOCCDA@aol.com

TUESDAY, APRIL 16, 2013

TOBY ARSENIAN
95 GRANITE ST
ROCKPORT MASS
01966

MR. ALEX STRYSKY, DEP WATERWAYS PROGRAM

I WRITE TO YOU TO COMMENT ON THE APPLICATION OF CAPE ANN TOOL, LLC (CAT) FOR A LICENSE AMENDMENT TO WATERWAYS LICENSE NO. 11960, PURSUANT TO M.G.L. CHAPTER 91.

LICENSE NO 11960 CALLS FOR A 13 FOOT WIDE PATH ALONG THE BULKHEAD. THE LICENSE AMENDMENT CALLS FOR ONLY A TEN FOOT WIDE PATH, EIGHT FEET WIDE THROUGH LOT 1, FROM BREAKWATER AVENUE TO THE BULKHEAD. THIS IS NOT ACCEPTABLE, NOT WIDE ENOUGH. CONDITION 2B OF THE LICENCE CALLS FOR PATHS CONNECTING THE BULKHEAD PATHWAY WITH THE STREET. IN THE PLANS ACCOMPANYING THE PROPOSED AMENDMENT THE BULKHEAD PATHWAY DOES NOT CONNECT WITH GRANITE STREET VIA THE "PROPOSED 5' LANDSCAPE STRIP AND 6' WIDE PUBLIC ACCESS". INSTEAD THERE IS A CONSIDERABLE GAP: THE "PROPOSED PATIO." WHAT CONTROLS WILL THE LICENCE AMENDMENT PROVIDE TO ASSURE PUBLIC ACCESS TO THE "PROPOSED PATIO", AND TO PREVENT THE PROPOSED PATIO FROM BEING TURNED INTO A STORAGE AREA FOR THE SEASONAL FLOATS? THE 6 FOOT CONNECTOR PATH (WHICH DOES NOT CONNECT) IS NOT WIDE ENOUGH, AND SHOULD CONNECT THE STREET AND THE BULKHEAD PATHWAY.

THE BULKHEAD PATHWAY SHOULD EXTEND THE ENTIRE LENGTH OF THE BULKHEAD. ANYTHING LESS IS NOT ACCEPTABLE. IF CHANGES IN GRADE REQUIRE THE PROVISION OF STEPS AND RAMPS, STEPS AND RAMPS SHOULD BE REQUIRED BY THE LICENSE AMENDMENT. AND THE BULKHEAD PATHWAY SHOULD ALSO CONNECT TO EDGEMERE ROAD ON LOT 14. AT A HEARING OF THE ROCKPORT PLANNING BOARD, BRIAN CASSIDY, LAWYER FOR CAT, STATED THAT THE BULKHEAD PATHWAY COULD NOT EXTEND TWORDS THE HARBOR MOUTH, THE FULL LENGTH OF THE BULKHEAD, AS THIS AREA WOULD BE SUBJECT TO STORM DAMAGE. THIS CONTENTION MAKES NO SENSE; THE APPLICANT INTENDS (IF PERMITTED) TO LINE THIS SAME STRETCH OF BULKHEAD WITH FLOATS. SO THE PATHWAY IS TOO VULNERABLE, BUT THE FLOATS SHOULD BE JUST FINE.

THE PROPOSED LICENSE AMENDMENT WOULD DEPRIVE THE PUBLIC OF A SUBSTANTIAL AND VALUABLE PUBLIC AMENITY, THE 20,000 SQUARE FOOT WATERFRONT PARK REQUIRED BY SPECIAL CONDITION 2C OF LICENCE NO. 11960. IF WE ARE DEPRIVED

OF THE WATERFRONT PARK, WHERE ARE THE "AT LEAST SIX" BENCHES, TRASH RECEPTACLES, BICYCLE RACKS, ETC. ALSO STIPULATED BY SPECIAL CONDITION 2C TO GO? OBSTRUCTING THE (ALREADY TOO NARROW) PATHWAY? IN PLACE OF THE PREVIOUSLY LICENSED PARK WE ARE OFFERED "NEW WATER DEPENDENT PUBLIC DOCKAGE AND IN-WATER ACTIVATION, INCLUDING SEASONAL AND TRANSIENT SLIPS WITH A DEDICATED SLIP FOR WATERTAXI SERVICE INTO OTHER ROCKPORT HARBORS AND PUBLIC PARKING TO MAKE THIS INCREASINGLY NEEDED SERVICE MORE VIABLE." THIS IS AN INSULT TO PUBLIC INTELLIGENCE, A DOWNRIGHT SWINDLE. THE "PUBLIC DOCKAGE" MAY QUALIFY AS "PUBLIC" ACCORDING TO YOUR ARCANE REGULATIONS. IN PLAIN ENGLISH AND IN PLAIN FACT IT IS PRIVATE DOCKAGE, FOR THOSE RICH ENOUGH TO AFFORD IT. AND IT WOULD TAKE UP PART OF THE WATERSHEET OF THE HARBOR THAT IS CURRENTLY AVAILABLE FOR NAVIGATION, AND, FAR WORSE, SPACE AVAILABLE FOR MOORINGS. THERE ARE OVER 400 PEOPLE ON THE ROCKPORT MOORING WAITING LIST. AND NOW THESE UNFORTUNATE, PATIENT, AND TRUSTING FOLK ARE TO BE RUDELY SHOVED ASIDE IN FAVOR OF CAT'S GREED, AND THEIR PROSPEROUS POTENTIAL CLIENTS' CONVENIENCE. IT WILL BE A LASTING DISGRACE IF YOU PERMIT IT.

NOTE ALSO THAT THE CONFIGURATION OF THE FLOATS DOES NOT FOLLOW THE BULKHEAD ALONG THE REAR OF LOT 12 (THE LOT WITH THE CATCO BUILDING ON IT.) HERE AN ADDITIONAL AREA OF THE HARBOR — COMMONWEALTH TIDELANDS — IS ENGULFED FOR PRIVATE BENEFIT, LOST TO PUBLIC USE. WHAT COMPENSATION IS OFFERED FOR THIS? SLIPS FOR TRANSIENT DOCKING ARE INDEED A PUBLIC AMENITY, IF THE LICENCE AMENDMENT PERMITS THEM, BUT NOT IF THEY INVOLVE THE DISPLACEMENT OF EXISTING MOORINGS. THE PROPOSED WATER TAXI IS A BRILLIANT FLIGHT OF FANCY, WELL CALCULATED TO WIN POINTS WITH YOUR DEPARTMENT. IT WILL LOSE MONEY FROM DAY ONE, AND NOT LAST FIVE MONTHS. PLEASE BE SURE THAT THE LICENSE AMENDMENT, IF GRANTED, STIPULATES THAT THE FLOAT SPACE "DEDICATED" TO THE WATER TAXI REVERTS TO PUBLIC USE — TRANSIENT DOCKAGE — IF (WHEN) THE TAXI CEASES OPERATION.

THE RELOCATED FISHERMEN'S STAGING AREA WILL ONLY BE OF USE TO THE FISHERMEN IF THEY ARE GUARANTEED ACCESS TO THE FLOAT ADJOINING IT. I SEE NO PROVISION FOR THIS IN THE AMENDMENT APPLICATION. BY THE SAME TOKEN, THE STAGING AREA IS ONLY USEFUL IF THE FISHERMEN ARE GUARANTEED THE USE OF PARKING SPACES CLOSELY ADJOINING IT. THIS, ALSO, IS NOT PROVIDED. SO THE FISHERMENS STAGING AREA IS A FINE IDEA — ON PAPER.

REGARDING SPECIAL CONDITION 5 OF LICENCE NO 11960, THE APPLICANT CLAIMS THAT "PUBLIC PARKING HAS BEEN INCREASED FROM 5 TO 31." THIS MAY, OR MAY NOT BE TRUE. THE ROCKPORT ZONING BYLAW REQUIRES SPECIFIC NUMBERS OF PARKING SPACES TO BE PROVIDED ON-SITE FOR ANY GIVEN USE. THE USES OF THE CATCO BUILDING ON LOT 12 ARE NOT YET DETERMINED, SO HOW MANY SPACES WILL BE REQUIRED FOR THESE USES IS UNKNOWN. THESE 31 SPACES ARE TO BE COUNTED AS PUBLIC SPACES, AVAILABLE, FIRST-COME, FIRST-SERVE TO ALL. AND THE SAME SPACES ARE TO BE COUNTED AGAIN FOR THE CUSTOMERS AND EMPLOYEES IN THE CATCO BUILDING, AND AGAIN FOR THE CUSTOMERS OF THE WONDERFUL WATER TAXI. I BELIEVE THIS SORT OF ARRANGEMENT IS CALLED A SHELL GAME.

I HOPE, MR STRYSKY, THAT AT THE PUBLIC HEARING THAT YOU WILL BE ABLE TO CITE THE VARIOUS SECTIONS OF THE CHAPTER 91 REGULATIONS THAT APPLY TO THE PROPOSED LICENCE AMENDMENT. HAVING YOUR AUTHORITY ON THESE, I MAY FEEL INSPIRED TO COMMENT FURTHER. I THANK YOU FOR YOUR TIME AND PATIENCE IN READING THIS LETTER.

SINCERELY YOURS,

C.C. ROCKPORT PLANNING BOARD

Strysky, Alexander (DEP)

From: Mike Barnhard [mikebarnhard@gmail.com]
Sent: Thursday, March 28, 2013 10:35 PM
To: Strysky, Alexander (DEP)
Subject: Cape Ann Tool Project

Dear Mr. Strysky,

I am writing to you as the manager of The Yankee Clipper Inn (a 8 room ocenaside inn 1/2 mike down the street from the Cape Ann tool project) and an avid supporter of Cape Ann Tool LLC's license number 11960. The property itself has the opportunity to be beautiful and georgeous again with the new project approval that would create 13 houses instead of 25 townhouses which also complies with current zoning without variances. The project also fits better with Pidgeon Cove as far as allowing local residents to enjoy the view as opposed to a more dense townhouse project that destroys the views for local residents die to increased density usage of land.

The installation of new and better docking facilities is essential facilities needed for this site. the site of the project covers more than half of the harbor's frontage and should embrace the water.

Most importantly, I foramlly request a quick and expedient process of this amendment so this eyesore can be demolished and the new project can beautify this beautiful area of Rockport.

Thank you for your time and attention to this very impotant amendment to the residents and businesses of Rockport.

Mike Barnhard
General Manager
Yankee Clipper Inn
"Where Memories are Made"
978-546-0001

--

Mike

Strysky, Alexander (DEP)

From: Erin Battistelli [erinbattistelli@comcast.net]
Sent: Thursday, May 23, 2013 10:51 PM
To: Strysky, Alexander (DEP)
Cc: Board Of Selectmen; Linda Sanders; Mitchell Vieira
Subject: Cape Ann Tool Company Chapter 91 License

Dear Mr. Strysky,

Thank you for holding the public hearing on the proposed changes to the existing Chapter 91 license for the Cape Ann Tool Co. property.

For the record, the Rockport Board of Selectmen discussed this issue only to the extent that the board felt a public hearing was warranted. The Board has not yet been able to deliberate about the specifics of the project or the proposed changes, so I offer my comments as an individual member of the board.

I also understand that changes to the project are expected. This understanding is based on statements that were made by the applicants attorney at the May 15, 2013 Rockport Conservation Commission meeting. Therefore, my comments are in response to the plan described at the May 7, 2013 DEP public hearing.

In my opinion, the number and location of the floats proposed would create safety and navigational problems for our commercial and recreational harbor. I have reviewed the comments from our town Harbormasters and echo their concerns if the current proposal were approved. The displacement of existing moorings is also an unacceptable situation.

In addition, the changes to the public access plans that are included in the current license are of concern and I believe the town Rights of Way Committee has sent more specific comments about those changes.

Thank you again for holding the hearing to allow the public an opportunity to provide the department with comments to the proposed changes.

Sincerely

Erin Battistelli
Rockport Board of Selectmen

Sent from my iPad

Commonwealth of Massachusetts

Division of Marine Fisheries

30 Emerson Ave.
Gloucester, MA 01930
(978)282-0308
fax (617)727-3337

Paul J. Diodati
Director

Deval Patrick
Governor
Timothy P. Murray
Lt. Governor
Richard K. Sullivan, Jr.
Secretary
Mary B. Griffin
Commissioner

May 23, 2013

MassDEP-WRP
ATTN: Alex Strysky
One Winter St., 5th Fl.,
Boston, MA

Dear Mr. Strysky,

The Division of Marine Fisheries (*MarineFisheries*) has reviewed the public notice for Cape Ann Tool, LLC to amend License No. 11960 issued on June 16, 2008, for redevelopment of the site into a primarily residential use. The amendment proposes a reconfiguration of structures and uses at the site, as well as new docking facilities. The docking facilities include seasonal and transient slips with a dedicated slip for water taxi service. The project is located along Pigeon's Cove in Rockport, MA. Concerning the project's potential impacts to marine resources, we offer the following comments for your consideration.

The project site was mapped by *MarineFisheries* as blue mussel (*Mytilus edulis*) habitat and is considered important for larval settlement and juvenile development of winter flounder (*Pseudopleuronectes americanus*). The site is within the N11.0 shellfish growing area which is currently prohibited for shellfish harvest.

MarineFisheries is concerned about stormwater and wastewater management on the site. We recommend requiring low impact stormwater management, designed for the conditions of the site, including landscaping with pervious surfaces and native plantings. Finally, will the new homes be connected to the town sewer system or are they proposed to have septic systems?

Thank you for the opportunity to review this proposal. If you have any questions about this review, please contact me in our Gloucester office at 978-282-0308 x168.

Sincerely,

N. Tay Evans
Marine Fisheries Biologist and Technical Review Coordinator

TE/ko

cc.
G. Falco, Rockport Conservation commission gfalco@town.rockport.ma.us
J. Madeja, Consultant jmadeja@buchananassociates.com
S. Story, Shellfish constable RockportHarbormaster@comcast.net
D. Winkler, DMF

Eric W. Hutchins
13 Applecart Road
Rockport, MA 01966
May 21, 2013

Mr. Alex Strysky, Environmental Analyst
MA Department of Environmental Protection
Division of Waterways
One Winter Street, 5th Floor
Boston, MA 02108

Subject: Rockport Tool Company LLC, Chapter 91 License No. 11960 and MEPA Number 13508

Dear Mr. Strysky,

I attended the May 7th public hearing with regards to the Waterways permit amendment for the Rockport Tool Company. The current owner of the property proposes to modify the existing Chapter 91 permit from the previous owner for a project that was never constructed. The proposed modifications propose to significantly reduce and in some cases eliminate public use and benefits on filled tidelands on this property as well as eliminate public use of Pigeon Cove Harbor. For a variety of reasons cited below, I strongly recommend that this permit application be denied until the applicant modifies the proposal to include public use and benefits associated with the existing Waterways permit and eliminates the taking of public use in the Pigeon Cover Harbor adjacent to this property. The permit application and prior MEPA Notice of Project Change (EEA # 13508) were lacking detailed information, and it was not possible for the public to fully recognize the environmental and public use impacts associated with this project.

- As part of the MEPA Notice of project change, the applicants provided, at best, limited, information with regards to the construction of the marina. Not until the May 7th public hearing was it made clear by the proponents that they are seeking to displace at least 7 existing moorings that have been used for decades by commercial fisherman. The Rockport Harbormasters provided comment during the public hearing that the number of existing moorings that could be displaced would likely be in excess of 13. There has been a public mooring wait list since at least the early 1980's for Pigeon Cove Harbor, and the overall wait list for any moorings in Rockport is over 400 individuals as of the spring of 2013. At the current rate of mooring exchange the current wait to receive a mooring is likely over 20 years. This project proposes to literally bypass the public wait list and in addition displace existing moorings.

- As part of this marina development the proponents are also proposing to extend this private for-profit marina into the Congressionally authorized federal navigation anchorage area. The anchorage was created for use by the broader public and is not exclusive to Rockport residents. Moorings in this anchorage are open to any citizen of the United States. This project proposes to deauthorize a significant portion of the federal anchorage and convert this public usage to essentially private ownership. This would represent a significant taking of a public trust resource and I recommend that such a taking is not allowed.

