

DRAFT

Minutes: Westerly Harbor Management Commission – Tuesday, June 24, 2025
at 6pm, Westerly Town Hall, 45 Broad Street, Code Enforcement Conference
Room, Westerly, RI 02891

Present: Jason Jarvis, Ben Weber, Ellen Kane, Dan King, Jamie Sylvestri

Assistant Harbormaster – Kim Rayner-Russell

Town Council Liaison – Chris Duhamel

Audio recording is available on the Town website, westerlyri.gov.

1. Call to Order – Meeting called to order at 6:15pm by Chair Jason Jarvis, Sylvestri arrived immediately after.
2. Approval of Minutes – 5/30/25
King – motion to approve 5/30/25 minute
Weber – seconded
Unanimous vote to approve the minutes.

Noted that the 5/27/25 minutes were distributed for approval, too. King suggested a correction from ‘issuing a waiver’ to ‘initiating a caution’ because the Town Council members present constituted a quorum but they did not discuss anything where they have oversight.

Weber moved to approve, as amended.

Jarvis – seconded

Unanimous vote to approve the minutes.

3. Review and discuss presenting Niantic Ave to Town Council for forwarding to the CRMC for designation as ROW, possible action.
Revisit parking options for Waters Edge Road ROW.

Jarvis describes that supporting documentation for this recommendation has been distributed to HMC members and, if approved, will be forwarded to the Town Council for their consideration. Jarvis reads the recommendation, which states that it is the recommendation of the HMC to the Town Council in the matter of Niantic Ave as a public ROW to forward it to the CRMC for as a State ROW, to mark Niantic as a ROW, and to remove any barricade or chain. The HMC, in order to fulfill its responsibilities, is requesting that the Town Council place this on their agenda for consideration and approval to forward to the CRMC.

Sylvestri – moves to accept this recommendation

Weber – seconds the motion

Unanimously approved

Weber reads the second recommendation, i.e. that the HMC recommends to the Town Council that they revisit the HMC's previously submitted parking proposal for four car top vessel parking spots on Waters Edge Road adjacent to the ROW.

Weber – motion to refer HMC recommendation on Waters Edge Road parking to the Town Council for their consideration

Kane – seconded

Unanimous approval

There was discussion about issues pertaining to parking, to be determined by the Town Council. HMC members brought up several ideas about Niantic Ave, noting that vehicles (aside from emergency vehicles) were legally prohibited from driving on the beach during the summer but signage and some type of physical barrier were needed. Discussion included bollards which would prevent easy access but not impede pedestrians, a swinging gate used elsewhere. Sylvestri

commented that maybe the DPW could come up with an appropriate gate. Consensus reached to add a sentence to the letter to Town Council that the “Town Council to determine reasonable public safety measures to restrict vehicular traffic”.

Related to Waters Edge Road, King brought up the issue of the lack of any public transportation in Westerly, including reliable Ubers and taxis. Discussion about the prior trial of a trolley to the beaches which had little publicity and little use during its brief trial a few years ago. Discussion about having a specific pass for car top boating parking, which King said he had successfully negotiated with RIDEM for at the Charlestown Breachway. Kane noted that Waters Edge Road parking would actually reduce the number of times each car drove on the street, a concern previously mentioned by abutters. Discussion about whether a Larkin Pass could be adapted for these proposed car top parking spots. Agreement that parking near ROWs was an essential element for access, along with the inclusion of handicap parking, but there was consensus to leave the current recommendations as they were and address the larger issue of ROW parking later.

4. Discussion of Emergency Storm Management

Jarvis said he added this to the agenda after a conversation with Dave Prescott of Save the Bay about the expectable impact of Category 1,2,3,4, and 5 storms. Jarvis stated he believes the HMC and the public should be better informed, wondering what the Chief of Police and Fire Chief would say. Jarvis discussed other conversations he has had with residents of Louisiana and the Bahamas about their hurricane and Cat.5 experiences. Sylvestri asked what role is there for HMC in an emergency. Weber stated the HMC could recommend to the Town Council to review. Sylvestri suggested looking at the Fire Department’s plans. A member of the public, Grant Simmons III, suggested the HMC should concern themselves with boats on the hard in such

emergencies. Simmons commented on the danger to boats in marinas and, with a 20 foot sea surge going up the river, boats would be going into people's homes. Simmons stated let the town take care of the emergency management part of it, let the people get out wherever they can get out, and the HMC take care of the harbor boats.

Discussion covered different aspects of communication, i.e. not everyone uses a cell phone or computer and not all parts of Town have adequate cell phone coverage. Sylvestri said he could facilitate looking at the Fire Department's plan. Rayner-Russell added that the Town has an emergency plan for boaters. Brian McCormick of Watch Hill, a member of the public, suggested that serious storms are well-publicized. Kane noted that with NOAA cutbacks and the possible elimination of FEMA local emergency communication might become more important.

