

**MINUTES
SELECTMEN'S MEETING
GRIFFIN ROOM, TOWN HALL
MONDAY, JULY 11, 2016
6:30 P.M.**

APPROVED

SELECTMEN PRESENT: Brown, Hughes, Kavanagh, LaMantia, MacAskill

OTHERS PRESENT: Town Administrator Christopher Clark, Chief Clarke, Deputy Chief LeBlanc, Barbara-Anne Foley, Jeremy Gingras, Anne Stewart, Carole Ridley, Allin Thompson, Leo Cakounes, and others.

MEETING CALLED TO ORDER at 6:30 p.m. by Chairman MacAskill.

PUBLIC COMMENT/ANNOUNCEMENTS

- A. Presentation of donation of \$500 from the Dennis Harwich Lion's Club to the Harwich Fire Department

Sandy Fife, President of the Dennis Harwich Lion's Club, presented a plaque as well as a check for \$500 to Chief Clarke to use for new equipment at the Fire Department. Chief Clarke and Deputy Chief LeBlanc thanked Ms. Fife and the Lion's Club for their support of the Department.

CONSENT AGENDA

- A. Approve Minutes – June 27, 2016 Executive Session
- B. Accept the donation of \$500 from the Dennis Harwich Lion's Club to the Harwich Fire Department
- C. Approve recommendation of the Selectmen's Interview/Nominations Subcommittee to appoint new members to fill current committee vacancies
- D. Confirm the appointment of Peter Stovich as a new Disposal Area Heavy Equipment Operator / Tractor-Trailer Driver for the Town of Harwich
- E. Approve the Highway Director's request to MassDOT to extend the acceleration lanes at the Harwich exits on Route 6 and authorize the Chair to sign letter

Ms. Kavanagh moved approval of the Consent Agenda. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

PUBLIC HEARINGS/PRESENTATIONS (*Not earlier than 6:30 P.M.*)

- A. Public Hearing – Application for Transfer of Annual, All Alcoholic Beverages Package Store License from Harwich East Liquors to Portside Liquors and Pledge of said license

Attorney Michael J Heineman and applicant Zeina Metri appeared and turned in abutter notification cards. Ms. Kavanagh read the hearing notice into record. Attorney Heineman described the Metri's experience and background noting this will be their third package store in

Massachusetts with the other stores being in Pocasset and Pembroke. He said Mr. Kenney will be staying on as manager and there will be no change in operations. Mr. Hughes asked if they understand the Board's Pledge Policy language and Attorney Heineman responded that they do. With no one from the public appearing before the Board, Mr. MacAskill closed the hearing. Ms. Kavanagh moved to approve the transfer of the Annual, All Alcoholic Beverages Package Store License from Harwich East Liquors to Portside Liquors and Pledge of said license. Ms. Brown seconded the motion. Mr. Clark asked for clarification on the manager as the application indicates it would be Ms. Metri. Attorney Heineman clarified that Mr. Kenney would assist Ms. Metri who would be on-site manager regularly. The motion carried by a unanimous vote.

B. Overview of Pleasant Bay Alliance activities – Carole Ridley

Ms. Ridley provided the attached Power Point presentation. She and Mr. Thompson took questions from the Board.

OLD BUSINESS

A. Fitzpatrick Settlement Agreement compliance – *discussion and possible vote*

Mr. Clark outlined the attached maps and his memo below dated July 7, 2016:

Pursuant to Administration's acknowledgments to the Board of Selectmen, we have undertaken a review of the files relevant to the Beach Road issue. I have asked for review from our Conservation Administrator in terms of specifically item 6 which calls for a plan to address erosion control issues within the layout of Beach Road. The Conservation Administrator has commented on this topic and agrees that the work done today works towards preventing erosion in the easement area. I have also requested that the Town Surveyor provide some maps that show the property boundary lines as well as the high tide and low tide markings of not only Beach Road that the two adjoining town owned parcels. Lastly, I have requested that Kopelman and Paige, the town's current legal counsel, review the materials and comment and advise on this matter. This material is also attached. I will seek to provide a summary of the findings below and would direct any persons seeking additional information to review the extensive attached materials related to this matter.

