

Newburyport Waterfront Trust
February 3, 2014
Police Station Conference Room
Minutes

1. Call to Order

A meeting of the Newburyport Waterfront Trust was called to order by Chair Doug Locy at 7:00 p.m.

2. Roll Call

In attendance were members Doug Locy, Jody Fraser, Si Morrill, Joe Brown and Scott Sutherland.

3. Minutes

Scott Sutherland moved to approve the minutes of the January 23, 2013 meeting as amended. Doug Locy seconded the motion. The motion was unanimously approved.

4. Treasurer's Report

Joe Brown said the account balance is \$187,282. Income for the month totaled \$14,474 and included a check for the *Katie May* in the amount of \$375. Expenses totaled \$975 and included a bill from the accounting firm in the amount of \$302 for services in October and November.

Joe Brown moved to approve a payment to Doug Locy in the amount of \$55.44 for miscellaneous maintenance items from Home Depot. Si Morrill seconded the motion. The motion was unanimously approved.

5. Park Use Applications

A discussion of the park use application submitted for FUEL was tabled because the applicant was not present. Joe Brown said he would like to know what the cost to the participants would be. He is concerned that the user fee is \$250 and the gross income might be substantial. Si Morrill said he and Jody Fraser would speak with the applicant. He also said he received an inquiry from Ann Ormond about the use of the park for the Riverfront Festival and the summer movie series.

6. Chair's Report

Doug Locy said he received a request from Geordie Vining for an easement that would allow the Harbormaster's facility to be constructed across Custom House Way. Mr. Vining will be present at the March meeting to discuss the request.

7. Tour Boat Agreements

Scott Sutherland said he and Joe Brown meet with the owners of the tour boats and revised the boat leases according to their discussion and a discussion with City Electrician David Zinck. The following changes are proposed:

- The lease for the Captain's Lady will be modified to include private charters and fishing

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will be excluded.

- A previous proposal had been to change to the lease rate from \$80/foot to \$100/foot for three years. The newly proposed rate will be graduated over three years in order to make the increase more manageable. The cost will be \$85/foot in the first year, \$90/foot in the second year and \$95/foot in the third year.
- Water will be included in the base lease payment.
- The City will bring the wiring to the ticket booth up to code and has asked that the Trust and/or tour boat owners be responsible for the cost of materials.
- Electricity will be sub-metered to each boat. David Zinck will install the sub-meters and the Trust will read the meters at the beginning and end of each season. The Trust will pay the City and then bill the boat owners. The DPS will not charge for the labor to install the meters. The Trust is to be responsible for purchasing three meters at a cost of \$430 a piece.
- The leases might be terminated, renewed or renegotiated at the end of the second year in order to give the parties to opportunity to plan one year in advance.
- The paragraph pertaining the use of the Transportation Dock by others will be deleted. The clause could put an unfair burden on the tour boats and could present liability issues for the Trust.

Joe Brown moved to approve the tour boat contracts as amended. Si Morrill seconded the motion. The motion was unanimously approved.

Joe Brown moved to authorize Scott Sutherland to obtain three sub-meters for a cost not to exceed \$2,000. Jody Fraser seconded the motion. The motion was unanimously approved.

8. Tour Boat Signage

The tour boat owners have indicated they would like signage for the boats to be installed. They had suggested that a sign be placed under the new Trust sign at the entrance to Riverside Park. Joe Brown said he is not in favor of that location but the Trust should support the boat owners and should install signage on its property for its tenants. He proposed that a totem-style sign be located adjacent to the Trust's sign for the harbor tours, the whale watch and coastal sailing. The captains would be responsible for obtaining approval for the sign from the ZBA and for the cost of fabrication and installation. The sign shall be removed for the off-season. Si Morrill moved to approve the sign in concept. Jody Fraser seconded the motion. The motion was unanimously approved.

9. Boardwalk Lighting

One LED light has been installed on the boardwalk. The Trustees are interested in learning if LED bulbs [would provide the appropriate level of lighting to meet safety standards](#). Joe Brown said he would like to lights on Somerby's Way to be replaced by a different type of system.

10. Subcommittee Report

The Harbor Commission has indicated the only conversation it wishes to have with the Trust would concern the management of the Transportation Dock. It is not interested in entering into an agreement with the Trust for the bulkhead or for the use of the embayment by other types of vessels. Scott Sutherland said he would like the City and the Harbor Commission to acknowledge the Trust owns the bulkhead. Si Morrill said the Trust must have a written agreement with any party that uses its property. Joe Brown said the authority over the embayment has been given to the Trust and he wants the Harbor Commission to enter into an agreement for its use and for the use of the bulkhead to the east of the embayment. He said the income from these docks could be over \$80,000, based on the approved rate for the Transportation Dock, and the Trust has offered the Harbor Commission a lease for one-tenth of its value. Doug Locy distributed a personal position paper on the issue. He said the Trust holds the bulkhead for the benefit of the public. He said it is within the jurisdiction of the Trust to lease its property to obtain revenue. He would like to diversify the activities on the waterfront in order to draw an increased number of people there. He would the Trust to lease the entire bulkhead to the Harbor Commission for full and fair market value and for the Harbor Master and Harbor Commission to manage all of the boating operations on the waterfront. He said it would be in the best interest of the public for both groups to work together. Scott Sutherland said because the subcommittees have not been able to resolve the issue, [the chairs and the Mayor might need to establish a framework for discussion before anything further could be accomplished.](#)

