Board of Selectmen Meeting Notice

The Board of Selectmen will hold a Meeting on Wednesday, December 11th, 2013
At the Island Hall at 6:00pm.

First Order of Business: Call meeting to order

Second Order of Business: Town Administrator & Treasurer’s Reports 5 minutes

Third Order of Business: Public Comment 5 minutes

Fourth Order of Business: Regular Business 120 minutes

To Have the Board of Selectmen:

14-097: Hold a joint meeting with the School Committee to discuss the 2014-2015 (FY15) budget
14-098: Discuss and revise the FY15 budget process
14-099: Consider a quote from Cumberland Ironworks for repair to the gangway at Cousins Island
14-100: Consider the number and fees for Shellfish Licenses as recommended by the Shellfish Committee
14-101: Consider the allocation of revenues from the sale of plots in the Chebeague Island Cemetery
14-102: Consider Rules and Regulations for the Chebeague Island Cemetery
14-103: Review the process for closing roads to winter maintenance
14-104: Discuss the scheduling and other details of the upcoming board of Selectmen Retreat
14-105: Discuss a zoning change proposed by the Chebeague Island Inn
14-106: Review potential agenda items for January:
   i. Review a first draft of the FY15 line item budget
   ii. Conduct a second reading of the Road Opening Policy and Application
   iii. Additional items as suggested by the Board

Fifth Order of Business: Executive Session 30 minutes

To have the Board of Selectmen hold an Executive Session to discuss a legal matter pursuant to 1 MRSA, Section 405, subsection 6(E)

Sixth Order of Business: Other Business 5 minutes

Seventh Order of Business: Communications 5 minutes

Eighth Order of Business: Approval of Expense Warrant(s) 5 minutes

Ninth Order of Business: Approval of prior minutes 5 minutes

Tenth Order of Business: Adjourn Meeting

<table>
<thead>
<tr>
<th>Upcoming Meetings with Board of Selectmen in Attendance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meeting</td>
</tr>
<tr>
<td>Capital Expense Budget Workshop</td>
</tr>
<tr>
<td>January BOS Meeting</td>
</tr>
<tr>
<td>Selectmen’s Retreat / Joint Meeting with the Yarmouth Council</td>
</tr>
</tbody>
</table>
December 3, 2013

Dear Bump,

With the upcoming joint meeting between the Board of Selectmen and the School Committee I am hoping to establish a baseline of past progress, present some of the goals and priorities the Board of Selectmen have established, and set the framework for a valuable meeting on the 11th.

I know we all hope to move forward from the already productive discussions and collaborative actions we have realized in the past. Specifically I am referencing our work to understand our debt horizon and plan for future costs, to re-structure the School Department’s accounts, to streamline the payroll process, to cross-train staff, to absorb the ongoing cuts to state aid to education and municipal government in a balanced way, and to share resources for our part time bookkeeper which helped to enable many of the other successes we have seen. The Board of Selectmen and I thank you and the School Committee for the significant effort and foresight that was required to initiate these changes.

At their recent meeting on November 20th, the Board of Selectmen set the following goals for the budget and process that I believe are relevant to the School Department:

Regarding budget goals:
- Achieve a smooth and efficient process
- Improve bookkeeping and accounting and budget system; develop a flow chart
- Find efficiencies in operations
- More public participation; get more info onto the website
- Make sure equipment is being maintained, especially fire trucks and plows
- Keep an eye on payroll benefit packages, especially for increases in insurance rates

Regarding budget process:
- Keep the process moving
- Instead of December March May, maybe December February March
- Integration of capital concerns during the entire process
- Finalize capital process early in overall process; compress into a couple weeks of presentations, but write everything in pencil to be tweaked as the overall process moves along

I hope this information assists you in understanding the general focus and direction of the Board of Selectmen. Please let me know if you have any questions or comments, and if there are any specific priorities and goals you would like me to share with the Board prior to the meeting.