In summary, it appears that during the laying out of this development back in the 1920s there was an intent to have the house lots defined and it was further the intent that a public beach be created as part of this overall development with access to the public beach coming in the form of Beach Road. The Town in the 1970s formally voted through Town Meeting an easement allowing the Town to cross and maintain for roadway purposes access to the public beaches. A critical item to remember in this circumstance is that a section of Beach Road is still owned to the centerline by the abutting property owners and the Town only achieved an easement over this property that limits the ability of the property owner to place structures that would prohibit access to the public beach. The property owners do have rights over their own property. Due to items of litigation, the Town and the Fitzpatricks did enter into a Settlement Agreement relevant to operations of this easement. This agreement is still operative today. The issue has emerged about access to town-owned property located on lots 36 and 37 adjacent to Beach Road. I have attached a plan that shows in fact this is Town of Harwich property but the plan

also shows the location of the low-water mark and the high water mark. These public beaches in general are accessible during mid to low water tides and are inaccessible during high tides. The public would be able to use these beaches during the accessible phases but would not if it necessitated trespassing onto private property in order to stay out of the water. I believe that the Settlement Agreement allows for access by residents in that area and to the general public (although no public parking is available in the area) to continue to have access to these public beaches that due to erosion have become a more limited nature. It is my general understanding that when a property is bounded by a high water mark or a low-water mark that boundary is dependent upon nature and whether the tidal influences create conditions of erosion or accretion.

It is my recommendation, due to the highly polarized nature of this issue that the Board of Selectmen continue to support and uphold the Settlement Agreement reached in 2013. Due to the vandalism resulting in the destruction of the erosion control measures, the Town may wish to consider reinstalling the erosion control measures. I would caution that any significant change to the easement may result in the necessity to renegotiate the Settlement Agreement as well as regulatory approval would need to be sought initially through the Conservation Commission to make any significant adjustments. Whereas, the Town only has easement over this property such changes beyond what has already been negotiated should be seriously considered.

Mr. Rendon and Ms. Usowski spoke on this issue as well. The Board took questions and comments from Mark McGowan, Mark Shankman and Dan Fitzpatrick.

Mr. Clark stated that if the Board wants we can look to see if there are areas we can put dredge materials in to allow for nourishment in those sections of the property in which the Town beach still exists. No action was taken other to allow the Town to reinstall the fence.

B. Request for a streetlight at Brooks Park – *discussion and possible vote*

The Board discussed the request for a streetlight at Brooks Park from a member of the Town Band who had safety concerns. Mr. Clark noted that the Town Engineer is working on a lighting plan for Brooks Park on the tennis court side by the trail and we can have him make some adjustments. He said lighting at the bandstand is not part of that project but we can put it on the radar for him to look at. He said he would send to the Town Engineer and Recreation Director. He recommended that it should be period lighting in keeping with the historic district. The Board agreed with Mr. Clark's recommendations. No vote was taken.

C. Request to look at environmental issues regarding W. Harwich – *discussion and possible vote*

The Board heard comments from Anne Stewart on her letter dated June 23, 2016 regarding West Harwich environmental issues. The Board also took comments from Leo Cakounes, Gail Macalara of 103 Route 28 and Mr. Berry of Route 28. Chairman MacAskill and Mr. Hughes recommended that the Health Agent review the material. Mr. Clark said he would get the DEP information as well as input from the Board of Health and bring this back to the Board.

D. Finalize the Town Planner Job Description – *discussion and possible vote*

Mr. Hughes moved to approve the job description for the Town Planner and move forward with the recruiting process. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

NEW BUSINESS

- A. Support the Town of Chatham’s request for legislation to clarify the U.S. Fish and Wildlife Service’s claim of the open waters and seabed to the west of Monomoy National Wildlife Refuge – *discussion and possible vote*

Mr. Hughes moved to approve the request. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

- B. Proposed Intermunicipal Agreement between the Town of Orleans and the Town of Harwich for adult day care program services – *discussion and possible vote to authorize the Chair to sign*

Mr. Hughes moved to enter into this Intermunicipal Agreement between the Town of Orleans and the Town of Harwich for adult day care program services and authorize the Chair to sign. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

- C. Lease extension for Allen Harbor Marine Service for additional two years for boat storage on the Town’s property at Allen Harbor – *discussion and possible vote*

Chairman MacAskill tabled this item and said it would be brought back when the Harbormaster has reviewed it.