- The proposed marina is in a location that would be extremely vulnerable to storm damage during any season of the year. The proponents verbally are proposing to create a docking system that would be completely removed from the water prior to any threatening storm event. The applicants did not provide any supporting technical documentation to describe the practicality of such a proposal. I cannot envision any sort of system where a few hundred feel of attached and floating docks as well as all the associated boats could possibly be removed on short notice. Such a plan indicates to me that this project has not undergone any meaningful technical planning or review. Significant questions and issues such as this should have been addressed during the MEPA review. For example, where will the floats be stored every time they are removed during a storm event...in the public walkway?

- The proposed development is also requesting to reduce and eliminate much of the public walkway that extends to both public ways and the small public park that is currently permitted in the area of filled tidelands. I strongly recommend that the small park remain a strict requirement for this waterways permit and that the public has clear access to the water's edge along the entire shorefront. The current proposal would eliminate the public from venturing up towards the entrance to the harbor. This area is well known as one of the most desirable locations for watching vessels come and go from the harbor, as well as the best location for fishing. It was be a tragic public trust loss if the Waterways permit were to be amended in a way that eliminates the section of walkway near the harbor entrance.

- The proposed marina would require the jetting or hammering in of numerous pilings into sediments that have been documented to be contaminated. However, neither the Notice of Project Change to MEPA nor the Amendment to the Waterways permit includes any discussion of these impacts. American lobsters are stored in close proximity to the proposed marinas as well as circulation pumps withdraw water to large lobster tanks located across the harbor. The marina project certainly requires a detailed technical analysis of potential impacts on marine life and the water dependent commercial fishing interests.

Based on my review of the minimal filing information provided in both the MEPA Notice of Project Change and the Chapter 91 application for permit amendment as well as listening to public testimony during the public hearing, it is quite clear to me that this project certainly requires significantly more review prior to issuance of any state permits. I therefore request that MADEP deny this waterways

permit and the state needs to undertake a broader impact to address the broader cumulative and individual impacts to the environment and public use of Pigeon Cover Harbor. Under no circumstances should this project be allowed to proceed for a variety of the above mentioned reasons, but in particular because it proposes to displace commercial fisherman who have been legally at moorings within the federal navigation anchorage.

Sincerely,

Eric W. Hutchins

Cc: Rockport Board of Selectman
Rockport Harbormasters
Rockport Conservation Commission
Rockport Planning Board
Rockport Rights of Way Committee

Strysky, Alexander (DEP)

From: cncelwell@comcast.net
Sent: Thursday, April 18, 2013 4:12 PM
To: Strysky, Alexander (DEP)
Subject: amendment to plan 11960

how will amended float plan effect boats coming an leaving the harbor? will there be a park for residential use how is this new plan different fron the original plans turned in to the town.

CONSERVATION COMMISSION
ROCKPORT, MASSACHUSETTS
01966

March 28, 2013

Alex Strysky
Mass DEP Waterways Program
One Boston Street
Boston, MA 02108

RE: Questions & Comments to Amended Ch. 91 License for Cape Ann Tool, LLC

Dear Mr. Strysky,

At its March 20, 2013 meeting, the Rockport Conservation Commission (the Commission) discussed the "NOTICE OF CHAPTER 91 APPLICATION" made by Cape Ann Tool, LLC c/o Michael Rauseo and have the following questions and comments to that application:

- The formerly approved activities on the site had been determined to be nonwater-dependent. Does that imply that this amended project will be water-dependent? A water taxi and docking facilities should make these amended activities water-dependent.
- Because there were no water-dependent activities on the site for the Order of Conditions issued on February 8, 2007, the Rockport Conservation Commission (the Commission) has not reviewed the site under the Wetlands Protection Act standards for Land Under the Ocean. A new Notice of Intent will likely be required for these water-dependent activities.
- Will there be requirements to perform sediment sampling in Pigeon Cove Harbor?
- The streams located on the site are not noted on the plans submitted for this Amendment to Ch. 91 license. The Commission has a regulation which requires that no building take place within 50' of any wetland resource area on or off the site (Rockport Wetland Protection Bylaw Rules & Regulations).
- The Commission would like to know what affect the subdividing of the lots will have on the Ch. 91 license. Does it mean that for 14 lots there will be 14 individual Ch. 91 licenses? Or will there need to be a common factor in the Ch. 91 license for the 14 lots (Neighborhood Association)?

Because of the above questions and concerns, as well as the need for public participation in the decision-making on this project, the Commission requests that a public hearing be requested of the MA DEP Waterway Program for this amendment.

Should you have any questions regarding this matter, please contact our Conservation Agent (Gerri Falco) at the Conservation Office at 978-546-5005.

Sincerely,

Lawrence A Neal

Lawrence Neal, Chairman
Rockport Conservation Commission

LN/gmf

Cc: Rockport Board of Selectmen
File

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Congress Street, Suite 100
BOSTON, MA 02109-3912

May 23, 2013

Mr. Stevan Goldin
33 Rockport Road
Gloucester, MA 01930

Re: Pigeon Cove in Rockport, MA

Dear Mr. Goldin:

This letter is in response to your April 24, 2013 correspondence to EPA Acting Administrator Robert Perciasepe. Acting Administrator Perciasepe referred your letter to EPA Region 1 for response.

In your letter, you request EPA's help to address PCB contamination that may be located at Pigeon Cove Harbor in Rockport, Massachusetts. You included letters from EPA to the Corps of Engineers (COE) dated August 10, 1983 and from Commonwealth of Massachusetts to the COE dated August 18, 1983. EPA's 1983 letter indicated that sediments in Pigeon Cove had a PCB concentration of 11.7 ppm.

EPA has reviewed the information you provided and based on the PCB concentration identified, it does not appear that these sediments would be regulated for cleanup under the federal PCB regulations at 40 CFR Part 761. EPA has discussed your concerns with the COE. According to the COE, most of the Pigeon Cove project area was dredged in or about 1986 - 1987 and most of the Pigeon Cove area is now the federal channel and anchorage. You may wish to contact the COE for further information pertaining to what work may have been conducted during this timeframe.

As you indicated in your letter, there is currently a proposed project for the Pigeon Cove site that may include docks and other uses. EPA is aware that a permit request has been submitted to the Massachusetts Department of Environmental Protection (MassDEP) pertaining to this project. Accordingly, EPA is forwarding a copy of the letters to the MassDEP for its review. The MassDEP contact for the Chapter 91 license for the project is Alexander Strysky and he can be reached at (617) 292-5616.

Mary Jane Kornacki
163 Granite St – Rockport, MA – 01966

April 10, 2013

Alex Strysky
DEP Waterways Regulation Program
One Winter Street – 5th Floor
Boston, MA 02108

Dear Alex:

We were last in touch in 2001 when Chapter 91 issues were being considered for the property known as the Cape Ann Tool Company site. My reason for writing now is in regard to the application from Cape Ann Tool, LLC to amend License No 11960 issued on June 16, 2008.

As an abutter to the property, I support the proposed building of single family homes on the site. Development there is long overdue. I have some reservations related to Chapter 91 that I want to share.

1) I know this is supposed to be an amendment to the existing license but I wonder if what is now proposed (boat slips, water taxi) is sufficiently different to warrant a different process...one with more opportunity for the public to weigh in. It strikes me as a good deal has changed. Has it changed so much to warrant public hearings? I ask the question truly not knowing the answer.

2) I urge you to pay special attention to the concerns of any fisherman or lobstermen who weigh in on issues of adding twenty-something boat slips. I don't feel quipped to comment on the potential pluses and minuses of that many additional slips. The harbormaster's voice would be especially important on that matter. There is no doubt there is an extreme shortage of moorings in Rockport (the waiting list is a few hundred). But can the cove actually safely accommodate what's proposed? There would be a public good by adding to the inventory of slips but there might be negatives, too.

3) I have most concern about building in a slip for potential use by a water taxi. I spoke with the owner of the property who did attempt to address my concerns. Despite my support for much of what he has planned I am expressing concern about how a water taxi might operate. In my personal view as an abutter, the potential for this added boat traffic (in addition to the 23 slips proposed) could have a negative impact on the peace and quiet of Pigeon Cove. I totally

understand that, at this time, the water taxi is just an idea. But as a summer resident I fear that there are potential negatives associated with that kind of conveyance and we as a neighborhood haven't had a chance to meet and share how we think we might benefit or be negatively impacted. I hope you will look seriously to see if the town wants such a service. It strikes me that alternative water-dependent uses might be considered, e.g., allowing a kayak outfitter to do business there.

In sum, I am generally supportive with reservation about a water taxi service in the future and hope you will take most heavily into account the views of the men and women who currently make their livings on the water and who call Pigeon Cove home port.

Thank you in advance for considering these thoughts.

Sincerely,

Mary Jane Kornacki

Mary Jane Kornacki

Donna S. MacCallum

4 Edgemere Rd
Rockport MA 01966

Mailing Address
86 Morse Avenue
Wilmington MA 01887

Mr. Alexander Strysky
DEP Waterways Program
One Winter Street 5th Floor
Boston MA 02108

Re: Cape Ann Tool Co

These comments are my concerns regarding information contained in Package I received from Hancock Associates. I believe these concerns on my part are reasonable and not to hard on your part to address.

I have looked at information and come to the conclusion that it seems to be a reasonable and good plan.

The concerns I have are:

1. The erosion of hillside of the Right of Way along side Edgemere Rd. This was at one point in past years, wide enough to accommodate 2 cars side by side. The building of a Retaining Wall is a plan I would welcome and approve. Now it is only wide enough for one car. If an emergency vehicle were needed it would be very difficult.

When asking a former owner if he would address this problem, he said although the Right of way belonged to the Tool Co. he would not address it.

2. That I keep the view of the Harbor and Ocean. This would mean keeping down the scrub maples that grow on the rocks and hillside. I don't believe it would have to be every year, but perhaps every two or three years.

Having spoken to Mr. Rauseo on April 18, 2013, I am satisfied that my concerns will be looked at. It is a welcome sight to see the ugliness disappear, after so many years of looking at it. I wish him well and hope the project goes ahead with all possible speed.

Respectfully,

Donna S. MacCallum

Strysky, Alexander (DEP)

From: Robert MacIsaac [rdmacisaac@gmail.com]
Sent: Thursday, April 18, 2013 10:03 AM
To: Strysky, Alexander (DEP)
Subject: Amendment to plan 11960

1. How will amended float plan impact existing moorings in area?
2.Will floats be available for public use
3. Will 35'-40' boats plus float width impere clearance to harbor enterance?
4. Will there be an anchoring system toward water side of floats in addition to piling system?
5. Has there been a study of impact of additional boat traffic,vechicle and parking in area?
Thank you, Robert Macisaac,mooring pc-65

Strysky, Alexander (DEP)

From: janem151@aol.com
Sent: Wednesday, May 22, 2013 12:47 PM
To: Strysky, Alexander (DEP)
Subject: pigeon Cove Tool company project

Dear Mr. Stryski,

After attending the hearing Re. The Rauseo Tool company project I am totally opposed to that proposal. It appears that once again, we of Pigeon Cove are not getting a full expalnation of the project and I fear the changes will not be beneficial to the residents of Rockport, Massachusetts, Thankyou

Sincerely,
Jane Montecalvo
92 Granite Street
Rockport, Massachusetts. 01966

Strysky, Alexander (DEP)

From: William Mueller [William.Mueller@mathworks.com]
Sent: Wednesday, May 22, 2013 10:12 AM
To: Strysky, Alexander (DEP)
Subject: Public Comment on Cape Ann Tool Co

Rockport Rights of Way Committee

05/21/2013

Dear Mr. Strysky:

The Rockport Rights of Way Committee met last evening and discussed the plans for the development of the Cape Ann Tool Company site, as presented at the recent public hearing on the Chapter 91 application by Mr. Michael Rauseo. The Committee would like to convey the following points to both Mr. Rauseo and the DEP:

- We are pleased that the plans include a 10-foot-wide public walkway, beginning at Breakwater Ave along the edge of proposed Lot 1, continuing along the harbor side, with access to Granite St between proposed lots 11 & 12.
- We believe that, in compliance with the Chapter 91 license, the walkway should also continue along the harbor side from proposed Lot 11 to proposed Lot 14 and Edgemere Rd, in the form of some type of crosswalk traversing the back end of the proposed parking area.
- We would like to emphasize that the public walkway cannot be blocked by fishing or boating equipment at any time of year.

We appreciate your consideration.

Sincerely,

William Mueller
Rockport Rights of Way Committee

PLANNING BOARD

34 Broadway
Rockport, Massachusetts 01966
Telephone (978) 546-5008

Henry T. Betts, Chairman
Cameron Smith, Vice Chairman
Mary Ruth Sole

Patty Joy Edgerton
Frederick H. Tarr III
Carolyn Britt, AICP, Consulting Planner
Mary Bourguignon, Secretary

May 7, 2013

Mr. Alex Strysky
Waterways Program
Department of Environmental Protection
One Winter St.
Boston, MA 02108

Re: Comments of the Rockport Planning Board on the Request for an Amendment to a Chapter 91 License (#11960) for the Cape Ann Tool Company Site

Dear Mr. Strysky:

The Rockport Planning Board reviewed this site several years ago through the Site Plan Review process for a proposed multi-family development. The Board carried out a site plan review through a public hearing process. In the process, the Board had a landscape architect review the public walkways and park area that were part of the License #11960. Great effort was made during that review process to get the public access amenities and design as optimum as possible. The Planning Board is now providing comments on a Chapter 91 license amendment with a potentially much reduced public access plan.

The Planning Board feels that the current proposal has some positive features of interest to the Town. At this point, these features are not well-developed. First, the development proposal for the site that would incorporate, manage, and maintain the water dependent aspects of the site is only an outline of an activity at this point. The information provided with the MEPA Notice of Project Change, the Chapter 91 license amendment, and the Approval Not Required plan submitted to the Planning Board have critical differences. Second, with the exception of the Approval Not Required Plan, the other submissions have been rough sketches rather than surveyed plans that are prepared to scale. Given the complexity of this license and the amendment requested, accurate plans are necessary to make a decision. Third, clear responsibility for the management and maintenance for the floats, slips, walkways, and all uses on filled tidelands and waterways has not yet been assigned to one entity which has the financial responsibility of managing these assets. Without this, there is no assurance that these resources would be managed appropriately.

Based on the issues addressed above and on the following comments, the Rockport Planning Board requests that, if and when an amendment or new Chapter 91 license is issued, many of the requests and concerns noted here become concrete requirements or conditions of the approval.

Based on the changes that are proposed by the MEPA Certificate and the other inconsistencies noted here, the Planning Board would like to reserve the right to submit additional comments after the public hearing on May 7, 2013.

The following topical areas address the concerns of the Planning Board for development at the site:

Public Access:

- The original license calls for a 13' wide minimum walkway, with an approximately 20,000 square foot park on filled tidelands. With the exception of one lot, there is no reason based on lot size or land use of the potential ANR lots to restrict the width of the walkway. The walkway should remain at a 13' minimum.

- The walkway should, to the extent possible, have an outlet at the southern end of the property, either down Edgemere Rd. or otherwise on the last lot. At minimum, the walkway should not end in a parking lot but run along the parking lot on a 10' exclusive use walkway, although this reduced length of the walkway is not desirable.

- The Certificate of the Secretary of Energy and Environmental Affairs on the Notice of Project Change (the Certificate) dated April 5, 2013, indicates that the project will need to change as the area on Commonwealth tidelands must be provided as passive or active public open space, such as parks, plazas, or observation. The amendment proposes exchanging the floats for the public park. This is not allowed for under the Chapter 91 process so the Certificate notes that the "proponent must modify the project." The exchange of a half-acre public park for what is now proposed as float storage is in no way equitable for town residents and new home-owners in the area.

- Grade changes and any need for steps and ramps should be identified to assure that enough land is available to accommodate a fully accessible walkway.

- Amenities usually associated with such walkways, including landscaping, fencing along the water and possibly along the back lots, bicycle racks, and lighting, should be included in the public access areas. With the proposed width of only 8' and 10', the inclusion of these amenities is not possible. Lighting is necessary for both enjoyment and use of the public walkway area. Lighting fixtures should, however, light the pathway only, be no taller than 4 feet high, and be full cut-off so they do not reduce the enjoyment of viewing the harbor and boats. The walkway should be open 24 hours/day to allow access to boats for fishing trips and similar uses.

- The plans need to be in scale so more information is available on the impact of the walkway on the lots. The size and number of parking spaces at a maximum should be shown on the ANR plan for lot 12 so the limitations on redevelopment of that lot under

the parking requirements in zoning will be more clear. It may be that lot 13 will be needed for any reasonable commercial use of lot 12 in order to provide enough parking. The MEPA filing apparently envisioned more parking than the 31 proposed in the Chapter 91 amendment.