Sincerely,

Eric

Cc: Town of Chebeague Island Board of Selectmen
<table>
<thead>
<tr>
<th>Date</th>
<th>Task</th>
<th>Responsibility</th>
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<tbody>
<tr>
<td>10/9/2013</td>
<td>October BOS Meeting - Fee Schedule review / budget schedule approved</td>
<td>TA / BOS</td>
</tr>
<tr>
<td>11/13/2013</td>
<td>November BOS Meeting - FY15 Budget Goals / Prioritization</td>
<td>TA / BOS</td>
</tr>
<tr>
<td>11/15/2013</td>
<td>Budget request worksheets distributed</td>
<td>TA</td>
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<tr>
<td>12/11/2013</td>
<td>December BOS Meeting - Discuss Budget Goals w/ School Comm. &amp; Super.</td>
<td>BOS / TA / BUMP</td>
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<td>12/13/2013</td>
<td>Budget request worksheets due</td>
<td>TA</td>
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<td>12/18/2013</td>
<td>Budget Workshop - Capital Expenditures I</td>
<td>TA / BOS / CPFC</td>
</tr>
<tr>
<td>1/3/2014</td>
<td>Preliminary line-item budget distributed for review</td>
<td>TA / BOS</td>
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<td>1/8/2014</td>
<td>January BOS Meeting - First draft of budget finalized and presented</td>
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<td>1/22/2014</td>
<td>Budget Workshop - Meeting w/ Auditor</td>
<td>TA / BOS</td>
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<td>2/12/2014</td>
<td>February BOS Meeting - Second draft of budget presented</td>
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<td>Budget Workshop - Individual Departments section I</td>
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<td>March BOS Meeting - Third draft of budget presented</td>
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<tr>
<td>3/26/2014</td>
<td>Budget Workshop - Individual departments section II</td>
<td>TA / BOS</td>
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<tr>
<td>4/9/2014</td>
<td>April BOS Meeting - Fourth draft of budget presented &amp; Joint School Ccomm. &amp;</td>
<td>BOS / TA / SC /</td>
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<td>4/16/2014</td>
<td>Budget Workshop - Capital expenditures II</td>
<td>CPFC / BOS / TA</td>
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<td>5/7/2014</td>
<td>May BOS Meeting - Fifth draft of budget presented</td>
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<tr>
<td>5/21/2014</td>
<td>Special BOS Meeting - Final budget presented w/ review and approval</td>
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<tr>
<td>6/7/2014</td>
<td>Annual Town Meeting</td>
<td>BOS / TA</td>
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Cumberland Iron Works  
38 Upper Minot Rd  
Pownal, Me 04069

<table>
<thead>
<tr>
<th>Name / Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Town of Chebeague Island</td>
</tr>
<tr>
<td>192 North Road</td>
</tr>
<tr>
<td>Chebeague Island, ME 04017</td>
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<table>
<thead>
<tr>
<th>Description</th>
<th>Qty</th>
<th>Cost</th>
<th>Total</th>
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</thead>
<tbody>
<tr>
<td>Add hand rail down either side of ramp at Cousins island. Using 1 inch and</td>
<td>1</td>
<td>1,550.00</td>
<td>1,550.00</td>
</tr>
<tr>
<td>a quarter aluminum pipe. Mobile welded in places.</td>
<td></td>
<td></td>
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</table>

**Total**  
$1,550.00

Customer Signature ________________________________________________
Hi Donna,

They will, and I believe have already done so on the Cousins side. With respect to that particular gangway, I have been working with Cumberland Ironworks to get a price on replacing the railings. To date I’ve received a verbal quote for $1,582 to weld on new aluminum rails, maintaining our ADA width, and set to the appropriate height. I have asked for a written quote to bring to the Board for approval. This company comes highly recommended and is one of a few in the area specializing in this work.

I did speak with the PS crew about removing the rails from the old gangway behind the salt sand garage and using those, but the time and effort involved with cutting, fitting and grinding would quickly add up, beyond the fact that we do not have the capacity to weld aluminum in-house. In the end the cost might be a little less if we could borrow an aluminum welder and get someone to run it, but the result would be a stripped down gangway behind the garage and a patched up one on Cousins.

I recommend spending the money to do the work appropriately.