- D. Amend the Personnel By-Law for seasonal, hourly wage employees – *discussion and possible vote*

Ms. Kavanagh move to amend the Personnel By-Law for seasonal, hourly wage employees. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

- E. Finance Director/Town Accountant Job Title – *discussion and possible vote*

Mr. Clark reported that the February 4, 2008 Executive Session minutes indicate that then Town Administrator, James Merriam, presented a contract for David Ryan to be Finance Director/Town Accountant. He said the Charter should have been changed to reflect that title. Mr. LaMantia said there are other housekeeping items that need to be attended to in the Charter as well. The consensus of the Board was that Mr. LaMantia, as liaison, should bring these items to the By-Law Charter Review Committee to vet the language changes.

TOWN ADMINISTRATOR’S REPORT

- A. MEMA Incident Command System and overview training completion by Assistant Town Administrator Charleen Greenhalgh

Mr. Clark reported that Ms. Greenhalgh completed the above-referenced MEMA training.

Mr. Clark briefed the Board that the Town Engineer and Town Surveyor are seeking to move to the Albro House and this would help in making room for the new Conservation position. Chairman MacAskill said he would put on the agenda.

SELECTMEN'S REPORT

- A. Board of Selectmen FY17 Goals and Objectives

Mr. MacAskill briefly reviewed the documents and ask each Board member to take two items. Mr. Clark expressed concern that the public has not had a chance to look at this and recommended that the Board not take action tonight. Ms. Brown recommended that housing be addressed in the goals as well.

ADJOURNMENT

Chairman MacAskill adjourned the meeting at 9:37 p.m.

Respectfully submitted,

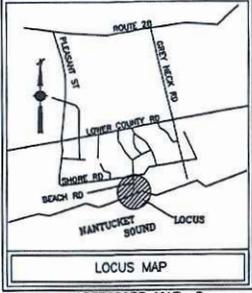
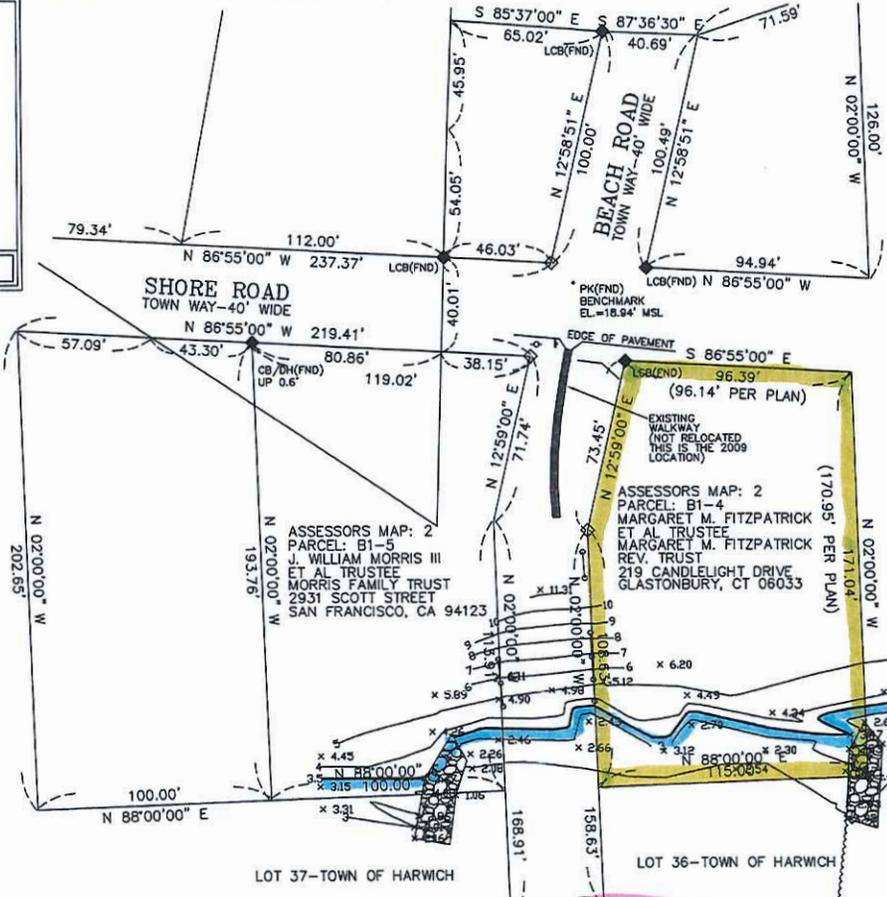
Ann Steidel
Recording Secretary