Bill Harris said the Trust should increase the diversity of its landside revenue sources. He added the Harbor Commission has an incentive to work with the Trust because the revenue from the docks would be needed for the development of its new facility. Andy Port said the Harbormaster should oversee day-to-day boating operations. He added the proposed new boating facility is necessary for the city and he does not like the suggestion the Trust might attempt to control the revenue that would make it possible. The Trustees assured him this would not be the case.

11. Waterfront Trust/NRA Joint Survey

Joe Brown said the two issues key to the Trust, its leasing rights and the ways to the water, are related to the survey. He said the survey was to contain language that conveys the ownership of the bulkhead to the Trust. While this is referenced in the current document, it does not indicate when this is to take place, which is at the completion of construction. He said the plan is also deficient because it does not include a statement of the Trust's leasing rights or reference the transfer of Somerby's Way and the small triangle of land. It also does not address the Trust's rights with regard to Ferry Wharf Way and while it has been acknowledged the AUL was placed on Trust land, the survey does not address the removal of the AUD from Ferry Wharf Way or Custom House Way. The Trustees discussed the amendments to the survey with Bill Harris and Andy Port.

Doug Locy moved to accept the DCI survey dated January 29 with the addition of the following three notations:

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- 1) “to lease docks, piers, wharves, floats, pilings and other moorings and other maritime facilities (Bk 11263/11 &13)” in the area of the plan between the harbor line and the embayment.
- 2) “approximate two-foot wide parcel to be conveyed within three months of final payment to contractor, based on as-built plan of installed bulkhead and pilings from the Newburyport Redevelopment Authority to the Waterfront Trust (see NRA vote 05/22/13).”
- 3) “Ferry Wharf Way may be moved and to be conveyed by Redevelopment Authority to Waterfront Trust, including Additional Parcel A (See L.C. Case 39539, Stipulation, Bk 6695/429-430).”

Joe Brown seconded the motion. The motion was unanimously approved.

Doug Locy moved to add to the survey adjacent to Somerby’s Landing, contingent upon NRA approval, the notation, “to be conveyed to the Waterfront Trust, Parcel B, 10,007 square feet, prior to the issuance of the Chapter 91 license.” Joe Brown seconded the motion. The motion was unanimously approved.

12. Landscape Maintenance Contract and Bid Package

The Trustees reviewed the final draft of the landscape maintenance contract. Somerby’s Way will be included in base contract. Joe Brown said he would like the bidders to describe the way in which the alternative services would be handled and he would like a pre-bid meeting to take place. Doug Locy moved to approve the landscape maintenance contract as amended. Si Morrill seconded the motion. The motion was unanimously approved.

Scott Sutherland moved to approve the Memorandum of Understanding between the Newburyport Waterfront Trust and the Newburyport Redevelopment Authority for shared landscape management responsibilities. Si Morrill seconded the motion. The motion was unanimously approved.

13. DCI Contract

Si Morrill moved to authorize Doug Locy to sign the contract with Design Consultants, Inc. for Task 1. Scott Sutherland seconded the motion. The motion was unanimously approved.

14. Parking Agreement

The current agreement with the City for 64 spaces in the Riverside Park parking lot will expire on March 31, 2014. The revenue from the kiosk will total approximately \$34,381 at the end of the current year and was \$21,500 the prior year. The City paid the Trust \$30,000 both of these years. The cost to the City to operate the lot is approximately \$17,000 per year and the City receives the revenues from violations. The revenue from the kiosk has risen and from violations has decreased as the understanding of the paid parking system has increased. Scott Sutherland recommended the current agreement be extended for one year with two amendments: the payment to the Trust would be increased to \$32,000 and the City would provide quarterly reports on violations to the

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Trust. Joe Brown said he would like better enforcement, an increase in rates and extended hours. He said he does not want to receive less than is being earned in the lot and he believes the payment should be increased to \$35,000. Doug Locy said while he approves of the increase to \$32,000 for one year, the rates are below market value and must be changed for the following year. He moved to enter into a one-year agreement for \$32,000. Jody Fraser seconded the motion. The motion was approved by a 4:1 vote.

15. Firehouse Lease

The lease with the SDAH will expire on July 1. Joe Brown said in the past Trustees who were also members of the board of the SDAH negotiated the contract. He would like to receive a commercial lease rate evaluation for the 6,000 square feet owned by the Trust. The current rate, which is less than \$1 per square feet, is below fair market value. Scott Sutherland will seek an [opinion of lease value](#) from two brokers.

16. Adjournment

Jody Fraser moved to adjourn the meeting at 9:45 p.m. Si Morrill seconded the motion. The motion was unanimously approved.