Best,

Eric

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Hi Eric:

Thanks for the photos. Will they be checking the skid pads on the ramp at the wharf. Some are a bit worn, but I am not sure if they need replacing but will only get worse if they have started to chip.

Donna

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On Fri, Nov 22, 2013 at 9:04 AM, Eric Dyer <townadmin@chebeague.net> wrote:

Hello All,

Forwarding on some progress shots from the PS crew.
11/25/2013: Shellfish Conservation Committee Recommendations to the Selectboard of the Town of Chebeague Island (license quantities and fees for 2014)

1. **Municipal Allocation Request; fees for Commercial Licenses**: SCC recommends to the Selectmen the following schedule of fees and license quantities:
   a. Resident: SAME fee; allocation of 5 licenses
   b. Resident Senior: SAME as last year (fees and allocations)
   c. Non-Resident: zero (based on research by Michelle that shows that, if we have 5 or fewer commercial resident licenses, we are not required to issue commercial non-resident licenses).

2. **Municipal Allocation Request; fees for Recreational Licenses**: SCC recommends to the Selectmen the following schedule of fees and license quantities:
   a. Annual resident: same fee of $35; limit 35 licenses
   b. Annual non resident: same fee of $70, limit 3 licenses (10% of a. above)
   c. Monthly resident: same fee of $25; limit 3 licenses
   d. Monthly non resident: same fee of $50: limit 7 licenses
   e. Daily resident/non resident: same fee of $15; limit 20 licenses
   f. Senior (over 65) “two hoe” new fee of $25; limit 25 licenses
   g. Senior (over 65) “one hoe” new fee of $10; limit 50 licenses
   h. The intent of the above recommendation is:
      i. To raise additional funding for conservation (research, traps, etc); and
      ii. To limit the take of the resource until we better understand the threat, and, until we see success in dealing with the threat.
<table>
<thead>
<tr>
<th>License Numbers are determined by:</th>
<th>X</th>
<th>using survey data;</th>
<th>X</th>
<th>Harvester Log;</th>
<th>demand</th>
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<td>Funds Received</td>
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<tr>
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<td>Junior/Student Resident</td>
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<tr>
<td>Junior / Student Non resident</td>
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<tr>
<td>Other</td>
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<tr>
<td>Recreational</td>
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<td>Junior / Student Non resident</td>
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<td>Other</td>
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<td>Shellfish Conservation Account Carried Forward</td>
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<td>Funds Raised fo Warden</td>
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<td>Funds Raised for Management Activities</td>
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<tr>
<td>Fines</td>
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<td>Other</td>
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<td>Mileages</td>
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<td>Advertising / Notification</td>
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<td>Supplies</td>
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<td>Surveys</td>
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<td>Seeding</td>
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<tr>
<td>Miscellaneous</td>
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<td></td>
<td>$3,720.00</td>
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This Form was completed by the Town Manager, Shellfish Warden, and Town Clerk.
ANNUAL SHELLFISH MANAGEMENT REVIEW for the period
January 1st to December 31st, 2012, Prepared by Sue Campbell and Ron Tozier

<table>
<thead>
<tr>
<th>License Receipts</th>
<th>Allocation</th>
<th>Sold</th>
<th>Received</th>
</tr>
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<tbody>
<tr>
<td><strong>Commercial</strong></td>
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<tr>
<td>Resident</td>
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<td>5 @ 75</td>
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<td>3 @ 50</td>
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<td>$</td>
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<tr>
<td>Junior/Student Resident</td>
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<td></td>
<td>$</td>
</tr>
<tr>
<td>Junior/Student Nonresident</td>
<td>n/a</td>
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<td>$</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td>$</td>
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<tr>
<td><strong>Recreational</strong></td>
<td></td>
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<tr>
<td>Resident</td>
<td>Not Limited</td>
<td>50 @ $35.00</td>
<td>$ 1,750.00</td>
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<tr>
<td>Nonresident</td>
<td>10% of N.R.</td>
<td>4 @ $70.00</td>
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<td>Daily/Monthly Res.</td>
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<td>Daily/Monthly Nonresident</td>
<td>N.L.-10%</td>
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<td>Junior/Student Resident</td>
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<td>$</td>
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<td>Junior/Student Nonresident</td>
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<td>$</td>
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<td>Other</td>
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<td><strong>Receipts Independent of License Fees</strong></td>
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<td>Shellfish Conservation Account Carried Forward</td>
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<tr>
<td>Funds Raised for Warden</td>
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<td>Funds Raised for Management Activities</td>
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<td>$ 14,000.00</td>
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<td><strong>TOTAL Receipts (1+2)</strong></td>
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**Disbursements**