FOR REGISTRY USE ONLY

DEED REFERENCE-
CTF. 158344

PLAN REFERENCE-
PLAN FILED WITH TAKING

PLAN REFERENCES-
LCC 5265
LCC 28836
LCC 28255
LCC 10814
LCC 12465



BEACH ROAD TAKING
RECORDED IN:
DOC. 158344

THIS PLAN DELINEATES THE TOWN RIGHT OF WAY EASEMENT
AND ACCESS TO LOTS 36 & 37

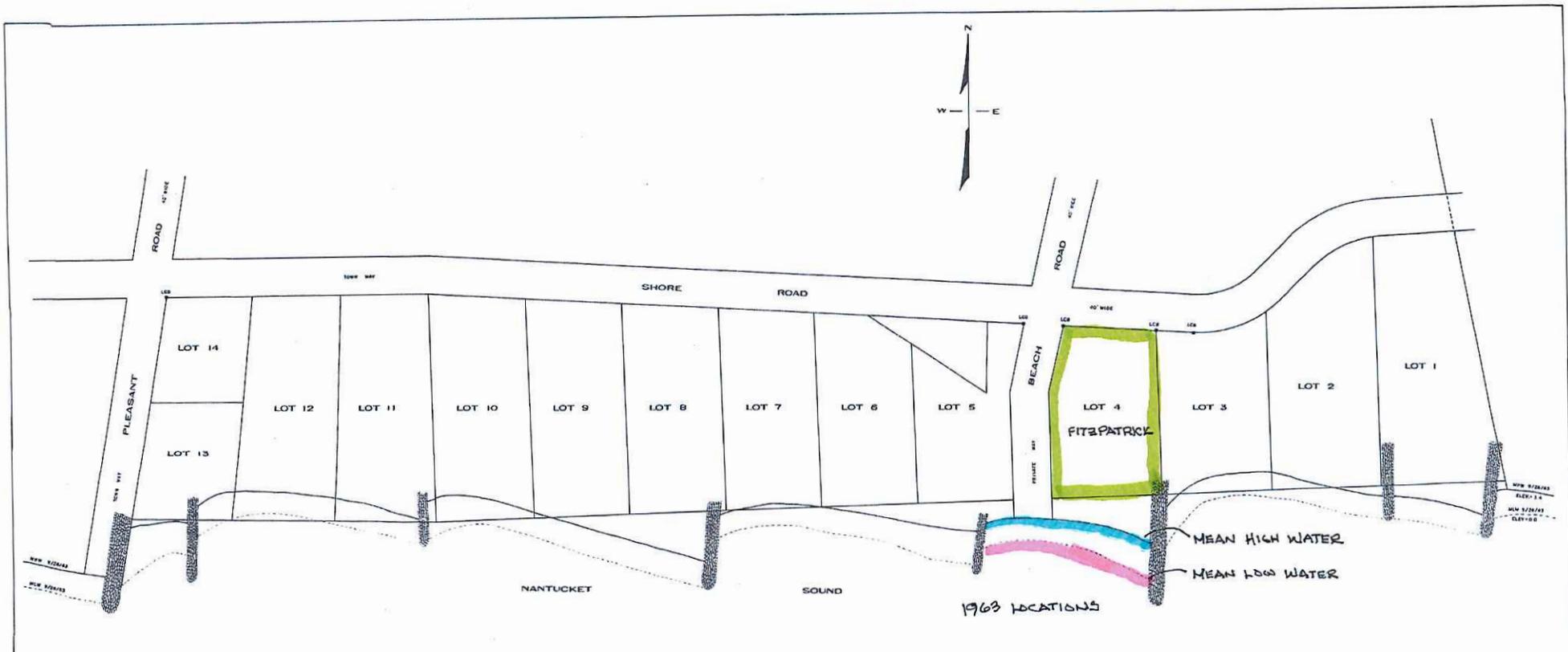
FLOOD NOTE
THIS PROPERTY FALLS IN FLOOD ZONES C,B,A8 & V13 AS
SHOWN ON FEMA FIRM PANEL NO. 250008 0009 C EFFECTIVE
DATE MAY 15, 1985
THIS PROPERTY IS SUBJECT TO THE WETLANDS
PROTECTION ACT.