- The proposal submitted to the Planning Board on May 2 shows the float storage in the area of filled tidelands required for public access. This will certainly limit access from the residences to the waterfront. In any case, this information should be clarified with more detailed information on location and appearance.

Boat Access:

- The Planning Board is also concerned about the cost of buying slips, and the access to slips by ability to pay. Moorings currently cost $133/year. Information on the cost of slips has not been estimated at this point. This process of allocating access to anyone who can afford the likely much higher cost is not be responsive to the many residents on the mooring list that have been waiting for water access for some time. The current plan is to reduce the number of moorings in Pigeon Cove by 7, and it is indicated that 7 slips will be offered to the Town at a reduced cost. The Planning Board considers that these 7 slips should be donated to the Town.

- The proposal for a water taxi, at a minimum, requires a parking assessment study. The study must address the small number of parking spaces proposed to serve slip owners, customers of the marina, users of the walkway, and water taxi riders. The water taxi may never be operational unless more on-site resources are available to serve it, such as parking, waiting area, etc.. The Town currently has a large parking area 1 mile from downtown with regular shuttle service to the downtown. The water taxi and the minimal parking available at this site is not needed to address the parking needs for the downtown. Again, the water taxi could diminish the area for public use if the spaces are reserved for water taxi users. There are no other large parking resources in the area to serve either the public or the water taxi. Some residents have, however, expressed support for a water taxi option and would like to see it made a requirement of the project.

- The installation of the private floats limits the viewing of the water from the public access walkway, and in fact places the public about 25-30 feet back from the water when the length of the floats and boats are taken into account.

- The statement is made in the amendment that the boating facilities will replace the 20,000sf park. It is certainly not in the same location, and is not open to the public.

Fishermen Access:

- The access for fishermen is of great interest to the residents of Rockport and the Planning Board. It appears to be well-located at the end of the parking area. It must be matched with land-based resources on a 24-hour basis, such as dedicated parking and turning areas, and storage, to assure usability by fishermen. These requirements must be legally included in a decision on the amendment so it can be clear how much land resources must be made available and the operational restraints that will apply to this area.

Residential Development

- The amendment has indicated that the proposed project will be less dense. While the number of residents will be reduced, the actual area in buildings will likely not be reduced. In fact, if each homeowner builds sheds or garages, the building area could be increased.

- The Planning Board suggests that the License amendment request include details on the development proposals for the individual lots, any limitations on construction of accessory buildings seaward of the residences, proposed limitations and markings (such as monumenting, fencing, etc.) that will mark the publicly-accessible easement and limit incursion from homeowners. This is a recurrent problem when public access consists of a walkway at the back of individual house lots. Since this site is now proposed for ANR lots, the Planning Board will have no further review of the proposed residential lots other than consistency with zoning.

- The Planning Board also suggests that the legal arrangements, such as homeowners' association agreements and easements, be specified before the approval of the amendment.

- The Planning Board concurs with the finding in the Certificate that the proponent "analyze the effects of projected sea level rise on the project site and adjust the project design accordingly." The Certificate goes on to recommend two feet of sea level rise be assumed.

Thank you for your consideration of the Planning Board's comments.

Sincerely,

Henry T. Betts

Henry T. Betts, Chair
Rockport Planning Board

April 10, 2013

Alex Strysky
Massachusetts Dept. of Environmental Protection
Mass DEP Waterways Program
One Winter Street
Boston, MA 02108

Hello Alex,

I am writing to you concerning a project NOTICE OF CHAPTER 91 APPLICATION, WATERWAYS LICENSE APPLICATION NO. X254996
By APPLICANT_Cape Ann Tool, LLC c/o Michael Rauseo
for LOCATION __175 Granite Street (former Cape Ann Tool Company site) Map 16/Lots 26A, 28, 28A for the following ACTIVITY Amendment to License No. 11960, which authorized redevelopment of the site into primarily residential use. The amendment proposes a different configuration of structures & uses at the site, as well as new docking facilities. The proposed project had been determined to be a nonwater-dependent use.

My concern is that the original plan did not include any water use and all the permits were issued with that understanding. The new plan includes a marina of 20 plus boat in length of up to 40 feet.

If this was to take place in would mean that many boat owners both commercial and recreational would be displaced from a Town of Rockport Harbor to make way for a privately owned for profit marina.

My mooring would be one that would need to be removed, when an attorney for Cape Ann Tool LLC called me to discuss my support for the Marina, when I asked what happens to me, and the other boat owners (now with a Mooring) it was stated we could rent space at the new Marina. I am sure the price I would pay would be more than the $203 per year that I currently pay. I would also like to say that Rockport has a waiting list for moorings and I waited over 10 years to get a mooring 15 years ago.

As I see it this is a brand new project that is asking to take public moorings, displacing many boat owners who have had moorings for many years and possibly putting commercial fishermen out of business by removing their ability to keep and run their business to privatizing this public anchorage for the profit of a privately held Marina.

I am strongly opposed to this plan.

Sincerely

Bruce Reed
32 Pigeon Hill Street
Rockport MA 01966
Bruce_reed@comcast.net
978 546-7151

HARBORMASTER

Town of Rockport

34 BROADWAY
ROCKPORT, MA 01966-1537
978 - 546-9589

April 11, 2013

Alex Strysky, DEP Waterways Program
One Winter Street-5th Floor
Boston, Ma 02108

Dear Mr. Strysky,

The Rockport Harbormasters wish to submit the following comments concerning Amendment to Waterways License No. 11960/Cape Ann Tool Company LLC.

-The plan apparently approved previously by the Town of Rockport had no water related components and as such we had no objection to that plan.

-The amended plan No. 11960 (CH91App.doc.Rev6/06) has significant water related changes.
-The proposed water related changes will interfere with ACOE Federal Anchorage and the vessels moored within the Federal Anchorage.
-The proposed water related changes would displace the commercial and recreational boats moored in the anchorage.
- The flow of the boating traffic would have to be considerably changed.

-A large percentage of the proposed floats along the seawalls will be aground at low tide.
-We do not view approximately 3,680 square feet of floats that have been added to the project as an insignificant change.
-Our opinion is that a water taxi at this location would be a serious safety concern, except in ideal weather.

These are a few of our key objections and we wish to retain our rights to an adjudicatory hearing in accordance with 310 CMR 9.1(4)(c).

Respectfully submitted:

Scott W. Story Rosemary Lesch

Rockport Harbormasters
Scott Story/Rosemary Lesch
978-546-9589
harbormaster@town.rockport.ma.us

Rockport Rights of Way
Town Office Building
34 Broadway
Rockport, MA 01966
April 4, 2013

Alex Strysky
Department of Environmental Protection Waterways Program
1 Winter Street - 5th floor
Boston, MA 02108

Re: License NO. 11960, Cape Ann Tool LLC

Dear Mr. Strysky,

The Rights of Way Committee has viewed the preliminary plans submitted by Cape Ann Tool LLC, as prepared by Hancock Associates and dated 2/25/13. After consideration of these plans, the Committee is asking the Selectmen to make a formal request to the Department of Environmental Protection for a public hearing on this application.

Specifically, our concerns are the following:

--The present plan differs greatly from the original plan approved in 2008, affecting the public's access to the shore. We feel the Town should have a public opportunity to comment on these changes.

--Instead of the line of large residential buildings along Granite Street and Breakwater Avenue with wide driveways between them, as originally proposed by the previous owners and permitted by the DEP, the new plan divides the property into 14 adjacent lots, each with a structure on it. These lots are shown on the 2/25/13 plan apparently as close together as allowed by the Town zoning bylaw. Since the lots are to be privately owned, there would be no way to access the "public walkway" from Granite Street or most of Breakwater Avenue.

--The public walkway as shown could be accessed from Breakwater Avenue, but it ends without giving the pedestrian or bike rider any way of leaving except to double back to the Breakwater Ave. entrance, or to pass at considerable hazard through the parking lot shown between Lots 12 and 13 on the plan.

--As shown on the 2/25/13 plan, the public walkway stops just before Lot 13, making it significantly shorter than the one permitted for Old Colony

Maritime, unless it is anticipated that users of the walkway will have to share it with boat and float users.

--As permitted, the earlier plan included a public park area, which doesn't appear on the 2/25/13 plan.

We believe the public's Chapter 91 rights to this harborside property should be complied with, at least to the extent already permitted.

Sincerely.

Phyllis Krenn

Phyllis Krenn, Chair
Rockport Rights of Way Committee

D Mr Stryski, Here are some comments on the tools
[illegible] of the [illegible]
Linda to the Water Taxi

① nobody would sub contract or want it
② dividends taken, no matt how
it [illegible] it [illegible] up the [illegible]

Keep the floating boat slips, if and
only if I get permission from Rosemary Leach & Scott's story
to have one for my boat,
① should be public slip (they are
[illegible] anyway)

Keep the smokestack, even if most
of the boiler room is eliminated. It's
on the coast guard maps and all
waterway guides and if we eliminate it
hundreds of boats will get
wrecked on the rock. Paint it
a pretty color.

The dry store that now exist on
the eastern side of the property should
now be kept in addition to the boat
slips. I think it would be
profitable, especially if it had a
[illegible] railway [illegible] or a [illegible]
marine

over —

crane separated from the lobstermans lease

David Williams

182 Granite St.

Rockport, Maine

92 Granite St.
Rockport, Ma
May 22, 2013

Mr. Alex Strysky
DEP Waterways

Dear Mr. Strysky:

I write to comment on the amendments to the Chapter 91 license for the Tool Company Property in Pigeon Cove.

I am focused on the 9.51 (Conservation of Capacity for Water-Dependent Use) series of the regulation, but will briefly comment on the public hearing held May 7th, 2013 in Rockport Town Hall. At that meeting, the proponent's lawyer Jamie Majeda argued that one big difference in the amendment was "visual public access". I recorded the meeting and the statement, nearly verbatim, was: "They are house lots with visual through. You don't get blocky apartments anymore, big buildings, you get visual pass through of homes that fit into the traditional neighborhood area, nicely done, not all cookie cutter, you're not getting a subdivision of all the same homes...Visual through access - that's one big difference."

310 CMR 9:51 (2) b requires DEP to consider "the layout and configuration of buildings and other permanent structures, insofar as they may affect existing and potential public views of the water, ...especially along sight lines emanating in any direction from public ways and other areas of concentrated public activity." The present existing view of the harbor from the sight line of Curtis Street where it intersects Granite St is totally unobstructed. Addition of two houses on lots 13 and 14 (outside of Chapter 91 jurisdiction) will significantly detract from the existing view, and while not under purview of state regulation offers no relief from the lots that are. Every other lot (1-12) encompasses some land under chapter 91 jurisdiction.

In order to comply with local zoning ordinances, and avoid special permits and variances, the lots have been subdivided into roughly parallel plots, running perpendicular to the streets and having minimum required frontages of 50 feet. Although the houses may not be cookie cutter....the lots are. That then forces a potential homeowner to limit the width of his house to 30 feet...to comply with 10 foot side setbacks in the general zone area. Thus, even though the houses may be cosmetically altered to look "different", each will share the same basic constraint of width. It is logical to assume each homeowner will want the maximum width of 30 feet, or close to it. Series of houses 30 feet wide separated by 20 foot gaps is not reflective of the "traditional neighborhood area."

Moreover, the Town of Rockport has no control over what a property owner may plant, and, (from my observations of Planning Board bi-weekly meetings over the course of

the last year) no desire to enter that controversial arena. It is highly unlikely that individuals of means to pay for such property would be content with no landscaping at all....a barren trailer park type of development, so they would be at complete freedom to plant trees, shrubs etc, which would certainly affect visual public access and "potential public views of the water". The key point is that it is not planned.....the only way true visual through access could be assured is with a deed restriction governing what can be planted by the homeowners. Likely??????

Section 9.51 Conservation of Capacity for Water-Dependent Use

"In applying this standard, the Department shall take into account any relevant information concerning the utility or adaptability of the site for present or future water-dependent purposes, especially in the vicinity of a water-dependent use zone."

Comment: Massachusetts Clean Marina Guide, New and Expanding Marinas a CZM publication ~~attached~~, encourages development of marinas on old urban areas, industrial brownfields etc. · The old tool company structures, at least along Breakwater Ave, would seem to present an ideal site for a rack and stack marina serviced by high lift/low drop forklifts. The areas of lots 1 thru 6, were actually the space used by the tool company in its heyday, for storage of long billets of steel bars and rods (brought in by rail and truck), awaiting the forging process. After the forging process, scrap steel was put in large square metal pallet boxes and stored for shipment back to the steel mills, when the next gondola cars came in by rail. That particular area has a historical storage context.

(2) "Structures or spaces must be developed in a manner that protect the utility and adaptability of the site for water-dependent purposes by preventing significant incompatibility with structures and spaces which reasonably can be expected to serve such purposes, either on or adjacent to the project site."

Comment: There is some question in my mind as to what "adjacent" means. In the tool company plan there is no adjacent land in the meaning of side by side. For example the land to the east of lot 1 is an existing riprap seawall, and the land south of lot 11 is the concrete machine shop. But landward areas bordering the historical high tide mark on lots 1 through 11 is adjacent also. That is being set aside for the houses. What reasonable future water-dependent use can be made of the small strip of land bounded by the 53.1 foot water dependent use zone and the historic high water mark (in the Chapter 91 jurisdiction) if the uses for the land on the adjacent landward side of Chap 91 is somebody's back yard?

Section 9.53 Activation of Commonwealth Tidelands for Public Use

"Ensure that private advantages of use are not primary but merely incidental to the achievement of public purposes. The Department shall take into account any factor affecting the quantity and quality of benefits provided to the public in comparison with detriments to public rights associated with facilities of private tenancy"

(2) The project shall attract and maintain substantial public activity on the site on a year-round basis, through the provision of water-related public benefits of a kind and to a degree that is appropriate for the site, given the nature of the project, conditions of the waterbody on which it is located, and other relevant circumstances (c) the project shall devote interior space to facilities of public accommodation with special consideration given to facilities that enhance the destination value of the waterfront by serving significant community needs, attracting a broad range of people, or providing innovative amenities for public use."

Comment: Aside from a limited function boatyard in lot 12, there are no details regarding the facilities of public accommodation. I think it is described as retail. The site is located entirely within Rockport's least restrictive and only remaining general zone, and business/commercial activities that are not allowed (even by special permits or variances) elsewhere in town could be placed there. In 1974, the last time that a major study was performed, MIT's department of urban studies made recommendations that the town "explore the feasibility of establishing an institute or museum, supported primarily by visitor donations, that will display and promote the maritime traditions of Rockport. (We could also think about a Granite Industry Museum). The report also encouraged a Rockport Center for the Enhancement of the Visual and Performing Arts in which artists and craftsmen could establish themselves as professionals and develop critically important business and marketing skills. Lastly, to encourage a diversified economic base for the town and to provide more jobs for Rockport residents they endorsed the effort currently(1974) under way to explore the feasibility of a new light industrial park." To my knowledge, most of those goals never materialized (a performing arts center was built within the last 5 years, indeed, referenced in the applicants petition) and when Rockport ceded (see attachments) the only remaining zone where it might be possible, they most likely never will. Despite recent comments from the Planning Board that they are not against the new proposal, at the same time, in performing one of their statutory duties, a downtown master plan, forerunner to a townwide master plan, they envisioned a Rockport in 2030 which offered some employment opportunity to town residents, and stated finding land for commercial uses other than retail is a "challenge". They have deferred from acting on my suggestion, since the tool company was sold, to amend the wording to "impossible".

General Comments:

Rockport has no natural harbors, and extremely limited (I would say no) potential to develop more. In three or four more generations, if water levels do rise, a scenic

feature, the Sandy Bay breakwater, may be totally underwater, and it might then be politically possible to reverse engineer all the futile effort that went into its' construction a hundred years or so ago and expand Granite Harbor. Vastly less effort would be required than a hundred years ago, because the stones are already cut, and in the ocean. But until then, we only have Pigeon Cove harbor. Decisions made now will impact the total capacity for water-dependent uses far into the future. The current #1 candidate on the towns' mooring list (as of May 21, 2013) submitted their application on August 18, 1992, nearly 21 years ago. There are 396 other people waiting behind. The proposed use of the harbor makes a small step to remedy this situation, but nothing to the degree that is fully commensurate with the proprietary rights of the Commonwealth therein, and which ensures that private advantages of use are not primary, but merely incidental to the achievement of public purposes as required in 9.53 of the regulation.