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<tr>
<th>Disbursement</th>
<th>Amount</th>
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<td>Mileage</td>
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<td>Clothing</td>
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<td>Equipment</td>
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<td>Surveys</td>
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<td>Miscellaneous (Gas)</td>
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<tr>
<td><strong>TOTAL Disbursements (3+4)</strong></td>
<td>$ 12,597.84</td>
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ANNUAL SHELLFISH MANAGEMENT REVIEW

Municipality: Chebeague Island  Date of Submission: 

For the period: January 1 to December 31, 2013

The Shellfish Conservation Committee needs to submit the following information in partial fulfillment of the town’s responsibilities as outlined in Chapter 7 of the DMR Regulations and the Town’s shellfish ordinance. A complete Budget Worksheet must accompany this report.

SHELLFISH COMMITTEE / STAFF

CHAIR NAME: _________________________  ADDRESS: _________________________

PHONE: _________________________  EMAIL: _________________________

VICE CHAIR: _________________________  ADDRESS: _________________________

PHONE: _________________________  EMAIL: _________________________

SECRETARY: _________________________  ADDRESS: _________________________

PHONE: _________________________  EMAIL: _________________________

MEMBER: _________________________  ADDRESS: _________________________

PHONE: _________________________  EMAIL: _________________________

MEMBER: _________________________  ADDRESS: _________________________

PHONE: _________________________  EMAIL: _________________________

MEMBER: _________________________  ADDRESS: _________________________

PHONE: _________________________  EMAIL: _________________________

MEMBER: _________________________  ADDRESS: _________________________

PHONE: _________________________  EMAIL: _________________________

MEMBER: _________________________  ADDRESS: _________________________

PHONE: _________________________  EMAIL: _________________________

WARDEN: _________________________  ADDRESS: _________________________

PHONE: _________________________  EMAIL: _________________________

WARDEN: _________________________  ADDRESS: _________________________

PHONE: _________________________  EMAIL: _________________________

SELECTMAN/ COUNCIL REP.: _________________________  ADDRESS: _________________________

PHONE: _________________________  EMAIL: _________________________
COMMITTEE MEETINGS

The Committee holds regularly scheduled meetings (once a month etc.): YES ___ NO ___

Number of meeting held during the reporting period: ___

The minutes of meetings are recorded and available on request: YES ___ NO ___

STATEMENT OF MANAGEMENT GOALS AND IMPLEMENTATION ACTIONS

The goals of the shellfish management for this municipality during the reporting period were
(pick one in each category that best describes the municipal program):

1. ☐ Provide open licenses to maximize opportunity
   ☑ Limit licenses to maximize individual harvest
2. ☐ Conduct enhancement activities to increase resources
   ☑ Use closures and harvest limits to maintain resource levels
3. ☐ Emphasize recreational harvest
   ☐ Emphasize commercial harvest

The following management controls were utilized (check all that apply):

1. ☑ Limited the number of commercial harvesters
2. ☐ Limited the number of recreational harvesters
3. ☐ Restricted the times of harvest (seasons, days off etc.)
4. ☑ Restricted the areas of harvest (conservation closures etc.)
5. ☐ Limited the amount of commercial harvest (daily harvest limit)
6. ☑ Limited the amount of the recreational harvest (daily harvest limit)

The following management activities were undertaken (check all that apply):

1. ☐ Predator protection using fencing, netting, trapping etc.
2. ☐ Reseeding from wild or hatchery stock
3. ☑ Surveys of flats to determine resource abundance
4. ☑ Collection of catch data from harvesters
5. ☐ Enhancing natural seeding using brushing, roughing etc.
6. ☑ Utilizing flat rotation through conservation closures
CONSERVATION CREDITS

