

Chappy Steering Committee

April 04, 2020

2:00 pm

A meeting of the Committee was held on the above date and time via the Zoom Application. Members present were: Rick Biros, Bill Brine, John Dropick, James Hagerty, Dick Knight, Rick Schifter, Sally Snipes, Dana Strayton, Tom Tilghman, and Peter Wells.

Mr. Hagerty opened the meeting and discussed the background of the Board of Selectmen's decision to choose an array of applicants that represented multiple interests on Chappy. He elaborated on the importance of stakeholders that possesses year round and seasonal perspectives on the current situation.

Mr. Hagerty then pointed out three discussion points that he wanted to briefly highlight:

-What is the most effective form of ownership of the ferry to meet the objectives?

-To the extent ownership remains private, what level of oversight is appropriate to ensure the financial health of the operation, sufficient investment in maintenance and repair, reasonable fare levels, and an appropriate return on capital invested

-How will climate change and rising sea levels impact access to and operation of the ferry? What are the engineering solutions to those issues? How much will they cost? What are the sources of funds available to pay for them?

Mr. Hagerty then reviewed the legal questions that had been sent previously from several committee members:

1. How can the Selectmen allow or acquiesce in the October 18 rate increases of 25% for resident drivers and 50% for resident-walkers without notice, without a hearing, and without any oversight and review? Who, if not the Town, is looking out for the public welfare of Chappaquiddick residents and property owners? What recourse does the Chappaquiddick community have to question and critique these astonishing rate increases?

2. Shouldn't Section IV of that license be amended to delete the adjective "maximum" since the language contravenes the Selectmen's obligations under Chapter 88 Section 2. What justification does the board of Selectmen have not to conduct a review of the Chappaquiddick Ferry's financial records to justify rate increases?

3. How are these standards being met today by the current Ferry Operator? How is "affordable ferry service" determined without a review of the Ferry Operator's financials?

4. Section 3 of Chapter 88 of MGL requires the ferry operator to "give ready attendance on passengers on all occasions". What planning is being implemented by the ferry operator and the Town to ensure reliable ferry service for the community? What specific steps are planned to address the increased flooding (unrelated to storm activity) that causes the ferry service to shut down?

5. A rate category which is defined in such a way that it discriminates among residents based on the number of days they travel off Chappaquiddick, is capricious and arbitrary. Shouldn't the Selectmen eliminate this 45 day requirement and have the residency rate category conform with the definition of "resident" established in Mass General Law Chapter 62 Section (f)? Wouldn't acquiescence by the Board of Selectmen expose the Board to liability for this capricious and arbitrary conduct?

Mr. Hagerty then advised that the previously mentioned questions could be encapsulated in five concise questions that could satisfy the intent of the committee.

1. Do the selectmen have to notify the public to approve the rates for the Chappy ferry?

2. Do the selectmen only approve the maximum rate to be charged by the operator, with the private Chappy Ferry having the discretion to charge lesser rates if it chooses, or to create a separate category of rates: i.e. a special rate for Chappy residents depending on the operator's definition of resident?

3. Is there an appeal process to challenge the rates?

4. Do the selectmen have the authority to obtain the Chappy Ferry's financial statements as part of their duties of "establishing the rates"?

5. What steps can the selectmen take to insure that that the Chappy Ferry meets the requirement of G.L. c. 88 sec. 3 to “give ready attendance on passengers on all occasions”?

Mr. Hagerty explained that he would be sending the more focused questions to Town Counsel with the instructions of forwarding to them further to Edwards, Angell, Palmer and Dodge LLP - a firm that specializes in MA Ferry Law.

Mr. Hagerty then discussed how the Steering Committee may or may not fall under the purview of the Open Meeting Law and be a “deliberating body.” If OML did in fact apply, the Committee would have to elect a Chairperson and take requisite minutes. Mr. Hagerty said he would reach out to Town Counsel or the Secretary of the Commonwealth to get further guidance.

The group then discussed what should be the mission statement and official objective of the committee. Mr. Schifter suggested, “To develop recommendations to the Town (and other relevant governmental entities), ownership, residents of Chappy, and other customers designed to ensure the safe, reliable and affordable operation of the ferry for decades to come.” Several members of the Committee voiced their support for the statement. Mr. Hagerty made a motion to adopt the mission statement officially. Mr. Schifter seconded. Unanimous.

At 3:15 PM Mr. Hagerty moved to adjourn the meeting. Mr Brine seconded. Unanimous.

Rick Biros
Bill Brine
John Dropick
Peter Getsinger
James Hagerty
Dick Knight
Rick Schifter
Sally Snipes
Dana Strayton
Tom Tilghman
Peter Wells