When I thought about how a portion of the tool company site could be developed as a rack & stack marina I came to the conclusion that their would be no real problem in getting boats into the water. People would simply call the operators to request a time and show up. But now you have, say 50 boaters in the water and how do you prevent congestion when they want to come in? I thought about that a lot, while sitting out on the breakwater last year. The answer came. You use the smokestack as a signal device to alert boaters when the forklift can lift them out. The smokestack is high enough to be seen over the existing breakwater. It could be outfitted with lights, flags, etc to indicate when the forklift is available from vantage points outside the harbor. And I thought there would be enough room on the site to store boats temporarily, if a sudden storm meant many boats coming in rapidly, and little time to return them to the permanent shed. Alas, when the Board of Appeals considered the previous owners request to demolish the stack, they declared it a "minor" revision to the approved site plan and the public was frozen out from comment. It was painful to hear one member justify his decision...."If I was living there I wouldn't want to look at it." Townsfolk never got an independent assessment of the stacks' condition. As I recall Continental Chimney, an inspection company in New Jersey took a look at it. No engineers stamps on the two page letter documenting its condition....An opinion that the top fifteen feet was weather damaged and would need removal in any case, and a slight bulge possibly due to a cracked liner which was putting more than design load on the concrete shell. Repairs, I've since found out would cost an estimated $110,000 which is about 1/164 or .61% of the new projects total estimated $18,000,000(?) cost.

But those type of board decisions come easier, once appointed boards know that their bosses, the selectmen, have already decided the properties' fate, the public be damned. That happened on April 3, 2012 when selectmen decided not to put on the ballot a non-binding referendum asking the public whether we should buy the property. The local newspaper was no help...they decided to sell papers by criticizing the one selectman who thought the public should decide the issue. He made the fatal error (in this town) of telling off another selectperson with "Why don't you go back to the kitchen?" Only three members of the general public were there at the time, and I was one of them, and none of us heard it, but I guess "that's politics".

Secure politicians (I can't bring myself to say leaders) who have confidence in their own ability would have had a laugh out of this, ours made a federal case out of it.

Water taxi and parking: At the public hearing, there was some discussion about the feasibility of the water taxi. I said I thought it was a good idea, although I doubt it would work with the present mixed use development and parking requirements. More parking means more cars. The two are competing modes of transportation. I'd prefer to see as little parking as possible on the site, allowing only for employees of any retail, commercial etc businesses. Other than that, having no place to park a car would certainly help the operator of a water taxi. Our Planning Board, in advocating more public parking, is decreasing the chances of water taxi success.

Public Park: The idea of a public park being removed has generated much concern. I'd prefer to see some kind of "park" on lot 13 and 14. I'd like to see something like Speaker's Corner in Hyde Park, London. At the Marble Arch there, speakers are free to comment on about every aspect of life and the 19th century Brown Hoisting Crane (that used to provide the rail-truck link) rusting away at the towns' railroad depot would provide a similar focal point in Pigeon Cove. I'd use something like Aqua-Brick for paving, with some low greenery. Use it for storage of minimally necessary floats in winter.

Marine Gas Station: The town has been looking for years for a site for a new Pigeon Cove Fire Station. My understanding is they finally gave up when no appropriate site could be found. So they continue to cram two engines in the existing building designed for Model T pumpers. Would a new fire station somewhere on the site make a gas station more feasible??

I guess that covers most issues.

What else? Alleged eyesore: Some communities make the best of industrial buildings. Portland Maine has a huge building painted with whales. The Corn Palace in Mitchell, South Dakota, is redecorated every year with mosaics of corn, wheat, and native species of grass. Many colleges across the nation have programs to send their students on summer trips, study abroad etc. Their art students would have a field day on the exterior wall panels. Their parents would bring money to local inns and hotels. Lifelong memories of some place called Pigeon Cove.

Use of old panels and structural steel: Nearby Pingree Park has a greatly underused tennis court, built around 1970, used for a few years and then largely abandoned. I believe, the only reason it is playable at all is because some private citizen donated money to repair it last year. Two years ago it was as badly neglected as the tool company. It's playing surface was like the present tool company parking lot. The court was built on top of an existing "big league" baseball diamond. A check with the open

space and recreation committee a year or so ago led me to believe a community the size of Rockport should have two ballfields. There is some kind of tennis game now that is the rage in Boston. Platform Tennis. That could be put on the flat roof portion southernmost on the machine shop, which then allows restoration of the ball field. When I last played baseball there in 1960, we always complained of the short right field. It needed a green monster. So does Evans Field in Rockport for that matter...but since kids slide down the hill there in winter, one at Pingree is better.

The Rockport Golf Club has a small driving range but it isn't big enough to use drivers. As with everything else in Rockport, there is little land available to expand. Had the town bought the property, I would have advised building a driving range and walling it off with discarded panels. Just a pipe dream, now, but a money maker since nearest public practice range is in Danvers.

I think that about does it Alex. Once again, I'd like to commend you for the conduct of the public hearing. I'm also enclosing some transcripts of official town meetings, etc for the proponents reading pleasure. I certainly don't expect them to comment on those, but they go a way towards explaining how and why some of us harbor lingering resentment, not to Mr. Rauseo, rather to the process itself.

Our revered appointed finance committee for example, made no suggestion to pursue the motion of seeking a purchase price from the Kanebs, as requested and agreed to at town meeting by town officials. When a $2.95 million sales offer actually goes for half-price, somebody in town isn't doing their job. A year later, a member of the Finance Committee tells the public they (we) are a broken process and to bury our dead puppies and get moving. Things like that bother me.

Regards,

Zenas Seppala

Zenas Seppala

ENCL

Pg 42 - DOWTOWN MASTER PLAN

1974 - MIT STUDY RECOMMENDATIONS.

FALL 2011 TOWN MEETING TRANSCRIPT

4-3-2012 SELECTMAN'S MEETING

SPRING 2012 TOWN MEETING TRANSCRIPT

EXTRACT FROM "A MASTER PLAN FOR DOWNTOWN, ROCKPORT 2011 ROCKPORT PLANNING BOARD.

collaborate on economic development efforts. The Shalin Liu Performance Center, a new player in downtown Rockport, has become an important partner in attracting visitors and visitor services. Since its opening in June 2010, businesses have increasingly taken advantage of this new asset. The extensive renovation of what is now named the Rockport Inn and Suites provides a large, modern lodging facility with 79 rooms just outside the downtown area. This facility accommodates visitors to Rockport who seek a modern, fully handicapped accessible motel setting.

Finding available land or facilities in Rockport for business activities other than retail is a challenge. "virtual impossibility"

Zoning allows offices in downtown buildings, and they are currently found on Broadway, Railroad Avenue, and Main Street, as well as side streets. There is also 12,785 sf of office space above the currently vacant grocery store in the Whistlestop Mall on Railroad Avenue. Rockport lacks land for industrial or large commercial facilities that need unobtrusive yet accessible sites. Maintaining businesses in the downtown in a relatively isolated seasonal community like Rockport is an ongoing challenge. Keeping commercial property in commercial uses and preventing first-floor conversions to housing is also a challenge.

1. ORGANIZE TO UNDERTAKE ECONOMIC DEVELOPMENT.

Rockport has several standing organizations working to undertake economic development planning and implementation. To execute initiatives recommended in this Plan, as well as those identified in their individual work plans, each organization will need to define and agree to specific responsibilities. Coordination with organizations in other Cape Ann communities will be very important.

Action Items:

a. **Develop a leadership team to study and undertake business development in Rockport, and implement recommendations.**

Rockport needs an entity or working group to address merchant needs in the downtown area. This work might entail development of information to provide a full understanding of the economic issues in the Downtown; coordination of merchant activities for mutual benefit, such as common opening and closing times, and identification of designated areas for employee parking; development of an inventory of land resources available for location or expansion of businesses; and identification and recruitment of businesses likely to be successful in Rockport. This work is often undertaken by a merchants' organization, chamber of commerce, or local or regional economic development entity.

b. **Coordinate and enhance local efforts for economic development.**

The Economic Development Committee and the Cape Ann Chamber of Commerce could initiate a series of broad-based meetings to discuss economic development issues and initiatives for Rockport and for the greater Cape Ann area, as noted above and elsewhere in this Plan. This series of meetings could identify problems and opportunities, review the content of this Plan and other referenced plans that have addressed economic development in the region, identify the particular strengths and resources of each entity, and develop lists of initiatives for each entity to undertake. The need for additional resources and expertise could then be identified. This effort should include assignment of responsibility to the various participants for implementation of the recommendations. Such an effort could result in the development of a leadership entity or team as recommended in item 1.a. above.

Recommendations for Action

– PLANNING FOR FUTURE OF ROCKPORT, M.I.T. 1974

1. Any growth that does take place in Rockport should enhance the character of the town and the value of surrounding properties. A review of the town's zoning by-laws may reveal areas in which better control of development is desirable. Some newer zoning mechanisms, such as incentive or cluster zoning, would give the town an opportunity to review different aspects of new development more intensively than it can now. 25-8, 92

2. Young families are having difficulty finding places to live in Rockport. Many of these families would rent housing if it were available at a price they could afford. There are also young families prepared to buy their own homes. Many of these people may be forced out of Rockport unless appropriate action is taken. Every effort should be made to help them either through something as simple as a public information officer who can advise Rockport residents about available mortgage assistance programs or through a more comprehensive housing program aimed at providing rental and purchase units at more reasonable prices. 12-13, 15, 22

3. For families and individuals (particularly elderly residents) for whom multi-unit housing provides the most suitable living environment, Rockport should take steps to encourage such multi-unit housing for mixed income levels. 12-13, 15, 18, 22, 25

4. The demand for multi-unit housing is greatest in the two to four bedroom category. Incentive zoning should be used to encourage this type of construction while seeing to it that necessary environmental safeguards are considered. 12, 15, 25, 26, 29

5. Standards should be included in the town's by-laws which require a review of site considerations for single family developments and also an assessment of the environmental impact likely to be created by multi-unit construction. 12, 25, 92

6. Conversion of existing large homes and buildings to multi-unit structures should be favored over the construction of new buildings. These conversions should be scattered throughout the Town so that no one section of Rockport with many large structures is dominated by conversions. 15

7. The town should investigate the possibility of using some town-held land (especially tax title land, which has no designated Town function) to defray the cost of housing. The Town's direct participation in such a project would ensure that development is of high quality and beneficial to all residents. 15-17

8. Take steps to maintain the mixed residential-commercial use of the downtown area and to limit the further development of tourist-dependent businesses outside of the downtown area. 44, 48

9. Adopt new regulatory devices to perserve and upgrade the quality of commercial establishments through the use of appropriate by-laws controlling the size, layout, and facilities provided within and adjacent to newly created businesses. 43

10. Tax revenues generated by the business community are more than adequate to provide for an increase in services such as traffic control, public rest rooms, litter control, municipal parking, shuttle bus subsidies, information booth subsidies, benches and park improvements, beach maintenance, and picnic facilities. Improvements in these areas will benefit residents and visitors alike. 47, 52-3

11. Appropriate the funds necessary to commission a detailed study of parking, traffic, and circulation problems in Rockport. Such a study should be undertaken by a highly qualified traffic engineering firm in conjunction with a committee of interested residents appointed by the Selectmen. The study should provide, but not be limited to:

A. An analysis of the feasibility of town acquisition, construction and operation of one or more municipal parking lots and alternative sites for such lots;

B. An evaluation of the most effective ways of organizing and financing a self-supporting shuttle bus service covering all or most of Rockport; and

C. An assessment of alternative approaches to restriction of visitor parking in residential areas. 39, 41-3, 52-3

FUTURE OF ROCKPORT (2)
1974

12. To preserve the fishing, lobstering, boating, and harbor-related heritage of Rockport, the town (in conjunction with existing organizations) ought to explore the feasibility of establishing an institute or museum, supported primarily by visitor donations, that will display and promote the maritime traditions of Rockport.

13. Encourage via public support a Rockport Center for the Enhancement of the Visual and Performing Arts in which artists and craftsmen could establish themselves as professionals and develop critically important business and marketing skills. 48

14. To encourage a diversified economic base for the Town, and to provide more jobs for Rockport residents (especially younger men and women), we endorse the efforts currently under way to explore the feasibility of a new light industrial park. 30, 76

15. It is recommended that Rockport draw up and adopt new subdivision and zoning by-laws that take account of ecological and aesthetic considerations. Citizens for Rockport take a number of steps to strengthen the capacity of the Conservation Commission and the Planning Board. More specifically, we recommend that:

A. New conservancy or wetland districts be created to protect sensitive wetlands and water pockets; 70-71, 90-91, 96

B. State-mandated review procedures be codified and enforced empowering prior reviews by the Conservation Commission of all building permits and subdivision proposals in sensitive ecological areas; 90-92

C. Appropriate local environmental impact review procedures be adopted providing for a careful analysis of the short-term and long-term effects of new development; 93

D. The submission of contour plans be required in connection with all new development proposals; 93

E. Vegetation and ground cover standards be revised and enhanced; and that 66-76

F. A detailed map be drawn up and adopted which officially identifies all sensitive ecological areas and the development capacities of each land parcel in Rockport. 67-75

16. We advise the establishment of a conservation trust or similar land banking mechanism that can act on behalf of the town to secure controls of key land parcels when and as soon as they become available. 29-30, 90-91

17. It is recommended that the town meeting appropriate funds to enable the Conservation Commission to undertake high priority title searches and surveys. This should be the first in a series of actions leading to the preparation and implementation of a long-range Open Space plan for Rockport. 92

18. We recommend the adoption of whatever by-laws are necessary to implement appropriate site plan review procedures and to ensure a stringent review of all development proposals. In this connection, prepare a preliminary assessment of the costs to the town involved in acquiring the professional planning assistance needed to carry out the technical review functions implied in our recommendations #1 and #2. The Planning Board ought to undertake, with the cooperation of the Conservation Commission, a comprehensive review of all current zoning and subdivision by-laws which, in their present form, do not seem to be powerful enough to ensure adequate environmental protection and sufficient control over proposed new development. 90-92

19. It is suggested that the town undertake a complete review of all traffic signs and signals, lighting needs at various intersections, and other public safety precautions that might be employed to minimize the pedestrian hazards and the inconveniences created by traffic. Appropriate whatever funds are necessary to complete this review with dispatch including, if necessary, funds to hire traffic engineering consultants. 81

20. Citizens for Rockport recommends that the town create a local Historic District Commission charged with the responsibility of preparing the background study needed to create one or more historic districts in Rockport pursuant to Chapter 40C of the General Laws of Massachusetts. Historic District legislation is vital to the long-term conservation of the aesthetic charm and historic qualities of Rockport. Whatever legislation is proposed ought to be especially tailored to the unique characteristics of the town. 88-9

21. We urge the continuation and promotion of an exchange of planning ideas and of cooperative planning ventures between Rockport and Gloucester. In addition, ensure that Rockport maintains its current participation in the multi-community coastal zone planning effort currently under way on the North Shore. 95

22. Finally, we recommend that there be made available in the Town Hall (a) an up-to-date map and listing of legally defined "rights of way" to the shore and to other publicly-controlled open spaces in Rockport suitable for recreational use, and (b) a summary of the regulations pertaining to the use of public open space. Undertake a regular program of maintenance to ensure that all rights of way are clearly marked and maintained. 96

FALL 2011
TOWN Meeting.

FROM TOWN CLERK
Feb 14, 2012
14

ARTICLE 15 (I). To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, or eminent domain, and to accept the deed of a fee simple interest in all or a portion of the parcels described herein for general municipal purposes, to have the steel/tin structure demolished and to determine whether such funds will be raised by taxation, transferred from available funds, provided by borrowing or by any combination of the foregoing, for the purchase of all or a portion of the parcels of land on Assessors Map 16, Lots 28, 28A, 26A and recorded in Book 15989, Page 212 at the Essex Registry of Deeds, owned by Old Colony Maritime, LLC, and to authorize the Treasurer with the approval of the Board of Selectmen to borrow said funds under G.L. Chapter 44, Section 7, or any other enabling authority, provided that the amount authorized to be borrowed hereunder shall be contingent on a debt exclusion vote to exempt from the provisions of Proposition two and one half, so-called, the amounts required to pay the principal and interest on the bonds to be issued to finance the purchase and demolition; or act on anything relative thereto. *(Petition)*

MODERATOR: We now move onto Article I. I will give you a few words of instruction on what we are doing here on Article I. Article Q which we have already chosen is going to follow Article I which means after that we will have Articles A, B, and C in that order after Article I. Article I is a petition Article and if you look at it, it essentially says we are going to buy the tool company. The Article says let's buy it and demolish it and one of the proponents said, "well I want my motion to be only let's demolish it and another signatory on that petition said, "no, I want to buy it and not demolish it." So what we are going to do is we are going to hear both of them and when you combine them you essentially have the Article more or less as it was originally and Town Counsel and I have worked through this and decided that this is an appropriate way to go. We are going to hear first from Marie Larsen and then we are going to hear from Toby Arsenian. You will hear both motions and then we are going to flip a coin to decide which one we vote on first, but we can discuss both of them. Does that make sense? It is kind of late so that is what we are going to do. The Chair will entertain a motion under Article I. Marie Larsen if you are still awake.