Conservation credits are required: YES ☑ NO

If NO are volunteer hours logged: YES ☑ NO

Conservation credits are required for: RENEWAL ☑ NEW LICENSE

Number of conservation credits required annually: 2

The total number of conservation/volunteer hours during the reporting period: HOURS_________ PARTICIPANTS_________

A reduced license fee is offered with earned conservation time: YES ☑ NO

Opportunities are provided for earning required conservation credits (surveys, meeting attendance etc.): YES ☑ NO

Conservation credits earned for this year were (Check all that apply):

☐ Reseeding ☐ Predator Control ☐ Coastal Cleanup

☑ Surveys ☑ Education activities ☐ Other

☐ Brushing

WARDEN ACTIVITY REPORT (from Warden Enforcement Worksheet)

The Municipal Shellfish Warden is provided a written job description: YES ☑ NO

Hours patrolled during report period: 183

Number of harvesters checked during report period: 47

Number of warnings issued during report period: 3

Number of summons issued during report period: 0

Number of court appearances during report period: 0

Number of convictions during report period: 0

Enforcement can be improved by (check all that apply):

☐ More Hours ☐ More Training ☐ Better Equipment

☐ Additional Staff ☐ Greater State Support

Other ___________________
WARDEN ANNUAL APPOINTMENT

WARDEN: **Ronald Jozwik**  SS#: 012 428754

REAPPOINTMENT:  **X** NEW HIRE*:  **X** TOWN CLERK SIGNATURE:

WARDEN:  SS#:

REAPPOINTMENT:  **X** NEW HIRE*:  **X** TOWN CLERK SIGNATURE:

* - If the warden is a new hire the candidate must fill out a NEW WARDEN FORM found at:
http://www.maine.gov/dmr/msf/forms/index.htm

**SUMMARY OF CONSERVATION ACTIVITIES**

**CONSERVATION CLOSURES**

No Closure Conservation Closures were requested this year.

The following conservation closures were implemented during the review year:

<table>
<thead>
<tr>
<th>CLOSURE DESCRIPTION/LOCATION</th>
<th>DATE CLOSURE</th>
<th>DATE OPEN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hook</td>
<td>June 2013</td>
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</table>


TRANSPARENT ACTIVITIES

No seeding/reseeding activities were conducted during the review year.

The following seeding/reseeding activities were conducted during the review year:

<table>
<thead>
<tr>
<th>RESEEDING DATE</th>
<th>CLAM SEED SOURCE</th>
<th>LOCATION CLAM SEED PLANTED</th>
<th>AMOUNT</th>
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<tbody>
<tr>
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</table>

SPATFALL ENHANCEMENT

No spatfall enhancement activities were conducted during the review year.

Please list activities undertaken to promote settlement such as brushing, flat roughening, tenting or shell on flats.

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>DATE</th>
<th>DESCRIPTION</th>
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</table>
PREDATOR REDUCTION

No predator protection activities were conducted during the review year.

Please list activities undertaken to protect clams from predators such as trapping, netting and hand collection.

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>DATE</th>
<th>DESCRIPTION (Species targeted and method)</th>
</tr>
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<tbody>
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</table>

CLAM FLAT SURVEYS

No population surveys were conducted during the review year.

All survey data should be forwarded to the proper DMR Area Biologist. Please list the surveys conducted during the review year. DMR will not accept surveys without data.

<table>
<thead>
<tr>
<th>CLAM FLAT</th>
<th>SURVEY DATE</th>
<th>DATA PROVIDED TO DMR</th>
<th>MAP PROVIDED TO DMR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hook</td>
<td>4/1/13</td>
<td>Yes √ No</td>
<td>Yes √ No</td>
</tr>
<tr>
<td>Johnson Cove</td>
<td>4/2/13</td>
<td>Yes √ No</td>
<td>Yes × No</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yes √ No</td>
<td>Yes √ No</td>
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<td>Yes √ No</td>
<td>Yes √ No</td>
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<td>Yes √ No</td>
<td>Yes √ No</td>
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<td>Yes √ No</td>
<td>Yes √ No</td>
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<td>Yes √ No</td>
<td>Yes √ No</td>
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<tr>
<td></td>
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<td>Yes √ No</td>
<td>Yes √ No</td>
</tr>
</tbody>
</table>

DATA sent in to Pete Thayer
The flats surveyed during the review year represent approximately _________% of the total productive flats.