Weber brought in an issue he felt was connected, i.e. the HMC recommendation to have ROWs marked on the water side as well as the road/sidewalk so that the public can identify ROWs from both points of access for easy egress as well as to ensure they are not trespassing on private property. Weber stated the previous Town Council voted to mark ROWs and gave the Town Manager the authority to do so but it has been 5 years. King confirmed that the CRMC ROW subcommittee had commented on this after Joy Cordio, former Town Councilor brought it up to them, and CRMC stated they had no problem with this as long as signs do not impinge on private property.

5. Public Comment

Tom McAndrew, Westerly, provided some history of Niantic Ave to the HMC, describing then Town Manager Rooney's efforts to determine Town ROW and the determination by Nancy Letendre, attorney for the Town Planning Board, that the Niantic Ave ROW was private and it was

then listed as such in the Town Comp Plan. Mr. McAndrew stated that the owners have always allowed public access and have never prevented the public from accessing the beach nor are there any signs indicating the property is private or visitors are not allowed. Mr. McAndrew stated that if, ultimately, this goes to the Council and they approve it, he is sure there will be litigation. He cited the deeds of the 11 families from Cincinnati who have this property in their deeds, so it is private. He stated he would not want to encourage the owner to hire some men to walk the beach and enforce public use below the mean high water mark, as opposed to current public use of more of the beach. Mr. McAndrew stated he was trying to suggest it is sometimes best to leave these things alone, rather than to raise an issue that really isn't an issue. He stated his concern about unnecessary angst for all and money and effort and energy. He stated we want to work with you collaboratively but it is private property.

Grant Simmons, Watch Hill, added that this is proven private property, access is not being denied, therefore he didn't understand why they have to go through this entire process all over again for no apparent reason.

Sylvestri stated the apparent reason is that right now it is perceived that the public is allowed to go on with their permission and he thinks the basis of the drive to get it corrected is it is rightfully ours.

Mr. McAndrew stated if the Town were ultimately wrong in this case, as the Town Solicitor said at that time, then are you going to force these people to shut this down so no one can get there? McAndrew continued that the public has access to the private property in front of houses that they would not ordinarily have, even if they had access through the right of way, correcting himself to say 'the sand trail' not 'the right of way'.

Kane asked Mr McAndrew if he were representing any of the abutters as their attorney since she understood it was customary for attorneys to identify their clients when speaking in this type of public forum. Mr.

McAndrew stated he was representing Mr. Peter Dooney and another client (unable to determine name on audio recording), and that he was not representing Mr. Roth.

Kane went on to say that there is a difference of opinion based on the research and she respectfully disagrees with the findings about it being private. She noted that she has been unable to find out the research used by Attorney Letendre and Kane understands that Mr. McAndrew and Ms. Letendre had a conversation back then and both agreed on the Niantic Ave property being private but asked what if that conclusion were a mistake. Attorney McAndrew stated then hundreds of thousands of dollars could be spent litigating. Kane asked if that was a threat. Attorney McAndrew said he was just making a statement.

Mr. Simmons asked how the HMC came to the conclusion it was public and asked about how the information could be shared. HMC members responded that the Town Council will have the information shortly and that the CRMC already has the research information. Kane gave the contact information for making such a request to the CRMC.

King shared his concern and his preference for parties to sit down and come to a commonsense solution, such as at Spring Ave. King's concern is that if the Cincinnati family owners sold their properties to an investment group, for example, they could decide they wanted a private beach and it's gone. The CRMC designation protects, but doesn't change anything about the assumption it is private or not. Weber stated that referring this to the Town Council is just following the Town Comprehensive Plan and the Harbor Management Plan which specifically say to send all ROWs, whether they're private, contested, or public, to CRMC for state designation, so that a threat of litigation. Attorney McAndrew interrupted to say he was not threatening litigation, he was saying they do not invite it, they are not looking for that. Weber added that ROWs are the public's only means of getting to the shoreline

to exercise their constitutional right without trespassing on private property.

Attorney McAndrew pointed out that since no one has been denied access, they are doing the functional equivalent of being public access right now. Jarvis brought back the point that the current public use could be changed if property changes hands. King mentioned that Attorney McAndrew had twice used the term “high water mark” and pointed out the current legal status of the recent high water mark plus 10 feet landward and the change in law was acknowledged. Weber mentioned that the CRMC already had a Niantic file. Attorney McAndrew asked if that were the David Roth file on Everett Ave and it was clarified that Everett Ave was a separate file which had not yet been CRMC designated but is on their agenda to do so. Kane suggested everyone look at the file on Niantic Ave and see the information, which makes an excellent case for incipient dedication, which would be a public dedication. Kane stated this issue will not be settled at the HMC level, but that clearly, everyone wants it to be settled. Kane added that in her opinion, if anyone had a client or anyone who felt they had a right to something, they would want it to be settled and that is what the HMC is doing on behalf of the public, trying to get it settled. Mr. Simmons returned to the fact that a previous decision had been made that the HMC is now disputing,

Weber raised a point of order, saying we were engaging in a back and forth debate rather than a more traditional public comment period where the public has every right to express their opinion. Jarvis stated that this comes down to the HMC submitting this recommendation to the Town Council, where everything will be vetted again. Jarvis noted that people do make mistakes and this would be settled by the CRMC.