MARIE LARSEN I move that the Town authorize the Board of Selectmen to acquire by gift, purchase, or eminent domain, a temporary right of entry in any and all of the parcels of land shown on Assessors Map 16, Lots 28, 28A and 26A described in a deed recorded at the Essex Registry of Deeds in Book 15989, Page 212, owned by Old Colony Maritime, LLC, for the purpose of demolishing and/or removing any and all metal structures thereon, and to raise and appropriate the sum of $125,000 to pay for said removal and costs related thereto and further to sell the metal to take such other measures as the Selectmen deem appropriate to recover such cost including without limitation placing a lien on said parcels. *(requires 2/3 vote)*

Moved and seconded.

MODERATOR: If you would like to spend some time and talk about that now Marie you can or if you want to wait until after the next motion. Alright you want to wait. That was the demolition motion; we are going to get back to it. Now we will hear the next motion. Marie we might have to read that motion again, the Town Administrator would like to speak to you. In any event we are going to hear Toby's motion to authorize buying the building and then we will flip a coin to see which one is going to go first and we can read it again if it was a little flawed.

TOBY ARSENIAN: 95 Granite Street, I move to authorize the Board of Selectmen to acquire by purchase or gift and to accept the deed of a fee simple interest in all or a portion of the parcels described herein for general municipal purposes and to determine whether such funds will be raised by taxation, transferred from available funds, provided by borrowing, or by any combination of the foregoing subject to subsequent Town Meeting vote and appropriation for the purchase of all or a portion of the parcels of land on Assessors Map 16, lot 28, 28A, 26A and recorded in Book 15989, Page 212 at the Essex Registry of Deeds, owned by Old Colony Maritime, LLC, and to apply for and accept from State and Federal Grants to cover some or all of the foregoing costs, and to transfer from the Finance Committee Reserve Fund and authorize the expenditure of $5,000 for surveys, appraisals, engineering reports, or any other necessary professional services, and to request the Board of Selectmen to report on the status of the foregoing acquisition at the 2012 Annual Town Meeting.

Moved and seconded.

MODERATOR: Alright heads or tails, Marie? Heads it is we will hear from Marie Larsen. Please read the motion again and then you can talk about it.

MARIE LARSEN: There is actually a difference than the first motion I read this is to borrow the money so that taxes will not go up or anything like that. I move that the Town authorize the Board of Selectmen to acquire by gift, purchase, or eminent domain, a temporary right of entry in any and all of the parcels of land shown on Assessors Map 16, Lots 28, 28A and 26A described in a deed recorded at the Essex Registry of Deeds in Book 15989, Page 212, owned by Old Colony Maritime, LLC, for the purpose of demolishing and/or removing any and all metal structures thereon, and further to sell the metal or take such other measures as the Selectmen deem appropriate to recover such costs, including, without limitation, placing a lien on said parcels, and to authorize the Treasurer with the approval of the Board of Selectmen to borrow the sum of $125,000 under G.L. Chapter 44, Section 7, or any other enabling authority for the costs of the right of entry and/or the demolishing and removal of any and all metal structures on said property and all costs incidental and related therein. *(requires 2/3 vote)*

Moved and seconded.

MARIE LARSEN: It is time for the building to come down, because it is really unsafe. We can't look at it anymore, it is just a horrible structure and has been there for 27 years, I think. It is time for it; at least the sheds should be taken down. Actually the steel that is in the building is supposed to be pretty valuable so we should be able to re-coop a lot of money for it, from the steel by selling that. I don't think it is going to cost the Town that much and it will change the whole environment in that area. You won't even recognize it once that comes down. If anyone has any questions?

MODERATOR: Wait a minute, hold on; I get a lot of money to do this. Any discussion from the Finance Committee on this?

PAUL HESS: From the Finance Committee, are we doing the purchase first or what?

MODERATOR: No we are going to talk about tearing it down first, but you can talk about whatever you want to talk about.

PAUL HESS: First of all the Finance Committee actually wants to thank Marie for all her work in organizing and thinking this through and bringing this up for discussion at Town Meeting. It is a very important thing to be discussing. The Finance Committee also has as we have discussed it; we have three objectives which we concluded as objectives of the Finance Committee. First is that we want to attract a private developer, someone to come here and do a development, secondly, to demolish the buildings as soon as possible and thirdly to have this development result in taxable real estate. If you look at the original plan done by the current owner back before it got stopped by Mr. Goldin, it looked like it was going to generate something in the order of $240,000 a year in real estate tax revenue for the Town. Obviously from the Finance Committee's standpoint, that is a very important item. Those are three objectives, private development, demolishing the building as quickly as possible and generating a large amount of annual revenue. That said the Finance Committee recommends against this particular motion, because we think that it doesn't achieve those objectives. Recently some members of the Finance Committee, the Board of Selectmen and Linda Sanders met with the owner. I know there has been a lot of confusion about what the owner wants to do here since he has put it up for sale. We spoke about that this afternoon at length in the owner's office and I think to take an hour's worth of discussion with that owner and try to reduce it down to a few points is quite important. First of all, the owner is completely convinced that this project is attractive to developers, himself or to others particularly with the existing permits in place. These permits are very valuable and would go with the property if Mr. Kaneb was to sell it to another developer. We pressed him as to if he wanted to sell it or do it. You may recall that this thing has been held up for four years by Mr. Goldin. During those four years the current owner has gotten 2 additional projects approved, one in Boston and one in Cambridge which have a total number of housing units of 650. When you walk through his office, which we did this afternoon, the aggregate of his whole office is much smaller than this small section of this room. He said he just doesn't have the band-with to do all three of those projects so he had to cut one of them. So which one was he going to cut the Boston one for 450 units or the Cambridge one with 200 units or the Rockport one with 24 units? It wasn't much of a contest and even though he concluded that it was very valuable and he would like to do it someday. He thought it better to sell it and find someone who can take on the project as it has been approved and get it done sooner, than if he waits around for several years until he gets the others done. I know there is a lot of frustration because this thing has been sitting around in its ugly form for 25 years. I live generally in the neighborhood of it and I am as frustrated as anyone else that is in this room. If you look at what has gone on here recently, this has only been since, I am unclear whether it was March or April, when the final judgment came out, actually dismissing all of the Goldin lawsuits and the appeals. It has only been since March or April that it has even been possible to tear this building down. After he looked at that and evaluated the current situation he was in with these two other very large projects he put this property on the market in May. Properties like this don't sell like single family houses. They don't sell in three days or three weeks or two months there is a lot of complexity in presenting this kind of thing finding people to do it and have them put something together with all of the thought processes required to make a viable bid. It has only been on the market about three and one-half months and while he says there has been plenty of interest in the property, he doesn't have an identified

buyer yet. In the final point that he made to us today was that he is going to re-evaluate the whole situation at year end. This isn't just going to linger and he is not going to forget about it. At year end if he hasn't identified a buyer yet he is going to take one of three actions, he is going to either continue to try and find a buyer if he thinks that is a viable course of action, he is going to take it off the market and decide maybe he ought to do it himself and just wait until he gets done with the current two developments that he is doing, or three maybe demolish it if he has discovered in the marketing process that demolishing this building may make it easier to sell. He hasn't decided that yet. He certainly hasn't decided to demolish the building, as we sit here today. That is sort of an update on what is actually happening in terms of the existing owner. When we look at the option of trying to seize the building and demolish it while we don't own it, a lot of questions come up as we think this all the way through. Do we have a legal right to go into someone's property and demolish a building without his permission? What kind of process is needed to do that? How long will it take to get that process done is there some kind of eminent domain or some other type of process condemning the building? What are the grounds and then finally if those processes are not crystal clear, can the owner resist and how long will that take? If we are in this kind of stress situation, he assured us that it will be very difficult to sell the property if he is in the middle of trying to contest our arbitrarily coming onto his property and tearing the building down. He made it very clear that he thought that in his opinion that it would put a freeze on any developer coming in and looking not only at that project, but any other project in Town where you are in the middle of putting together some kind of deal and the Town arbitrarily comes in and knocks your building down. He said that is a very bad precedent and you don't want to set that one. Another series of questions that we have goes to what is the liability that we have not only to Mr. Kaneb but if we knock the building down and we start tearing up the concrete floor, what might we find? We don't know. Even though the Mass. DEP has certified that this thing is pollution free, you never know what actually is going to happen when you actually tear up the concrete underneath the building. Whose responsibility is it to clean it up after that happens when we have torn that up? That is a risk that we would probably have to agree to take if we were to do that because he certainly is not going to take it if he is resisting our doing it. Is it possible that our disconnecting demolishing this building from a coordinating development process that has been approved by the Town and that Mr. Goldin has lost in trying to stop, might our action give Mr. Goldin a new opportunity to reopen his lawsuit and stop the thing again if we come in and tear the building down, again this is associated with putting together a development project. We don't know, we haven't had time to talk to a lawyer. This has all come to us very quickly in the last week or in terms of this type of action. We need to do a lot more homework on that risk before we go and arbitrarily decide to demolish someone else's building. Let us assume for a moment that we all decided to this and we got all the approvals to do this and we got some eminent domain or whatever the process is that allows us to do it. How are we going to pay for it? Okay even though it may be $125,000 we don't know for sure and there are really only 2 places in the budget since we are half way through our budget our existing budget we can only take it from the Finance Committee's stabilization Fund or we can borrow it. The Finance Committee feels very strongly that we should not take it from the Stabilization Fund. We have a lot of uncertainties in our 2012 budget compared to the size of the existing Stabilization Fund. We wouldn't want to see $125,000 taken out of that fund right now when we are two months into the year with lots of uncertainties coming up. Of course I guess, I just want to repeat a comment that I made earlier. We really want to see this project come down. We don't want to throw any impediments in the way slowing this thing down, because if you look at it just

from a dollars and cents standpoint you forget all the other things which are probably even more important, but if this plan is executed in a way that Mr. Kaneb originally got approved it is $240,000 worth of real estate tax revenue. Ever month that we cause delays it costs us $20,000. I want to reiterate that the Finance Committee recommends against this motion.

ALAN MACMILLAN, 42 Mount Pleasant Street, I would like to point out to everyone here some rather important facts. Mr. Gary Kaneb, representing Old Colony Maritime, LLC, came before the Town of Rockport early in the year 2006. Rockport Conservation Commission, at which I was the chairman at the time, we had a year's worth of hearings on this. The Planning Board had a year's worth of hearings on this, the Board of Selectmen, the Zoning Board of Appeals, all Town Boards voted unanimously. We issued an Order of Conditions to Gary Kaneb, Old Colony Maritime, LLC on February 7, 2007. Laurel Drake Major, Isabel Natty, Leslie Wind, Alice Segal, Jeff Segal, Denise Donley, Gerri Schumaker, D. T. Tardiff, Jr., Scott Place, Erin O' Sullivan, Juliet Gleason, Ida Burgess, William Baker, Susan Hersey and Carla Matioli, all signed on Feb. 20, 2007 a request for a superseding order of conditions. Those 15 Rockport residents and I take issue with Mr. Hess that Mr. Goldin did not sign that, he was the contact person for those 15 Rockport residents who objected to this site. Mr. Hess did say that he would like a private developer to develop this. Gary Kaneb, had a permit and had these 15 Rockport residents not objected in February of 2007 there would 24 units there with comparable, compatible, architectural design on that site. The building would be gone. There would be a Town Park with 24 parking spaces for Town residents. All of that would be there, we would generate tax revenue for this Town. Nothing has changed because of 15 Rockport residents and now we are getting ready to do this over again. Start the whole process over again and 15 residents again. The State has put a loop hole in the law. You cannot object to a project unless you have participated in the project and unfortunately the loop hole says that participating in the process is filing an appeal. Not one, <u>not one</u> of those 15 names I read of Rockport residents attended a single hearing before the Conservation Commission. They have prevented that building from being gone and we as Mr. Hess indicated doesn't want to get into the business of cleaning up a Brownfield site. Mr. Hess will not [illegible] develope that [illegible] anything there, he is going to have to dig up [illegible] generates [illegible] serious Brownfield site that has all kinds of hydraulic fluids, chemicals, lubricating oil's in it, then we if we were to purchase this we become liable for all of that. Mr. Toby Arsenian himself said look what we got into, like 30 Pleasant Street. This is far greater and far worse and again I remind you that we had the opportunity to already have something there and the residents some of whom might be right here in this room started a process which prevented it from happening and there is nothing to prevent that from going on again. We do not have any demolishing bids to know what this could cost and my experience of 24-25 years on the Conservation Commission, $125,000 to tear that building down is woefully under bid for what the actually costs would be. Mr. Hess is right, the liability is astronomical, I concur with Mr. Hess. Do not vote this project to purchase or for demolition. We are getting into a can of worms that this Town cannot afford at this time in our countries economic history.

ANNA BAGLANEAS: 17 Haven Avenue, certainly there is a long and divisive history about this lot, but what we have right now is not just an eyesore, it is a safety hazard. There are vagrants living in there, there is drug activity, there is teenagers, going in there not just into the metal structure but onto the concrete building onto the roof that is not safe. If you look at the

building you can see that there are roof panels missing from the building and unfortunately my daughter was almost the recipient of receiving one of those roof panels directly upon her, last November when she was jogging down Breakwater Ave. fortunately there was no car on Breakwater Ave., so she was jogging in the middle of the road. Had there been a car and she was next to the building it would have fallen on her. At the time I sent an e-mail to the Town Administrator, the Board of Selectmen and the Building Inspector regarding that incident and I was very disappointed in the response that I received. The Building Inspector did call me, but when he called me he told me about Mr. Kaneb's hardships, that he didn't want to raze the building until he was ready to build because it was financially a hardship for him to do that. Well, it would have been a very big hardship on my family if that roof panel had hit my daughter. It is a safety hazard. I do agree that we really don't want to open a can of worms here, but I am glad that Marie has brought this to a discussion because this needs to be discussed and the frustration comes from the fact that we haven't any Town leadership on this other than you go and meet with Kaneb and you say well he had 2 other projects. Well he is a property owner in Rockport and that doesn't dismiss his responsibility as a property owner in Rockport to make sure that his structure is safe and that it is not a hazard to the citizens of this Town. We can't put the safety of the citizens of this Town behind Mr. Kaneb's financial considerations. I am not sure we want to raze it but I think something needs to be done, I think we are all kind of confused as to why this building hasn't been condemned, why the Building Inspector refuses to condemn the building, why it is not secure, you can get into the building. It is not safe panels are falling off the building. Something needs to be done so if we are not going to raze the building, what is the Town going to do? I wonder now too, do we have a liability. I brought forth an example of how the structure is not safe and I am sure other people living in the neighborhood have also had some experiences. This has been brought to the Town's attention, are we now as a Town liable if someone does get injured? It has been brought to your attention. There are steps that the Town can take to force the owner to secure his property. You have a building in Town that is not safe to the citizens of the Town. As a property owner he has a responsibility to secure his building and make sure that kids can't get in there and make sure that roof panels are not falling off on people walking by or in a storm. The Town needs to do something and I think that is why Marie brought this petition, because we are frustrated because there is no leadership and other than going to meet with Mr. Kaneb and hearing his excuse that he had 2 more important projects. I think my daughter is pretty important to me. The safety of my other children is important as well. It is not just an eyesore, I bought my house twenty years ago knowing the building was there. I can't come back in twenty years and complain that it is an eyesore, but it is twenty years more of deterioration that makes it more and more unsafe. I don't want to vote either to open up a can of worms, but I also don't want the Town to do nothing. If you have a better idea of what to do I think we would all like to hear it.

MODERATOR; Does anyone from the Town want to respond to that?