ADDITIONAL ACTIVITIES

______ No other activities were conducted during the review year.

Please list other activities undertaken to benefit the shellfish conservation program such as education, participation in regional councils and shoreline clean-up.

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>DATE</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pete Thayer</td>
<td></td>
<td>Meeting @ Hali</td>
</tr>
<tr>
<td>Brian Seal</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

PROPOSED MANAGEMENT ACTIVITIES

The following management activities will be undertaken during the coming year (check all that apply):

☐ Predator protection through netting, trapping and etc.
☐ Reseeding from high density areas or with hatchery stock
☐ Flat surveys to determine size distribution and density
☐ Enhance natural seeding through brushing, roughing and etc.
☒ Establishing conservation areas for flat rotation
☐ Other ______________________

In order to implement these management activities the committee will utilize (check all that apply):

☐ Harvesters vested with conservation credit
☐ Harvester volunteers
☐ Paid harvesters
☐ Municipal employees
☐ Paid consultants ☐
☐ Other ______________________
• Denis-Marc Nault (Program Supervisor) covers the southern towns from Eliot to Old Orchard Beach (map marked in blue, PDF file, 146 KB). He also covers the eastern towns from Milbridge to Calais (map marked in blue, PDF file, 244 KB). His cell phone number is 207-592-0512 and his office number is 207-422-2092.
  o Pete Thayer covers towns from Scarborough to Bremen (map marked in green, PDF file, 376 KB). His cell phone number is 207-592-9384 and his office number is 207-633-9539.
MUNICIPAL LICENSE
ALLOCATION REQUEST
Page 1 of 2

Annually, as indicated by your ordinance, your municipality or regional program must submit a request for the number of licenses to be sold during the next licensing period.

PROCEDURE

1. Contact the Regional DMR biologist responsible for your town. His agreement will be required for any license allocation proposed by your municipality.

   **Lincoln, Sagadahoc and part of Cumberland Counties**
   Ron Aho       Tel/Fax: 207-586-5572
   118 the Kings Highway
   Newcastle, ME  04553
   Ron.Aho@Maine.gov

   **Hancock, Waldo, Knox and part of Lincoln County**
   Hannah Annis Tel/Fax: 207-949-4498/207-629-0416
   22 Charlie Star Lane,
   Orland, ME      04472
   Hannah.Annis@Maine.gov

   **Washington, York and part of Cumberland County**
   Denis-Marc Nault Tel/Fax: 207-422-2092/ 207-629-0414
   60 Harborview Drive
   Sullivan, ME 04664
   Denis-Marc.Nault@Maine.gov

1. Fill out the application on the following page.
2. Submit the completed application, **at least 30 days** to the requested date, to the appropriate area biologist by one of the following methods:

   A. By Mail (USPS):
      Mail the completed form to the appropriate area biologist listed above.

   B. By Email:
      a. Complete the form on your computer
      b. Save the form on your computer with a distinctive name. (For example a form from the town of Myaville might be saved as “Myaville-allocation01-02-10”)
      c. Send the completed form electronically to the appropriate area biologist at his or her email address given above.

11/23/09
MUNICIPAL LICENSE ALLOCATION REQUEST

Page 2 of 2

To: Area Biologist  Date: December 11, 2013

From: Town of Chebeague Shellfish Conservation Committee.

The Shellfish Conservation Committee upon review of the shellfish resources and in consultation with the DMR Regional Biologist requests the following shellfish license allocation for the coming year.