PLAN OF LAND IN HARWICH,
MASSACHUSETTS
AS PREPARED FOR
TOWN OF HARWICH

APRIL 13, 2009 SCALE: 1"=30'
REV. 10/11/12 ENGINEERING DEPARTMENT
TOWN OF HARWICH
732 MAIN STREET
HARWICH, MA
02645

REV. 04-15-09 ADD MEAN HIGH WATER
REV. 10-11-12 UPDATE MEAN HIGH WATER

1206-00

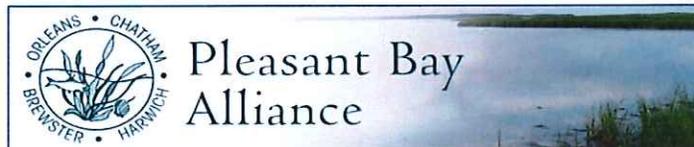


PLAN OF LAND IN WEST HARWICH, MASS.
 FOR
 THE TOWN OF HARWICH
 OCTOBER 11, 1963 SCALE 1"=40'
 S. R. SWEETSER
 ENGINEER
 DORCHESTER, MASS.
 HC 186-C2039

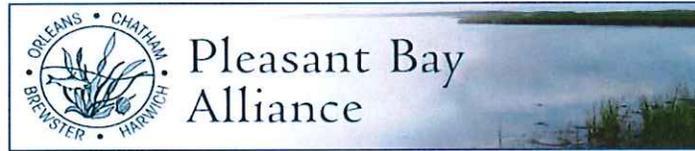
NOTE - ELEVATIONS BASED ON DEPARTMENT OF PUBLIC WORKS, DIVISION
 OF WATERWAYS, CONTRACT NUMBER 1494

TITLE REF - TOWN OF HARWICH
 LC 50000 077-000
 80 3 PG 35
 0219 11, 31, 9-10





- **1987: ACEC established**
- **1998: RMP adopted by Orleans, Chatham, Harwich and state; IMA establishes Alliance**
- **2007: Brewster joins Alliance**
- **2003, 2008, 2013: Five year RMP updates submitted to member towns and state for approval (IMA renewal)**
- **Visit : www.pleasantbay.org**



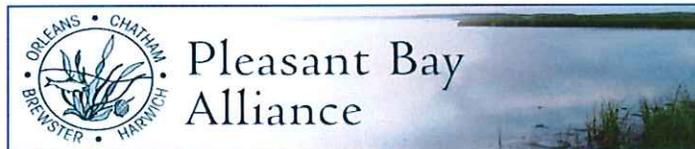
Pleasant Bay Alliance

Boards of Selectmen Appoint:

- Steering Committee
- Technical Resource Committee

Issue Work Groups involve other experts:

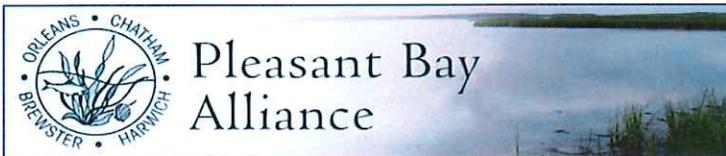
- WHOI Sea Grant,
- Barnstable County Cooperative Extension,
- Cape Cod Commission,
- MassDEP,
- Center for Coastal Studies, and
- Cape Cod National Seashore WHOI Sea Grant



Pleasant Bay Alliance

- **To sustain and, wherever practicable, regenerate the health and productivity of the Bay's eco-system**, including its water quality, diverse animal and plant life, tidal marshes, ponds, rivers, bays, islands, and beaches;
- **To encourage levels of recreational, residential, and commercial activity in the Bay and its watershed**, including physical structures, that are **consistent with resource sustainability** and that promote a high degree of public safety and enjoyment;
- **To enhance opportunities for public access** to and enjoyment of the Bay, in balance with resource sustainability and private property rights; and
- **To preserve the features that contribute to the Bay's unique character** including its natural beauty, tranquility, history and accessibility.