ZENAS SEPPALA, 92 Granite Street, I came to this meeting because of such short notice to the townspeople as to what might be proposed so I spent this morning doing a little research and I would like give to the Town Moderator some exhibits which are pictures of the Tool Company in 1957 and also a little bronze plaque that is down in Pingree Park. It is the dedication to Pingree Park and some other unsightly structure that was done with a Town Meeting vote with a small portion of people who were able to create a tennis course. Without any further ado, I would like

to ask the Town to consider only partial dismantling of the Tool Company, such as the cosmetic removal of unsightly paneling etc., but leaving structural steel temporarily in place. If sound, and some people think it is because they say it has value, such structural steel already in place might become the basis for new buildings for boat storage, marine use or a roomier fire station in Pigeon Cove, etc. etc. Pigeon Cove is a shadow of what it was on April 22, 1957 when those photos were taken and I was a boy of eight. From those aerial photos one can discern at least 7 small businesses that flourished. Those were from the north to the south, the Knights of Pithiest Fraternal Club, with pool tables and an ad hoc after school movie theater, Ted Paradis's First National Market, Ranta's Gulf Gasoline auto repair, Carmot Paint Store, Story's market and lunch, Franks Variety, Nemee Shoe Repair, Johnny Francis Barbara Shop and Savernin's Bakery. In addition the Story Library and US Post Office, which are all now gone except for the Post Office and that probably is on the way. Now, Pigeon Covers who want a cup of coffee or kids a candy bar have to drive to Dunkin Donuts or Cumbies, further congesting that area. The Tool Company is in a general district and a prime location for business development. I have often wondered whether to hang or hail the golden group that has delayed development but in so far as it has delayed condominiums that is fine with me. The Cove existed with the banging and belching of heavy industry for many years. Certainly it can exist with something other than a park today. The Harbormaster's Mooring Waiting List as of August 8, 2011, shows 391 people awaiting a berth. The earliest application is dated July 12, 1990 more 21 years ago.

MODERATOR, Mr. Seppala, I think we are going a little afar, the relevance was kind of left behind a little bit would you please just come to the point so we can move on.

ZENAS SEPPALA, well for one okay, it's a business zoned district I timed my speech at home as two minutes. I thought I got that but apparently I am not. I just think that basically, essentially, what concerns the immediate neighbors is the safety of the paneling, what concerns me is creating an IC 4 project in Rockport similar to Gloucester, where you have a vacant lot that sits around forever because it is cleared but nobody will do anything with it.

SAMUEL COULBOURN, 7 Mill Lane, I think the description, the play by play that Wally Hess gave us tonight is excellent. It gives us the picture that the Selectmen, the Finance Committee and the other people are on this case and it is about time. The lady that gave excellent impassioned speech, I move that the Town Meeting vote the sense of the Meeting to be that we want the Selectmen to take the leadership in a strong and forceful message to Mr. Kaneb that we want to get this thing fixed. We don't want to discuss, we don't want to find out we are number 3, we don't want to find out anything, let's get this god damned thing fixed.

MODERATOR: I am not sure that there was a motion in there, but I am sure that the Selectmen got your gist and now you are going to hear from them.

SARAH WILKINSON: for the Selectmen, I want to thank Wally Hess for so perfectly summarizing our meeting today. I think we are not going to solve the Tool Company problem tonight as frustrated as we all our. I think in this whole Town we are all neighbors of the Tool Company whether or not you live on Granite Street or whether you live on South Street. The Board of Selectmen hears everyone here loud and clear and we realize that something needs to be done about it. Our meeting today was the first step and I believe that is the first time that any

Town Officials have sat down with the Kaneb's and even discussed the project. I learned things today that I have thought were true for years that are not true and never were true, but I think we hear you loud and clear. We realize that something needs to happen. Just to quickly address the safety concerns, I think we immediately will get on top of making sure that they have a schedule and are taking care of the property. He claimed today that they were, but I think that we can make sure that happens. The Board can do that and we can also continue to work with them because what I think we don't want to happen obviously is for it to sit for another 27 years. We hear you loud and clear, I think we were just discussing at the table that this has now become the number one issue on our desk. It is just as frustrating for us as it is for everyone else. I have an amendment to the motions that have been made this evening. I move that Article I be referred to the Board of Selectmen for study and for the Board of Selectmen to report to Town Meeting at the April 2012 Town Meeting.

Moved and seconded.

MODERATOR: Town Counsel has looked at this and says that it is a valid motion. I will read it and it actually covers everything on the floor. I will read it first and then it will be discussed and voted upon. The motion is that I move that Article I be referred to the Board of Selectmen for further study and report back to the Town at the April 2012 Annual Town Meeting. It has been seconded so that is now the topic of discussion.

JACK REED, Mount Locust Avenue, I like to make an amendment to that. I think waiting until April for that is far too long. I think we should give them 90 days and then have a Special Town Meeting to discuss it.

Moved and seconded.

MODERATOR: I have been told that is a valid amendment. It has been seconded, now that will be discussed, the amendment of the amendment. Let' talk about 90 days verses 100 and whatever, 6 months.

POINT OF ORDER: Am I right we have three motions on the floor. Three parallel concurrent motions and an amendment to one of them.

DARREN KLEIN: Town Counsel through the Moderator. What you said is sort of correct, this is a third motion, but in Robert's Rules of Order, a motion to refer to committee takes precedence over the first two motions. It is amendable so it is a valid amendment offered by this gentleman, but the motion to refer to committee amendment does take precedence and would super cede the first two motions made by the petitioners.

MODERATOR: Okay so now the discussion is 90 days verses April Town Meeting, any discussion?

JANE MONTECALVO: 92 Granite Street, we have an orange spray on the steel of the Tool Company and it is there because there is reportedly asbestos, wouldn't that be a reason to get this going faster? It is not good to be breathing that in, the storms are going to be coming someone

has already been hit by the steel. Isn't that by law, to remove asbestos? If somebody from the Board of Health is here could I please have an answer.

MODERATOR: Anybody else 90 versus the spring?

SUSAN WALLER: Henderson Court, why hasn't this building been condemned? Would someone please answer this for me?

MODERATOR: Does anyone want to talk about condemning or asbestos?

TERRY DUFFY, 158 Granite Street, I live directly across the Tool Company, right on the corner of Granite and Breakwater Avenue. I don't know about any asbestos, but I do know that it is only bad for you if it is air born. My understanding is that was sprayed on the building a long time ago and that is what that mark is for. I will say also that any dealings that I have had with Mr. Kaneb if I gave him a call about a loose piece or something, it was addressed, maybe not immediately, but within a short time. In regard to the 90 days which I think is what we are supposed to be talking about I don't know how we can force the Selectmen who are also running the Town to come up with something in 90 days. I just don't see that as a viable action and to try and force something seems irresponsible.

JOHN KRENN: High Street, as a long time trouble maker in Town, not only on the Board of Appeals, but this is the second round with the Tool Company. When it folded back in 1985,'86 or '87 and they decided to close it the Town created a committee called the Pigeon Cove Property Study Committee of which I was chairman for about three years. It consisted of people who were members of all the permitting committees plus a hand full of citizens at large to talk to people who may want to develop the Tool Company. I really can't think of any more poisonous piece of property in the world. It was a problem to clean it up, it had all kinds of criminal activity attached to it, it has had suicides attached to it and everything negative that could have possibly happened. The Committee worked from 1988-1991 with trying to find a developer. We finally worked with a developer who was about to try to develop it and about that time the same thing happened to the economy and the building economy particularly and the developer Sam Bell from Beverly and I guess he barely escaped with his life because he didn't buy it because the economy had collapsed in 1991. It is not a simple solution because anybody cannot force anybody to do anything with it unless they own it and there was the same thing back then. The enormity of trying to civilize the place just was almost impossible to accomplish and today I really think it is up to Mr. Kaneb. He is responsible for it, he owns it. The Town should be very careful, how they touch it. It is a real horror. I am not sure that my point is that I agree with Mr. Seppala that was one of the thoughts that I had, strip the buildings and take the ugliness out and get the view through them, leave the steel, it is an industrial site. Some place that is an industrial site are saved for their quaintness and I agree with him that it might be salvageable to some extent for some sort of waterfront marine use. I am not saying 90 days.

STEPHANIE WOOLFE, 6 Pointe De Chene, if it weren't so serious an issue, I would be looking at this whole human cry about the Tool Company with great amusement. Many of you know that there are many buildings in Rockport that do not meet the standards that buildings should have in Rockport. I personally live in a neighborhood with an abandoned building that

makes the Tool Company look like the Taj Mahal. Many of you know the building to which I am referring. I do not think that 90 days is enough time. I think that the whole thing should be addressed not just the Tool Company, that standards should be enforced, standards should be come up with and be enforced and I thank the Tool Company for bringing this to the forefront, but this is not strictly a Tool Company problem. This is a Rockport problem.

MODERATOR: We are discussing a very narrow focus 90 days versus 6 months.

SANDY JACQUES: I don't think it makes any difference. We have a lot of work to do. We could be reporting back at the end of the year and side with Kaneb's statement that he would get back to us. 90 Days or maybe 120 to get us through Christmas, that is fine. I think we would also report on this come April, which is fine. I think we are worrying about the wrong things.

CLAIRE HARPER, Highview Road, I propose that the Town ask the owner…

MODERATOR: We are talking 90-180 days that is all we are talking about right now.

CLAIRE HARPER, I would like to add a motion or whatever you do if you could just ask the owner if the Town could just knock the building down, we don't have to touch the slab. It would probably be easier for him to sell the building if it was already torn down and then maybe he would agree to reimburse the Town once that was done maybe we could help him move this project along instead of doing nothing. I think we should vote tonight to actually act tonight to actually do something or are we voting to do more nothing?

MODERATOR: The vote right now is to whether or not we amend the motion that we have on the floor right now which is to remove the words at the April 2012 Annual Town Meeting and we substitute therefore with 90 days. All those in favor of substituting 90 days please raise your hand. Those opposed please raise your hand. It is really close. One more time, in favor of 90 days raise your hand, now opposed to 90 days.

JUNE MICHAELS: My question is on amending the Selectmen giving a report does that commit us to having a Town Meeting in 90 days or can the Selectmen issue a report in 90 days?

MODERATOR: The way it is reading to me is that there would have to be a meeting in 90 days. All those in favor of amending this to 90 days please stand up and be counted.

	Favor	Against
Section 1	24	40
Section 2	34	48
Section 3	25	32
Total	84	120

Motion fails.

MODERATOR: Now the motion on the floor that I think we have talked about quite a bit is the motion that Article I be referred to the Board of Selectmen for further study and report back to the Town at the April 2012 Annual Town Meeting. Any questions on that?

TOBY ARSENIAN: It certainly is a temptation to be done with it tonight and put it off into the future but I have reservations about leaving it in the hands of the Board of selectmen. They voted against the article to begin with, both parts of it, destroying and also buying it and I think that having heard loud and clear that people want the building to come down that perhaps they will bestir themselves to see if they can needle the Kaneb's into doing something short of a law suit. I don' t see them moving forward to attempt to buy the building and the motion that I read asked the Town to buy the building or that the Selectmen take the moves that would bring it before the next Town Meeting and I would like to have some assurance from the Selectmen that they are going to pursue both of the motions of the article if they come back here to report, that is to tell us what progress they have made towards demolishing the buildings, if any, and what progress they have made toward buying the buildings or at least getting us a figure that we might consider. Both of those motions were on the floor and we deserve a report on both of them. Can I have some response from the Selectmen?

SARAH WILKINSON: Yes we would consider all the possibilities.

MODERATOR: you have heard the motion. All those in favor please raise your hand, opposed the same sign.

Motion carries it will be referred to the Board of Selectmen for further study, both aspects and report back in April at the 2012 Annual Town Meeting.

4-3-12 Selectmans Meeting.
TRANSCRIBED FROM DVD @ CAPE ANN TV

Jacques: I have one question which I think I'm obliged to ask personally as well as many people I've talked to and that is how would the board feel if we put another non-binding question on the ballot asking the citizens of Rockport if they would be interested in purchasing the tool company? Because whats happened here as I said at the last time, perhaps a little too emotionally, is the fact that we've taken away from the voters their right to vote. Not, not we, but but this process has taken away from the voters the right to vote. Now this would not be much of a vote, but it would be an expression of interest, you know on their part to fill in yes or no on that question on the ballot.

Wilkerson: I, I just feel like, like we I don't I See I think we disagree. I don't think we've taken anyones.... I think you could say the same thing we've taken away someones opportunity to vote for a new Pigeon Cove Fire Station because thats not on the ballot. Like, I think we were elected and in this case town meeting sent us to look into the tool company and report back.

Jacques: Yeah, but....
I'll let you finish. Your missing the point. It was on the warrant.

Wilkerson: What was on the warrant?

Jacques: An article in the fall town meeting *(Wilkerson: Yes)* on the warrant to do something with about the tool company. It got into a discussion. I wrote a ...this is why its personal ... I wrote a motion you got up and read it - to take it out of that town meeting, and study it and come back. But there's no opportunity now for the people who were there at the town meeting to vote on this thing --- All they have is a right to vote is to accept the report that you're gonna give them.

Wilkerson: But, but thats because what we're deciding to do doesn't entail purchasing the tool company Like
Jacques: But what if
Wilkerson: Like, if we done our research and decided that we thought it was in the best interest

Jacques: But I think a lot of people in my opinion, people who have talked with me feel we took the vote out of their hands by doing this...they now do not have a vote to say they would like to buy the tool company.

Wilkerson: But none of those people came to us to get it on the warrant...for this town meeting.

Jacques: Maybe not- but at the same time they thought they were going to have a chance to vote on it at this town meeting based on what was done. I mean you talk to Bob he feels the same way. That, that could be a legitimate problem.

Wilkerson: Well, well, I disagree so

Jacques: Well, that's one vote
Jacques: There are five of us. I mean, you don't see the fact that we took an issue off the floor at fall town meeting that was subject to a vote and have now returned it without any chance to vote.

Wilkerson: I think that we did what the voters asked us to do.. I think if we were going to do that why did we go through all this. Why are we here.

Jacques: Because I don't think that they.....Well, for a very good reason. It was well worth it to study and do the task force...but it should go....One could argue it should go back to town meeting in some form um, to be voted on so
You don't see it that way...I guess

Wilkerson: I don't see it that way

Battestelli: And the task force's recommendation, four to one not to not pursue those options

Jacques: But that was only a recommendation to this board

Battestelli: That's correct

Wilkerson: But then this board looked at what the task force recommended and decided to go forth with their recommendation

Fleming: And didn't um we've already spoken in public, that Mr. Kaneb said that if he doesn't sell it he's going to start developing it, so you mean so you mean that and he would have to do that before his permits run out. I thought we explored this that in order to do what Sandy's suggesting which would please some people um and make them feel like they have been heard, the timing is off now because November is when the permits expire and so in order to get all those wheels in motion and even if the non-binding vote said yes we want to buy it then we would have to bring a motion to town meeting to buy it and then we'd have to look into funding then and I don't. To me it seems like the timing is not there.

Jacques: I think the issues Those are all excuses in my mind. The issue is do the citizens of Rockport want to buy this property for all the good reasons that buying the property would be for.

Wilkerson: But why do you, why do you

Jacques: You keep asking that question, Sarah, What difference does it make

Wilkerson: Because you're just dragging this out, like incessantly, like every week. You're desperately trying

Jacques: That's what I get elected to do. I come to meetings and I do my job

Wilkerson: Right, but

Jacques: Don't criticize me for this
Batestelli: But at this point

Jacques: Yes you are
Wilkerson: No, I'm questioning you

Jacques: That's criticizing

Wilkerson: Questioning isn't criticizing

Jacques: You say why do you come here every week and do the same thing. Thats criticism

Flemming: Clearly, Sandy's getting pressure from some people I would say from what he

Seppala: Pressure!!!??? Pressure!!!????

Batestelli: You know what at this point my concern with putting this as a non-binding question on the ballot would be that I'd be concerned about with it being a little misleading ...if nothing happens with the property just as the task force said that at this time don't pursue purchasing it. wait til the permits expire, granted the chances of that happening may be at this point with more information that we have is less likely but at the time we wrote that report, we didn't have that information, we were saying thats a possibility that the permits are going to expire and then at that point the town can pursue, purchasing , er looking into it.