<table>
<thead>
<tr>
<th>License Class</th>
<th>Number</th>
<th>Cost @</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Commercial</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Resident</td>
<td>5</td>
<td>75.00</td>
</tr>
<tr>
<td>Nonresident</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Senior Resident</td>
<td>3</td>
<td>50.00</td>
</tr>
<tr>
<td>Senior Nonresident</td>
<td>0</td>
<td>75.00</td>
</tr>
<tr>
<td>Junior/Student Nonresident</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td><strong>Recreational</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Resident</td>
<td>35</td>
<td>35.00</td>
</tr>
<tr>
<td>Nonresident</td>
<td>3</td>
<td>70.00</td>
</tr>
<tr>
<td>Day/Week/Month Res.</td>
<td>3</td>
<td>25.00</td>
</tr>
<tr>
<td>Day/Week/Month Nonresident.</td>
<td>7</td>
<td>50.00</td>
</tr>
<tr>
<td>Senior Resident &quot;One shot&quot;</td>
<td>50</td>
<td>10.00</td>
</tr>
<tr>
<td>Senior Nonresident</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Junior Resident</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Junior Nonresident</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Other &quot;Two shot&quot;</td>
<td>25</td>
<td>25.00</td>
</tr>
<tr>
<td>Daily Res. Non Res.</td>
<td>20</td>
<td>15.00</td>
</tr>
</tbody>
</table>

Contact Person for the Shellfish Committee or municipality:

Name: Ron Tozier  Title: Shellfish Warden
Address: 192 North Road
          Chebeague Island, ME 04017
Telephone: (207) 846-3148  Fax: (207) 846-6413

11/23/09
(2) If the ordinance sets a fee of more than $200 for a resident license, the fee for a nonresident license may not exceed 1 ½ times the resident fee.

C. Application methods and procedures for licenses may be determined by the shellfish conservation ordinance subject to the provisions of this section. Notice of the number and the procedure for application must be published in a trade or industry publication or in a newspaper or combination of newspapers with general circulation that the municipal officers consider effective in reaching individuals affected not less than 10 days prior to the period of issuance and must be posted in the municipal offices until the period of issuance concludes. The period of issuance for resident and nonresident licenses must be the same. Subsequent to the period of issuance, the municipality shall make any resident or nonresident licenses not granted during the period available to residents or nonresidents.

D. Except as otherwise provided in this section, a shellfish conservation ordinance may not discriminate between resident license holders and nonresident license holders.

E. A licensing authority shall provide and reserve a minimum number of commercial licenses for nonresidents. The number of nonresident commercial licenses may not be less than 10% of the number of commercial licenses provided for residents. When the number of resident commercial licenses is fewer than 10 but more than 5, at least one nonresident commercial license must be provided. When the number of resident commercial licenses is 5 or fewer, nonresident commercial licenses are not required.

F. When 2 or more municipalities have entered into a regional shellfish management agreement pursuant to subsection 7, the combined total number of commercial licenses for nonresidents provided by those municipalities must be a number not less than 10% of the combined total number of commercial licenses issued for residents. When the combined total number of resident commercial licenses is fewer than 10 but more than 5, at least one nonresident commercial license must be provided. When the combined total number of resident commercial licenses is 5 or fewer, nonresident commercial licenses are not required.

G-1. A licensing authority that issues recreational licenses to residents shall also make available to nonresidents recreational licenses. The number of nonresident recreational licenses may not be less than 10% of the number of recreational licenses issued to residents.

For the purposes of this paragraph, “recreational license” means a license that authorizes a person to take or possess shellfish only for personal use.

For purposes of this subsection, “licensing authority” means a municipality or 2 or more municipalities that have entered into a regional shellfish management agreement pursuant to subsection 7.

4. Adoption requirements. Shellfish conservation ordinances may be adopted under this section by municipalities or unorganized townships.

A. Prior to adopting an ordinance, a municipality or unorganized township shall raise or appropriate money for a shellfish conservation program.

B. An ordinance proposed by a municipality or unorganized territory under this section must be approved in writing by the commissioner prior to its adoption, except that the commissioner may not withhold approval based on the amount of license fees specified in an ordinance.