Guiding Mission



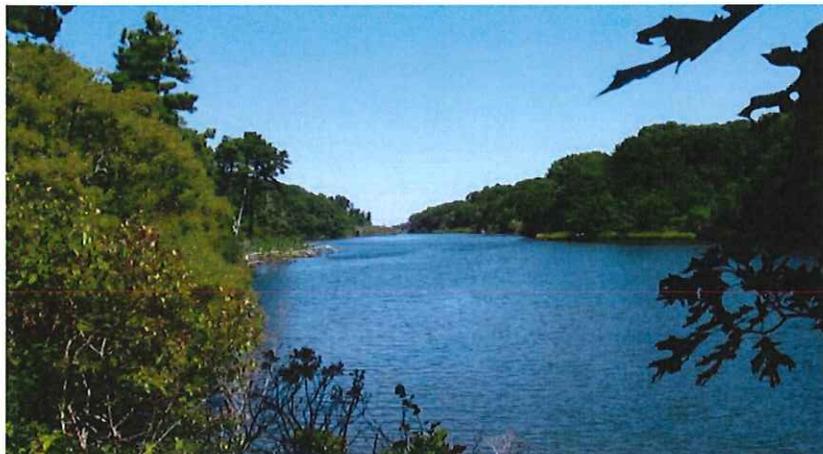
Pleasant Bay Alliance

- Protecting Biodiversity
- Protecting Coastal Processes and Wetlands
- Watershed Planning
- Navigation Safety
- Fisheries Management
- Public Access and Historic Resources

Resource Management Plan



Muddy Creek Restoration



Secured \$110,000 in non-town funds for studies leading to the Bridge Project

2003 – 06	Studies of Alternatives to Improve Ecological Health - Chatham CWMP; Bacterial and TN TMDLs established
2006 – 08	<i>Evaluate Ecological & Hydrodynamic Responses to Reinstalling a Water Control Structure in Muddy Creek Dike</i>
2008	Request Priority Project Status Under MA Wetlands Restoration Program for Culvert Widening Study
2009	Modeling to Determine Optimal Opening (24 ft.)
2010	Modeling of WQ Impacts of 24-foot Wide Opening
2010 – 11	“Priority Project” Under the Cape Cod Water Resources Restoration Project - Funding Provided to Study Resource Impacts and Design Concepts for 24 ft. Opening
2011 - 12	Muddy Creek Wetlands Restoration Technical Memorandum (Fuss & O’Neill)
2012	Towns of Chatham and Harwich devote funds for bridge design and permitting (May)

Coastal Processes



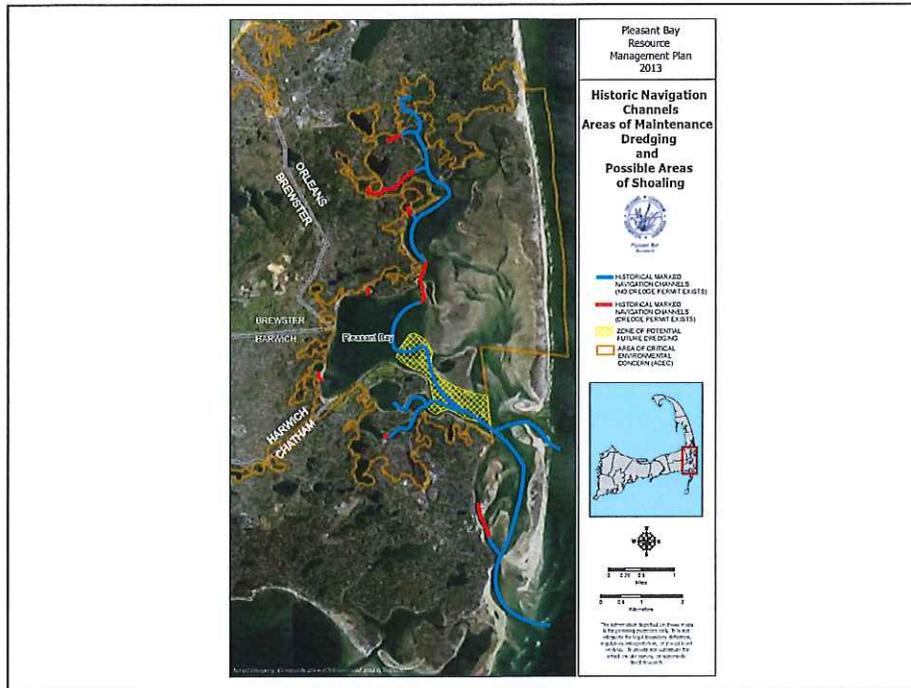
- Inlet Migration study (2010)
- Tide gage monitoring (ongoing)
- Effects of SLR on barrier beach and inner shoreline (2016)