Jacques: The thrust of this argument though is that we have here it is now the first of April, its possible in this line of thinking that, if you really wanted to buy this property, now would be the time because if he sells it to somebody else, and he's already marketing it, one of the finance committee members reported to me that he saw a broker down there with three prospective buyers uh, he's been to the CPC looking for ways to do the exchange of property for affordable housing. If you wanted to buy the property you wouldn't wait till the permits expire if somebody else is out there you want you know be making your probes now and getting your ducks in order and if its really going to go then you'll be ready. If you wait until after the permits expire as your committee said thats too late.

Wilkerson: Sandy, you voted with this board last week *(Jacques: To what?)* to go forward and work with the current owner to get the building demolished and developed. So now you're now you're here saying...

Jacques: Yuh, if its different its different but it isn't. That's what I was trying to say last week. That's why I'm coming back with the same statement. And even if it is different, so what. That's what we're all elected, is to use our heads to make good decisions. And I think this is a question to the board, do we want to put a non binding question on the ballot to get a sense of the town, which we are not going to get otherwise. You don't get that at a town meeting. 250 people don't tell you what 5000 voters think.

Wilkerson: OK. Does anyone....Would you like to make a motion or you just trying to guage the voters....

Jacques: Well ah ... Sure...I mean I'll make a motion. We put a question non-binding referendum question on the ballot May 8, uh, asking the voters if they would be uh interested in purchasing the tool company property.

Murphy: I'll second it for discussion purposes

Wilkerson: Motion has been made and seconded. Further discusssion?

Fleming: I would like to say that any comment I've heard from the public has been don't you dare buy that, we can't afford it. I do remember when I first moved to Rockport people spoke about how they could have bought Rowe Point for twenty thousand dollars or eighteen thousand dollars, and how come we didn't and we have all those condos there where it could have been a nice open field for the public - so there is that regret in town that they didn't act on that, but I don't know when you're talking practically three million dollars its its a very different. I have not heard anybody say we should buy it but obviously Sandy has. And I guess that's not his point, whether people have said it to us, its that, however many, two hundred people signed a petition to buy it, Right, the petition was to buy it Sandy, wasn't it?

Jacques: The petition was and then it was modified at the meeting. Temporary eminent domain or something. And then another one which was not to destroy it But uh you know it never, never had its chance to work out. The petition If you read the petition it was to buy it....but its' only signed by two hundred people so you know

Fleming: Right

Jacques: But that's what all the process is for is to get it to a point where you have And this would not get it anywhere into an actionable state. It would just give a little more you know, opportunity, I guess, for the citizens to weigh in on the subject. It doesn't hurt us, it doesn't help us - it may be academic

Wilkerson: I just think its misleading for all the work that's gone into it. the the votes that this board has taken. I think its' misleading to then go say "Oh yeah, PS non-binding but do you want to buy it. Its' just not you know

Fleming: It makes it feel like a viable option if you have it on the ballot.

Wilkerson: Like if we're going to put it on the ballot why didn't we just let people vote that night last fall

Jacques: Cause we didn't know what we know now. Its' that simple.
You know the task force didn't say don't buy it - They said wait until after the permits expire. I think thats not a smart business decision if in fact you want to buy it. Now's the time to buy it or some time you know long before the permits expire. If he can't develop it he's going to sell it to someone else and you'll never get that person to sell it to you. Why would he buy it and sell it. So, and it's only an expression, you know, of interest on the part of whoever votes and if they all say no, they all say no, and if they say yes it doesn't cost us, or cause us rather, to do anything.

Fleming: But it does create, it does create the expectation whether we intend it or not, that if you ask people if they want to do something it has a definite feeling or sound like that there is a chance that it could happen and

Jacques: That's true but its not the point. The point being going back to it is that people have a right to vote. We have an obligation to make that possible. I don't think this sits right now in a position where they have any right to vote. And to my mind that's wrong. Why do we have all the process that gives people a right to vote if we don't let them vote.

Wilkerson: We have a process which puts things on the warrant and no one came to us to put it on the warrant. No one has come to us with any ideas for the property, No one has come to us with ways to finance

Jacques: That's not true. Lots of people have come with ideas. Even the task force got a lot of ideas so...

Wilkerson: But but not like viable things people (??like on the warrant??) ready to go

AT THIS POINT IN THE MEETING A LOUD NOISE CAN BE HEARD. IT IS AUDIENCE MEMBER, AND TASK FORCE MEMBER ZENAS SEPPALA, SLAMMING HIS BINDERS SHUT AND STORMING OUT OF THE MEETING.

Fleming: They also voted for us to make decisions I mean that one one could argue that too. That they voted us in to make decisions that are prudent. I have a I think it's important that people have a chance to vote about things, but I am really concerned about creating the impression that that the logical a possible logical thought from voting is that they think that this could, that we, could in some way make it happen. I don't know, I just....

Jacques: Well, I don't see that Francis, its a non-binding its says that right on the ballot non binding

Fleming: You and I know that and we both understand it and one would like to think

Jacques: Most people know it too

Battestelli: If you go back to the generation of the petition it seems to me and I'm not going to I know I can't speak for every person that signed the petition but it felt like the overwhelming the reason that a petition came about and the reason a lot of people signed it was because of the frustration of the current state of the property and so I feel that the work that we did um by taking the article from town meeting and further studying it , and the information that we now have, to me, we are moving forward to answer that initial frustration, even though the wording in the article included the possibility of purchasing it, in part, not in total, but in part , the part, the purpose in purchasing it or seizeing it was to take down the buildings and right so I do feel we're doing our job by going forward with what we're going forward with in terms of addressing that initial frustration

Fleming: Because they wanted action. They were just fed up with no change

Battestelli: Right

Fleming: I agree

Wilkerson: Is there any further discussion on this.

Fleming: No

Wilkerson: Sandy?

Jacques: Yeah, I have mixed emotions myself, I guess, um, having gone through this in some detail, I get carried away, maybe, sometimes, but I just don't think we're doing the right thing (???by letting this sit???). They're intelligent people, they know what they're doing. You can't say that they don't know that its a non-binding referendum and know thats its non-binding, Francis, I just can't accept that argument.

Fleming: Well, I'm not saying everybody will

Jacques: Well, you make it sound like it, Francis

Fleming: Well, I'm sorry if I did. That wasn't my intent I am just concerned that it might be an issue.

Jacques: Yeah, well, I think its a good issue, because I think the more we behave that way and get things out in the open and then if we have to change our minds for good reasons, maybe this isn't a good reason, but in my mind this is a good reason because it doesn't commit us to doing anything, it just gets a sense of the meeting. It's the

same exact uh act as we just approved for Pat. There's no difference. Its' a non-binding referendum.

Wilkerson: It's a totally different issue.

Jacques: Its a different issue, but

Fleming: except that we did have a task force and they did study it and they are giving the town meeting the action that they wanted, looking you know, and then Kaneb has said if he doesn't sell it, he's gonna tear it down, so it seems to me that this is the action people wanted, some people clearly want to own it

Jacques: I've had my day in court, I've made my argument

Fleming: I think we've tried to listen and understand

Jacques: Yeah, but you don't accept it so

Fleming: Well, thats
Wilkerson: That's what this is all about, right?

Jacques: But every time I say something you argue against it. You don't don't really accept it. You don't don't really seem to understand my position

Wilkerson: I understand I've we've all heard you out, and I just happen to disagree. And I think we're all we're all

Fleming: We haven't voted yet so

Wilkerson: Right. We're all able to we can all agree or disagree. As long as we're all respectful thats' all that matters. Okay, any further comments on this?

Wilkerson: All those in favor say "Aye"

Jacques: Aye

Wilkerson: Opposed, Nay

Battestelli, Murphy, Fleming, Wilkerson: Nay

Wilkerson: So the motion doesn't carry.

Annual Town Meeting Monday April 9, 2012

ARTICLE 19 (T). To see if the Town will hear the report of the Board of Selectmen regarding the Cape Ann Tool Company property as requested by the 2011 Annual Town Meeting; or act on anything relative thereto. (*Moderator*)

MODERATOR: We're not ready yet for any amendments to that. What we're going to do; I'll explain the protocol. We're going to first vote on the motion to hear it and then if you want to amend it in some way after that process is done I will let you to do at that point.

SARAH WILKINSON: Mr. Moderator, I move that the Town hear the report of the Board of Selectmen regarding the Cape Ann Tool Company property as requested by the Fall 2011 Fall Town Meeting.

Moved and seconded.

The Board of Selectmen supports this article. Before we hear from you we will hear the motion but I will allow you to amend it later. I understand what you're doing so all those in favor of hearing this report please raise your hand. Thank you. All those opposed the same sign.

The motion carries. We'll hear you now.

SARAH WILKINSON: So I will give this report but I fully agree about having the reports printed but not read in the future but this one isn't printed so I have to read it.

Cape Ann Tool Company Property Report

On September 12, 2011 at the Fall Town Meeting on behalf of the Board of Selectman, I made the following motion which passed. I moved that Article I be referred to the Board of Selectmen for study and for the Board of Selectmen to report to Town Meeting at the April 2012 Town Meeting. Here we are.

Since September 12 the Board of Selectmen, along with several other volunteers and staff have spent countless hours researching the Tool Company property, collecting information from various sources and communicated with the current owner to get where we are today.

After a very well attended workshop on November 8, 2011 where Senator Tarr joined us, the Board of Selectmen formed a Task Force to study all of the options available to the town regarding this property. We decided forming a task force would be the most efficient way to collect as much in-depth information in a short amount of time and get it to the Selectman in order for us to report back to you this evening.

The Board then appointed the following people to the Tool Company Task Force: Erin Battistelli from the Board of Selectmen, Wally Hess from the Finance Committee, Peter Bergholz from the Board of Appeals, Zenas Seppala a resident of Pigeon Cove and Marie Larsen a resident of Pigeon Cove. Marie was also one of the original author's of the petition resulting in Article I.

This is hopefully being projected behind me so I won't read that:

The official charge of the task force was as follows: "To study the Cape Ann Tool Company property with respect to Article I of the September 12, 2011 Fall town Meeting Warrant. After completing the research of the full range of options and the feasibility of each option, the Task Force is to report to the Board on the results of every option studied. In addition, it is to develop a report of the Task Force's recommended option and associated reasoning to the Board of Selectmen. The Task Force is to take the appropriate measures to work with the Board to a point that a report can be written for the Selectmen to deliver to the Annual Town Meeting in April, 2012, including the two motions in support of Article I. It is expected that the Task Force hold public meetings as appropriate and report its status to the Board of Selectmen once a month."

The task force held nine meetings that were open to the public. In their final report dated February 28, 2012 the Task Force outlines five available options with the property. Their report was presented to the Board of Selectmen in February of 2012 and then we held a Public Forum on March 21, 2012 where the report was presented to the public with a lengthy public comment/question period.

The following is a summary of the options studied by the Task Force along with their respective recommendations: We did a PowerPoint so if you want to just tune out and watch behind me.

A. Purchase the property for public use. The Task Force used a park as its standard for public use in this option, because it could be readily defined and measured. It acknowledges that there may be other viable public uses. The Task Force recommends against taking any action to purchase the property at least until the Special Permits and Variances granted by the Board of Appeals expire.
B. Purchase the Property and Reuse Metal Building. The Task Force used a boat storage facility as its standard for a possible private or public use for the metal structures or a portion of the metal structures in this sub-category. The Task Force recommends against taking any action to purchase the property at least until the Special Permits and Variances granted by the Board of Appeals expire.
C. Use Eminent Domain to Purchase Property for Public Use. The Task Force has determined that, using eminent domain to acquire this property is neither justified nor necessary.
D. Condemn the Building for the Purpose of Demolition. After studying the delays, costs and potential legal and environmental risks, the Task Force recommends against pursuing this option.
E. Interact with Current Owner to Demolish Building and/or Build Permitted Project. The Task Force believes that the owner must make significant decisions related to the project by the fall of 2012 as a result of the permitting schedule. In the interim the Town should establish a periodic communication process with Old Colony Maritime LLC.

The Board of Selectmen discussed the report and the Task Force recommendation for the Town to move ahead with Option E; which was interact with the current owner. In early March a delegation of Town officials held another meeting with the current owner of the property. We presented him with a copy of the Task Force report. At the meeting the owner conveyed that the property is still on the market but that if the property does not sell by late Spring they plan to go ahead with development of the property and not let their permits expire. We expressed our support of this plan and our willingness to continue to work with them to see this project through. We expressed again to them that the demolition of the existing structures is of the highest priority for the Town.

We would like to thank the members of the Task Force for their continued efforts on this project. Their efforts in this task were instrumental.

On March 27th the Board of Selectmen officially voted unanimously to support the recommendations of the Task Force and at this time work with the current owner to demolish the structures and/or building the project.

Respectfully submitted, Sarah J. Wilkinson, Chair, Rockport Board of Selectmen

Applause

MODERATOR: Since this seems to be a night of taking straw polls; I'm going to just quickly do a straw poll. The Board of Selectmen voted to support E which is to interact with the current owner to demolish buildings and/or build permitted project. Just straw vote, how many support that option? Thank you. They did not support D – condemn the building for the purpose of demolition. How many people would have supported that option? Option C was to use eminent domain to purchase property for public use – how many people would have supported that option? B – purchase the property and reuse metal building – how many people would have supported that option? Looks like 3 – and A – purchase the property for public use; how many people would have supported that option? Half a dozen.

Thank you for that. Are there any amendments?

JOHN KRENN: 5R High Street – I move to amend Article T of this April 9th 2012 annual meeting be referred to the Board of Selectmen for further study and report back to the town meeting no later than the fall town meeting in September of 2012. Specifically they are to research fully all aspects involved in the potential purchase by the town of Cape Ann Tool Company property.

Moved and seconded.

JOHN KRENN: You'll have to listen to me for a minute but less than five. I've been a Rockport resident since 1962 but in the Cove and in Rockport not being a native does not buy you much. I usually described my position as a well entrenched carpetbagger. Those of you who attended last year's town meeting will recall that I was recognized by the Town and the State for being a perennial busybody having served on many town boards and committees. Among them was Chairing the Pigeon Cove Property Study Committee 1987 through 1991 that acted as a go between for the town to assist the *then* owners of the tool co and prospective developers in navigating the myriad complications involving the property. Although there was a hot prospect planning the development of the larger property on both sides of Granite Street the economy soured as it has recently and the giant was left sleeping until roughly three years ago when the current owner obtained approval for a primarily residential village. Because of the failed two year legal challenge by a citizens group and the dicey economy the current owner has not yet and may never proceed with the approved plans. One of the alternatives lightly discussed at tonight's review of the report produced by the Cape Ann Tool Company Task Force for the Selectmen was the possibility of the town purchasing the property with the assistance of a financial agent. Deemed an unlikely event even if the purchase price was considerable reduced by the owner who indicated that was possible. Well there just ain't enough angels waiting to lead a feast on a dead horse. However the thought has occurred to several of us interested and involved citizens that instead of one unlikely zillionaire angel organization a locally organized trust or other financial instrument consisting of relatively small personal investments could procure the property for the town. Without going into an entire table of possible shared costs suffice to say that a purchase

price of two million dollars will require only four hundred citizens in a group with $5,000.00 each to obtain the property and control over it therewith and a possibility of recouping such contributions in the future like most of us here today, I am not wealthy, living on retirement, savings and investments but I'm willing to gamble my fair share to find a final solution to our dead horse problem.

Since we always leave our checkbooks home for safety during the pocket picking town meetings we are not asking anyone's commitment today but what we are asking is an opportunity to have the Selectmen continue to keep the option open to investigate the machinery or such a proposal and consider it in the fall town meeting. After twenty-five years of frustration another couple of months can't hurt. In the meantime if the owner proceeds with the approved but slightly altered plan nothing is lost. We ask that you approve the motion as a reasonable alternative to the present stalemate.

I have to say new information keeps coming up out of the ground somewhere on what the owner will or will not do. We simply feel that this will keep our options open no matter what he decides to do and in a town that does have some wealth somewhere this would be indeed a possibility for us to acquire the property without sinking the town. Thank you.

MODERATOR: Anybody else want to speak on the amendment which would be to continue to study the issue.

