

Aquinnah Board of Selectmen
Minutes of Meeting 12/14/2010
Aquinnah Town Hall Selectmen's Mtg Room

Members present: Camille Rose, Chairman, James Newman.

Also present: Adam Wilson, Town Administrator, Janice Sylvia, Police Sgt. Paul Manning, Shellfish Constable Brian Vanderhoop, Shellfish Advisory Committee Chairman Buddy Vanderhoop, Committee members Hollis Smith & Jim San Filippo, Wilde Whitcomb, George Baird.

The meeting began at 5:25 pm.

-Minutes from December 7th were reviewed.

A motion was made for acceptance of minutes from 12/7/2010

The Board voted 2 – 0. The motion passed.

-The only item on the agenda was to hear a report of violations of the shellfish regulations by George Baird & Wilde Whitcomb.

-Brian said Wilde got an approved license to commercially scallop but did not satisfy the regulation for having been a resident in the town the previous year. He stated that Wilde is currently living in West Tisbury and spent months of the previous year living in different parts of the island. Brian and members of the advisory committee asked the Selectmen to act on the reported violation.

Wilde stated that he has always been a resident of the town. He validated his residency stating that he had grown up in Aquinnah and still has his legal address at 15 Moshup's Trail. He said that because of economics he had to rent elsewhere on the island but did stay in Aquinnah for July. He said he did work in Aquinnah this past summer but currently works out of town.

-There was discussion on whether Wilde could have a waiver of the year long residency requirement because of an affordable housing issue. The difference in residency requirements and housing for both shellfish and scallop permits was discussed by everyone present. Brian read the "1A" scallop license regulation that requires continual residency in the town for one year and proof of such to the satisfaction of the Board of Selectmen.

-Camille talked about the legal requirements to be a "resident." There was discussion on what constitutes continuous residence as it relates to the shellfish regulation. Jim suggested a legal opinion would benefit everyone involved. Camille stated she signed his application because she believes he has always lived here. Jim added that he also pays taxes and votes in Aquinnah as well.

There was consensus by the Board to request an opinion from Town Counsel on the matter of town residency as it relates to the shellfish regulations. Camille stated that moving forward with that opinion, the Board could then ascertain if Wilde's case for having a commercial scallop license was or wasn't within the realm of the intent of the scalloping license regulation.

The Board, by consensus, agreed to continue the hearing to a future Selectmen's meeting after obtaining Counsel's opinion on residency.

-Camille stated that Wilde still had the right to scallop until the Board reconvened with the additional legal information. There was brief discussion on how community housing plays into the dilemma of one trying to live in town and affordable rents.

-The next hearing was for George Baird of 31 State Road. Brian reported that George had his scallop license approved on November 30th but was seen on the pond scalloping November 23rd & 24th. Camille asked George if that was the case and he admitted he had gone out before obtaining the permit. He defended his decision to go fishing stating that when he went for an application, none were available at Town Hall. He also stated he didn't have the money to pay for the license but that after scalloping for a few days he could.

There was discussion on getting permission to fish without paying by talking to both the shellfish constable and post dating a check, and seeking permission from one of the Selectmen. Brian said that because he couldn't find any paperwork to process a permit for George, he stopped him from scalloping until he had done so. George missed a day to fish while getting his paperwork approved through the Town Hall office. The board talked with George about his responsibility to have a permit. There was discussion about the warden's responsibility and his powers, including the provision in the regulations that "poaching" – fishing without a license, can carry the penalty of the right to fish for up to six months.

-Camille and Jim discussed a fine based on the two days he fished without a license and the one day that he was not allowed to scallop. After brief talk on allowances for hardship and communicating special needs to the authoritative powers that oversee licenses and regulations, Jim made a motion for a fine of \$200.00 to George Baird for scalloping without a commercial license permit payable in 60 days. Camille seconded.

Jim said to George that this can't happen again. The rules must be upheld and that's the bottom line.
The Board voted 2 – 0 . The motion passed.

-There was discussion on weekend scalloping occurring for reasons other than "cold days." There was agreement that high winds could also be a factor to prevent fishing and the regulations should be amended to allow that.

A motion was made and seconded to amend the current Aquinnah shellfish regulations under Scallop Licenses #2 to state that "if scalloping is canceled due to unsafe conditions or low temperature by 10:00 am, make up day can be Saturday."

The Board voted 2 – 0 . The motion passed.

-There was discussion on other town regulations regarding commercial shell fishing and proof of licensing. There was also talk of revising the current regulations with Selectmen approval.

-Camille asked Brian to get the swim ropes out from the beach area and a plan for taking care of the remaining moorings before the end of the year.

A motion was made and seconded to adjourn the meeting

The Board voted 2 – 0 . The motion passed.

The meeting ended at 6:17 pm.