Guidelines for Shoreline Stabilization



Preserving Historic Navigation Access

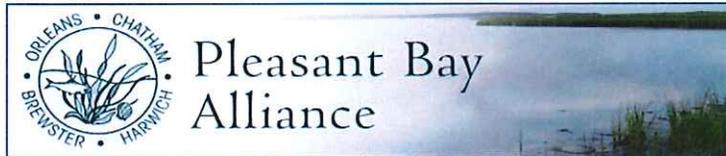




Water Quality Monitoring/Modeling



Spencer Kennard
www.capecodphotos.com



Pleasant Bay Alliance

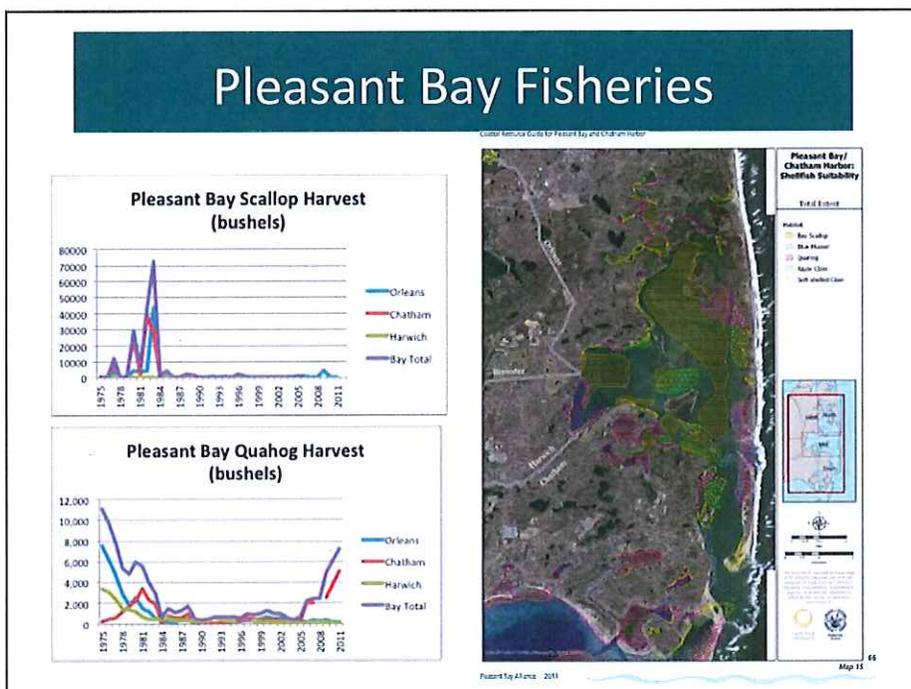
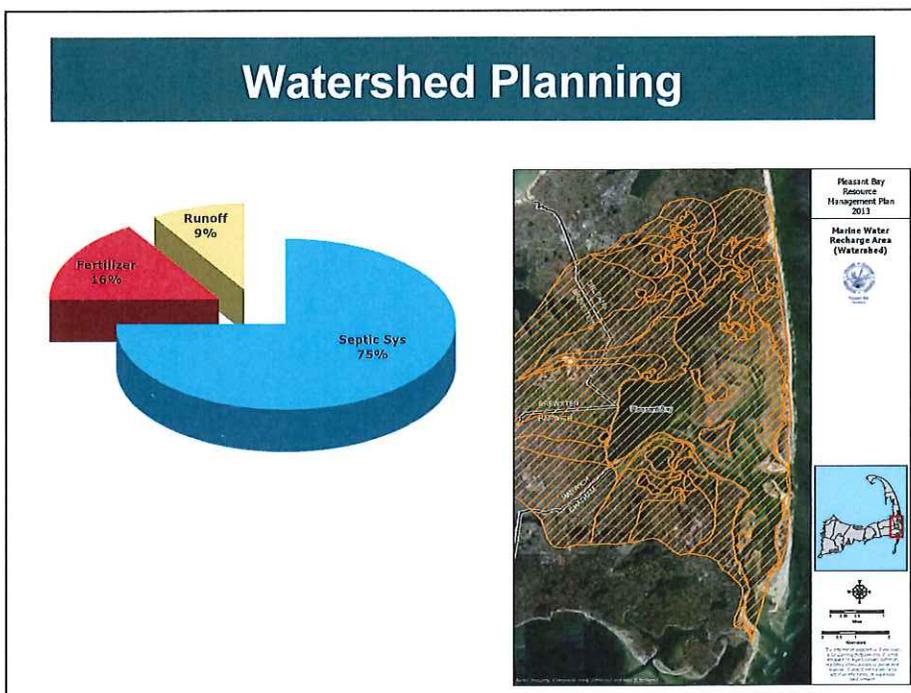
Volunteer Monitoring program