Discussion turned to Waters Edge Road. Attorney McAndrew reviewed the history with former Town Manager Mark Rooney. Attorney McAndrew

passed out recent photos he had taken of the kayak rack and ROW end of the street. Kane asked him if he were representing clients for this issue and he stated he represented all homeowners on Waters Edge Road and Pawcatuck Ave. He stated that the abutters came to an agreement with the Town Manager and the CRMC at that time in 2021. Attorney McAndrew stated that he had received confirmation from the Town Manager dated February 18 that CRMC approved the kayak rack and said there would be no parking and no further improvements. A granite marker and blue ROW marker were added. He described last year's HMC proposal for 4 parking spaces and felt this violated the agreement which he states the neighbors have lived by. He also cited the parking proposal as being inconsistent with Town parking ordinances, national standards for roads and roadways. He cited concerns stated by the Chief of Police and the Watch Hill Fire Chief at a meeting with then Town Councilor Joy Cordio, adding it is a health, welfare and safety issue. He cited a packet he gave to the Town Manager in February 2024 with 100 exhibits which detailed the history.

Weber pointed out that there was no formal agreement in writing between the Town and the CRMC. Kane stated that David Reis, former HMC member and former staff scientist at CRMC had stated that he did not remember any CRMC statement against parking, just Mr. Rooney's comment. Jarvis brought up the ability of the Westerly fire department to safely navigate other dead-end roads with zoned parking on one side. Jarvis cited this ROW as an access point for fishermen and the difficulty of dropping off expensive equipment in order to go find parking, then return.

Discussion included comments on the ease or lack thereof in cars turning around, police patrolling this street, and concerns by the Fire Department, including mention by the WH Fire Chief of an injury to a fireman in Providence, who was burned by electrocution when getting too close to wires while on the ladder. Concern for safety was a shared concern by all at the meeting and a suggestion was made to hire an

outside Fire Marshall to evaluate the potential risk at the ROW end of the road. King commented on an aerial photo which showed work trucks parked along the shoulder of Waters Edge Road and the town-owned boundary of the road extending beyond the paved road on both sides.

Points of order were raised by HMC members to return to a public comment format rather than engaging in a back and forth debate.

Duhamel stated that every step will be vetted on every item referred to the Town Council. He stated that the Council does not take items or records without vetting them, whether through land evidence, records for the Town Engineer, through public safety. He stated there is also a state Fire Marshal who could possibly have input on this. He continued the town Council has to do due diligence and the CRMC would ask for it anyway, in his opinion, and he thinks it is prudent for the Town to do so. Duhamel continued that if he HMC wants to be part of that vetting, he thinks that is appropriate. If the public has information that wants to be forwarded through the Town Council, Duhamel felt that was appropriate but he wanted to emphasize the vetting process. Duhamel stated the importance of the CRMC designation and review process is that it creates a protective ROW that would run for perpetuity. Duhamel stated he has been saying this since the first HMC meeting in April when Sylvestri took the minutes. Duhamel asked Kane to please put this in minutes that he has been saying, consistently, that the CRMC designation provides the most protection. He states that the HMC is asking the Town Council to take ROWs that are unequivocal, public ROWs created by the Town, and that they be forwarded to the CRMC for designation for protection. Statements were misconstrued or charges of lack of knowledge were mistaken, he continued. Duhamel said that King said CRMC ROWs are required or necessary. Weber is saying CRMC designation is required through the comp plan and HM Plan. Duhamel stated that everything he has been saying since April is the same as what has been stated today, adding he didn't know why there were

arguments in the past about that distinction but he wanted to point out that he agrees that the CRMC designation is paramount. King answered he didn't remember saying CRMC designation was necessary although it was important for the long term integrity of these ROWs, describing it as another step of insurance. Duhamel stated that King just said it wasn't necessary. Weber repeated the importance of CRMC state designation. Weber addressed Duhamel and said it was the first time Duhamel had stated that CRMC doesn't create ROWs, but designates them as state ROWs, adding more protection to existing conditions, to clarify. Weber asked if Solicitor Conley had provided his written opinion about whether the Town can create and designate ROWs, with a special emphasis on O'Connell v Rime? Duhamel said it was in draft form and had to go to the full council to be voted on. Weber asked why it needed to go for a vote. Duhamel asked Weber if he had a problem with the full council? Weber said he did not.

Jarvis called the end of public comment period.

6. Adjourn

Weber – moved to adjourn

King – second

Unanimous vote to adjourn.

Next meeting to be determined by email.

Submitted by Ellen Kane, Secretary