PETER BERGHOLTZ: Pool Place – Zoning Board of Appeals – member of the Tool Company Task Force – we have real strong reasons to believe that this project will go forward. I think we'll know a lot more in a couple of weeks but I know for a fact that the owner is very intent at this point in going forward with the project. If he doesn't go forward with the project by the end of September or at least early October his permits will begin to expire and it's like a domino effect. I won't bore you with all the details but he's a smart enough guy to know that the value of that property will diminish by millions of dollars once those permits are gone so he's not going to let that happen. If for some reason things change and he does let it happen in the future we'll have plenty of time to follow some of these suggestions that are being brought forth tonight by Mr. Krenn. There's always time to do that, the property will be there. We've been chasing this property for twenty-five years I've been involved with this owner since 2000 it's a lot of years and on the Board of Appeals and it just seems to me let's relax a little bit here; let's take it easy; let's let this thing unfold as it is now doing after 25 years we've got a few more months. Relax, enjoy it and let's see what happens. Thank you.

ERIN BATTISTELLI: 57 Phillips Ave – I certainly understand the desire by some residents to consider the possibility of the town purchasing this property and as a matter of fact during the time that I was working with the Task Force I too also considered the what ifs, the possibilities. However and I'm speaking as an individual, I have concerns about pursuing the purchase of this property at this juncture in part with the permits in place the value of the property and therefore the cost of the property is higher than what the value will be when the permits begin to expire. The environmental issues they are a real concern. These issues may not insurmountable but the Town would really need to engage the services of a licensed site professional before going ahead with any purchase and that means spending money and finally this would be a significant purchase and it really requires a fully explored plan for its use which in my opinion would also require spending some money. The Task Force did not rule out completely the idea of purchasing the property but we felt that at this point waiting until the permits expire made more sense.

ZENAS SEPPELA: 92 Granite Street, Pigeon Cove – I was a member of the Task Force and I was one of the dissenting voters on two of the options. The first option A which was to purchase the property and tear down the structures and sort of make something out of it. The other dissent I had was with option E which was working with the owner to destroy the prop.., tear down the buildings and put up his project. I frankly don't know how many people really do know what that place is going to look like. I did make models. I've shown certain people that attended our meetings what that proposal will ultimately look like over there in Pigeon Cove. That is not enough of an issue apparently to sway people's opinion. Nevertheless in line with what the developer promised and what is going to be delivered are two remarkably different things. So when I hear about the value of the permits throughout the time that I was on the Task Force; I always questioned in my own mind why the town considered those permits so valuable and I made the point that I thought those permits would only be valuable if the town itself decided to build or buy the property and make the exact same project as the developer envisioned. Any use that I foresaw for the property which would be more of a water related type use would require different permits altogether and so I somehow keep wondering how the value of the permits to the owner translates to the value of the permits to the town. I can't say too much more; I basically could say that as the project as envisioned a way for the townspeople to sort of see it in their minds would be to drive down Broadway opposite the old high school, the senior housing now, take a look at those row millhouses that were created for the workers in the cotton mills which is now our Town library. Take two more of those and put them in Harvey Park and put trees in front of them and trees all in the driveways and that basically is what you're going to wind up here so I think the property in general has far, far more potential both commercially and tourist wise and I do have questions as to why the Town does value those permits if they are not themselves going to build the same project. Thank you.

SARAH WILKINSON: I think to just simply answer the question if the property gets developed and I personally am not in favor of the town developing this property, I think we all know the Town's record as a landlord, if the property gets developed by a developer the Town gets the tax revenue from the property. If it doesn't, I think right now it brings in $13,000.00 a year, the Finance Committee can comment more on that. If it doesn't get developed and sits there we continue to get $13,000.00 a year if it gets developed then we don't have to look at the eyesore and we get the increased tax revenue.

ZENAS SEPPELA: Well yes it's true that the Town is only getting $13,000.00 tax revenue now and it may get $265,000.00 revenue if the project is built but that is ignoring the fact that it could probably get $300,000.00 or $400,000.00 under a different scenario. It's just a case of a bird in the hand maybe is worth two in the bush. So I disagree vehemently with the fact that the Town cannot be trusted to manage real estate. I think that it's had one bad experience with a gift house that is ultimately a mandate from the State and if the Town wasn't under that mandate we probably never would have taken the thing in the first place. I think that the Town has done a good job on building the Town library; I think they've done other good jobs in the past so I think the record of the Town in managing property not developing it but managing it has been pretty good and with a project of the scope and magnitude that this Tool Company would be I think there would be plenty of watchful eyes in this Town to ensure that it would be managed well even if the tendency was not to.

MODERATOR: All right, I'm going to let Mr. Krenn wrap it up and then to restate his motion and then we'll vote.

JOHN KRENN: To clarify my position on this I was one of the signatories on the existing (clan?) which again is before the developer and this is the second time in the twenty-five years when we thought we had approved a plan and I was in favor of it because it's the only thing that had come along in twenty-five years that looked like it had some essence. It certainly wasn't what I would personally like to see there. I hate to see us giving up so much of the waterfront and a few other things but I was willing to go along with this village proposition only because it was the only thing on the horizon. If the Town acquires the property it opens up a lot of opportunities for us to open up sales to divide up the property have multiple uses for it to recreate some pieces of the old granite area up there so I'm not opposed or I was not opposed to the proposition and I suppose I wouldn't be today if it was going to happen. I just guess I have lost faith after twenty-five years that anything good is going to come of this if somebody else has to do it. Thank you.

MODERATOR: Can you just state your motion briefly again.

JOHN KRENN: I move to amend that Article T of this April 9, 2012 Annual Town Meeting be referred to the Board of Selectmen for further study and report back to Town Meeting no later than the Fall Town Meeting in September of 2012. Specifically, they are to research fully all aspects involved in a potential purchase by the Town of the Cape Ann Tool Company property.

MODERATOR: You have heard the motion which is essentially to add to that report and continue to study. All those please raise your hand. All right, thank you. All those opposed the same sign.

The motion fails.

May 23, 2013

To: Mr. Alex Strysky
Mass DEP Waterways Program
One Winter Street
Boston, MA 02108

From: Lawrence P. Stepenuck, M.C.P.
16 B Bearskin Neck
Rockport, MA 01966
c-1-978-559-1091

Subject:
Public Comment relative to Waterways License Application No. X254996
Cape Ann Tool, LLC c/o Michael Rauseo
175Granite Street, Rockport, MA
Activity:
Amendment to License No. 11960

I oppose the Amendment on the following issues and for the following reasons.

The proposed amendments would displace well over 10 commercial fishing/lobstering vessels and nearly as many pleasure boats. This action would cause undue individual hardhip and loss of historic ocean related industries. The existing public use and access is of vital socioeconomic and cultural importance and can be very well documented as continuous for over decades. The proposed activity would also encroach upon or eliminate Federal Anchorage designated areas and areas for safe and functional year round navigation. There was also verbal mention by the proponents of this activity that the management and policing of the project area be transferred from the town to the private developer. Any change in the management of this public resource is totally unacceptable and should be the subject of extended future scrutiny and swift rejection.

In addition to the effected water surface activities mentioned there are directly linked adjacent land/water activities that will be negatively impacted or eliminated if this amendment and license are approved. For over forty years the land side of the mouth of the Pigeon Cove Harbor has been utilized by hundreds of persons from many communities in the Commonwealth as a fishing site. Also the existing P.C. Lobstermans' Cooperative is located on the easterly side of the harbor and the proposed activity would negatively impact the members business related activities, beyond the displacement of many of the members mooring space.

I have lived in the community for over forty years and have been involved in many public boards as a member and served as Chairman for the Planning for 4 years, and acted as an Advocate Planner for a SOS a Cape Ann public action organization. During this time period and these activities the property in question was researched, toured, reviewed, and there were even some specific soil tests undertaken by Massachusetts CZM, (1983). There were heavy metals found in some of the test borings conducted near the sea wall adjacent to the property in question. Thus

any activity disturbing the harbor bottom would need additional testing before any disruptive new activities were allowed. There is also local conversation as to the "pit", (Mason), up gradient of the property, said to contain drums of materials used in the onetime foundry operation at the Cape Ann Tool Co. site. My research has not found any documentation of the local rumor, but any development proposal should include adequate testing for this potential hazard. The drainage from the "pit" flows through the site and could have very negative impacts on any existing or future uses. Some earlier proposals for this property included significant tracks of open and common space. I believe this new proposal and amendment reduces these open spaces and in effect reduces the possible site for future remediation facilities if needed. The coastal flood plain maps for this area do show high velocity zones that if correct would increase any on site or near site hazards for both land and water. It is my observation that the flood plain maps underestimate the surge in the project area. Recent storm damage to the entire Pigeon Cove area should be researched and included in any permit decisions. Rise in sea level and the effects of storms are being felt before the new Flood Plain maps can be finished and utilized.

As a final group of comments I would like to reference the public hearing process and the management of public access, (verbal, observatory, and written), by the Town of Rockport. The public hearing that was conducted by Mass DEP on May 7, 2013 was attended by over 100 persons and many could not hear the full testimony or presentations or public comment. I know it is not the responsibility of DEP to have anticipated this extremely large public turnout and interest, but in the interest of the highest possible quality and quantity of "public input", please request the Town of Rockport public officials to be more inclusive and open when holding future public hearings or workshops on such important matters. A follow-up meeting, (after the Public Hearing), held with select Town board representatives and other **invited** individual stakeholders was not advertized or open to the general public and according to a statement made to me on May 22, 2013 by the Rockport Town Administrator there are no minutes available from that meeting. This issue will be followed-up upon with other appropriate State agencies, but should be included in your contemplations related to the project in question. Please reference the May 22, 2013 Gloucester Daily Times editorial on page 12.

Thank you for the opportunity to comment and for your future consideration of the issues raised.

Strysky, Alexander (DEP)

From: NANCY WADDELL [jwkeyman@verizon.net]
Sent: Sunday, May 19, 2013 10:07 AM
To: Strysky, Alexander (DEP)
Subject: Cape Ann Tool Co. Lic.#11960

Dear Alex Strysky,

I am opposed to the ammendment for the following reasons.

1. If they are allowed all those floats, it will take up a large portion of the harbor and the existing mooring holders will be displaces.

2. Safty, during northeast storms the waves and surge roll in on the west side of the harbor which would tear loose floats and boats sending them all over the harbor.

3. Environmentally, with the existing tool company torn down and the land undeveloped, rain water and run off would eventually seep into the ground and then oil would eventually contaminate the harbor

4. Why on earth would the DEP want to give away a Federal achorage to private interest?

Sincerely, James Waddell
13 Prospect St. Rockport, Ma.

ROCKPORT
PUBLIC HEARING ATTENDANCE

NAME	ADDRESS	PHONE# or EMAIL
same David Williams	5-188 Granite St.	546-2841
Nancy Williams	(SAME info)	
Betty Orkkila	113 Phillips Ave	6-9309
JANE KNIGHT	1 BOULDER TOP	978-546-6829
BARBARA SILVA	67R CURTIS ST	978-546-3153
MANUEL P. SILVA III	67R CURTIS ST	978-546-3153
James Blackwell	13 Prospect	978-546-9844
Robert CAGNIN	6 Andrews Hill	Send report
JACK HOGAN	28 Quarry Ridge Lane	5462[illegible]85
Sam Coulbourn	7 Mill Lane	scoulbourn1@verizon.net
Kirsten Grimes	159 Granite St. Unit 1	978 729 4393 biggs3111e msn.com
MARY DEVANEY	1 HARBOR CT	978-290-3310
Anastasia Brown	2 Edgemere Rd	978-290-3527 — send report myttle7117@yahoo.com
THOMAS STOCKTON	4 LANDMARK LA.	978 546 265[illegible]
Kelly Bleckburn	Boston	617-909-2161
Robert Dodson	Rockport	
TOBY ARSENIAN	95 GRANITE ST.	978-546-326[illegible] S

16

ROCKPORT
PUBLIC HEARING ATTENDANCE

NAME	ADDRESS	PHONE# or EMAIL
Bos Frances Flaming	12 Pleasant St.	fjflaming2@verizon.net
Bos Mina Sheedy, Esq	76 Main St	mina@minalaw.com
Bos Sarah Wilkinson	4 Gully Point	sarahjwilk@gmail.com
TA Linda Sanders,	84 High Street	lsanders@townofrockport.com
Jamy Malvey	on file	
Brian Grossi		brian@[illegible]cencorbiz.com
Eric Hutchins / 13 [illegible] Rd.		Eric.hutchins37@Gmail.com
ZENAS SEPPALA	92 GRANITE ST	978-546-2617
DAVID WILLIAMS	BOX 2337, Rockport 01966	please send [illegible]
DON CAMPBELL	5 KING ST. CJ.	DONCAMPBELL@PRIDEMOTORGROUP.com

ROCKPORT
PUBLIC HEARING ATTENDANCE

NAME	ADDRESS	PHONE# or EMAIL
Marie Lama	Haven Ave.	546-5224
Arthur + Elaine Gray	3 Cathedral Ave	978-852-9227
Harbor Master Rosemary Lynch	39 School St	
Scott Storey	4 White Way	
Alex Olson	46 Stockholm	
Reg Pitts	180 GRANITE	RegPitts@Rocket
Mary Jane Merrill	3 Worcester Pl	546-2520
Paul K. [illegible]	24 Concord St Gloc.	978-281-2264
Niko Anderson	25 King St	
Marcia B Siegel	1 Castle Lane	mbsiegel1@verizo
Julie McMahon	13 Applecart Rd.	jpmcmahon@verizon
NANCY / ROBERT POTTS	63 PHILLIPS AVE.	617-8218686
CAMERON SMITH	10 RAVE PT.	PLEASE SEND DECISION CAMERONS5@VERIZON.NET
[illegible] Morgenroth	24 Curtis St.	978-546-6347 cell 978-290-3246
Michael Barnhard	127 Granite St	603-812-7869
William Rapp	11 Prospect St.	978-559-1511

ROCKPORT
PUBLIC HEARING ATTENDANCE

NAME	ADDRESS	PHONE# or EMAIL
Bob MacIsaac	2 Clark Ave, Rkpt	RDMacIsaac@e-mail.com
Cathy Elwell	2 Clark Ave, Rkpt	RDMacIsaac@gmail.com
Miriam C Seppala	92 Granite St	coffeecupmerry@comcast.net
Nick Senzamici	13 Phillips	DRNicks@comcast.net
Robert Morris III	67 Curtis St	
Larry Story	124 Granite St	
Bny Santo	27 Stone Ave	Wilmington MA
Martin Bolcome	7 Highview Rd	
Steve Vaun	0 Jerden's Ln	Rockport
Robert Main	10 Dodds Ln	978 479 2048
Jack Karkopulos	7 Poole's Lane	978-546-2206
RCC Laurence Neal	Pirates Circle	978 546 7433
James Fritz	5 High St Ct	978 546 6211
Chris Wayrynen	5 Highland Rd	546-9362
Herman Lilja	6 Bayridge Lane	546-3638
Wally Hess	117 Granite St	546-1025
Steven Galdi	33 Rockport Rd - Gloucester	978-491-7099
Susan Walker	184R Granite St Rkpt	546-3820
Suzan Galpin	34 Mt Pleasant	546-9751
Dean Stairs	34 Mt Pleasant	
Jana Meterparel	66 Phillips	546-6516
Lawrence P Stepanuk	16 Beaverbrook Rd	978-559-1091
Scott Place	52 South St	978.546.1352

ROCKPORT
PUBLIC HEARING ATTENDANCE

NAME	ADDRESS	PHONE# or EMAIL
EILEEN O'CONNELL	6 HAVEN AVE	978-546-3233
EUGENE O'CONNELL	38 HAVEN AVE	978-546-0048

ROCKPORT
PUBLIC HEARING ATTENDANCE

NAME	ADDRESS	PHONE# or EMAIL
Marge & Dick Poore	80 Phillips Ave	978-546-7449
MICHAEL POLISSON	5B POOLES TERRACE	978 479 0978
RCC Rob Claypool	25 CURTIS	978 546 6988
Planning Board Hank Belt	13 Penzance Rd	
Frederick Tarr	154 Main St	546 5139
John Knowlton	7 Story St	546-2726
Carolyn Britt	Planning Bd	
HAROLD MALLETTE	133RR GRANITE ST.	
Fred Hillier	2 Castle Lane	546-2004
JANE MONTECALVO	92 GRANITE St	978 546 3128
Bruce Reed	32 Pigeon Hill St	546 7151
Mary Reed	" " "	546-7151
Paula Carroll	3 Cathedral Ave, A	
Joseph Carroll	3 Cathedral Ave A	978-944-2147
Kathy Glen	2 Stetfelsper Glen	978-281-3972
Phyllis Vogel	51R High St Rkpt	978 546-3192
Patricia VanDoopool	2R Pigeon Hill A	" 546-3916
Derek Ellerkamp	76 Main St	978 620-7698