- 17 season underway
- 24 Sites (35+/-)
- 3,000+ samples collected
- Nutrients, pigments, DO, Temp, Salinity, Clarity
- Statistical trend analysis and interpretation



MA Estuaries Project Technical Report





Collaborating on Fisheries Research

- Friends of Pleasant Bay and Center for Coastal Studies:
 - High resolution seafloor/benthic mapping with bathymetry
 - Shellfish and Finfish inventory – distribution and relative abundance
 - Seal count and scat analysis



www.pleasantbay.org

Phone (508) 430-7513

Fax (508) 432-5039

OFFICE OF THE TOWN ADMINISTRATOR

Christopher Clark, *Town Administrator*

Charleen Greenhalgh, *Assistant Town Administrator*

732 MAIN STREET, HARWICH, MA



To: Board of Selectmen

From: Christopher Clark, Town Administrator 

Re: Review of Material Related to Settlement Agreement with the Fitzpatrick's Beach Road

Date: July 7, 2016

Pursuant to Administration's acknowledgments to the Board of Selectmen, we have undertaken a review of the files relevant to the Beach Road issue. I have asked for review from our Conservation Administrator in terms of specifically item 6 which calls for a plan to address erosion control issues within the layout of Beach Road. The Conservation Administrator has commented on this topic and agrees that the work done today works towards preventing erosion in the easement area. I have also requested that the Town Surveyor provide some maps that show the property boundary lines as well as the high tide and low tide markings of not only Beach Road that the two adjoining town owned parcels. Lastly, I have requested that Kopelman and Paige, the town's current legal counsel, review the materials and comment and advise on this matter. This material is also attached. I will seek to provide a summary of the findings below and would direct any persons seeking additional information to review the extensive attached materials related to this matter.

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onto private property in order to stay out of the water. I believe that the Settlement Agreement allows for access by residents in that area and to the general public (although no public parking is available in the area) to continue to have access to these public beaches that due to erosion have become a more limited nature. It is my general understanding that when a property is bounded by a high water mark or a low-water mark that boundary is dependent upon nature and whether the tidal influences create conditions of erosion or accretion.

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Related Documents - 7/11/16 BOS Meeting

- 01 Agenda.pdf
- 02 Dennis-Harwich Lions Club.pdf
- 03 July 7 Vacancy Interviews Recommendation.pdf
- 04 New Employee DPW.pdf
- 05 Route 6 Resurfacing Projects.pdf
- 06 Public Hearing - License Transfer.pdf
- 07 Pleasant Bay Alliance Update.pdf
- 08 Beach Road.pdf
- 09 Beach Road - KP.pdf
- 10 Fitzpatrick Settlement Agreement.pdf
- 11 Lighting at Brooks Park.pdf
- 12 W. Harwich Environmental Issues.pdf
- 13 Town Planner Job Description Revisions.pdf
- 14 Letter of Support to Chatham - Monomoy National Wildlife Refuge.pdf
- 15 State Ltr of Support.pdf
- 16 Lease Extension - Allen Harbor Parking Lot.pdf
- 17 Orleans-Harwich IMA Adult Day Care.pdf
- 18 Amend the Personnel By Law.pdf
- 19 Finance Director-Town Acct Job Title.pdf
- 20 MEMA Certificate.pdf
- 21 FEMA Course Information.pdf
- 22 BOS FY 2017 Goals and Objectives.pdf