C. Unorganized townships may adopt ordinances if:

(1) At least 10 inhabitants have petitioned the county commissioners to adopt the ordinances;
Original Email:

Eric,

This is the email I was referencing when we spoke I would like to follow up that conversation but with Ron there as well so we can all be on the same page in regards to the Shellfish license sales.

Michelle J. Jackson
Michelle J. Jackson, CCM
Town Clerk
Tax Collector
Registrar of Voters
www.townofchebeagueisland.org
Town of Chebeague Island
192 North Road
Chebeague Island, ME 04017
(207) 846-3148
(207) 846-6413 fax

---

Follow-up Email:

Hi Michelle,

You had asked me a question about license sales/numbers, and I finally got up with Denis on that .... I hope this answers your question, let me know and if not, consider this at least a reminder that I haven’t forgotten!

Pete

***************

So, if you’re over 5 licenses in the senior classification, add 1 license to non-resident *senior*; you don’t have to add to the other non-resident
licenses - it's done by numbers per *classification*, and all works out in the end total.
Minutes

Shellfish Conservation Committee Meeting

The Shellfish Conservation Committee, regular meeting, at the Town Office
Monday, 11/25/2013 at 7pm

1. Present: Bob Earnest, Jessie Russo, Mac Passano, Gary Ross, Chip Corson, Cecil Doughty; members of the public / town officials Susan Campbell, Dave Stevens, Caitlin Gerber, Ron Tozier, Michelle Jackson.
2. Call meeting to order
3. Approval of minutes from 5/1/13 meeting. Motion to approve, 2nd, unanimous approval.
4. Annual Shellfish Review
   b. Paperwork: Ron has filled out the paperwork and read thru the forms for all.
      Motion to approve; seconded; unanimous approval.
5. Municipal Allocation Request; fees for Commercial Licenses: motion to recommend to the Selectmen the following schedule of fees and license quantities:
   a. Resident SAME fee; allocation of 5 licenses
   b. Resident Senior SAME as last year (fees and allocations)
   c. Non-Resident zero (based on research by Michelle that shows that, if we have 5 or fewer commercial resident licenses, we are not required to issue commercial non-resident licenses).
6. Municipal Allocation Request; fees for Recreational Licenses: motion to recommend to the Selectmen the following schedule of fees and license quantities:
   a. Annual resident: same fee of $35; limit 35 licenses
   b. Annual non resident: same fee of $70, limit 3 licenses (10% of a. above)
   c. Monthly resident: same fee of $25; limit 3 licenses
   d. Monthly non resident: same fee of $50; limit 7 licenses
   e. Daily resident/non resident: same fee of $15; limit 20 licenses
   f. Senior (over 65) “two hoe” new fee of $25; limit 25 licenses
   g. Senior (over 65) “one hoe” new fee of $10; limit 50 licenses
   h. The intent of the above motion, items 5 and 6, is:
      i. To raise additional funding for conservation (research, traps, etc); and
      ii. To limit the take of the resource until we better understand the threat, and, until we see success in dealing with the threat.
7. Motion for 5 and 6 above seconded; much discussion; unanimous approval.
8. Green Crab
   a. Permit: is it required? It seems there are exemptions for civic and research activities.

The public is welcome and encouraged to attend!
b. Donations: one citizen has donated funds for green crab countermeasures; another citizen has offered us shrimp traps, for free, that could easily be converted to green crab traps.

c. Discussion: Darcy Coutore, formerly DMR, now a consultant working on green crabs, has been in touch with Ron; proposed meeting here with Selectmen in January. Ron t/a dates; Selectmen and SCC meetings are encouraged to attend.

d. Green Crab Summit: Ron, Caitlin, and another Chebeaguer to attend (December in Orono).

   a. A copy of the 1998 version is attached to the email that includes these minutes.

10. Public Comment

11. Jessie mentioned that she is soon likely to head to sea. Motion to recommend Caitlin to the Selectboard as a new member at such time that Jessie needs to resign. Jessie might decide to serve as an alternate. Seconded; unanimous. Note: Caitlin will send Michelle a letter of interest in serving.

12. Schedule Next Meeting: December 11, 6pm, this recommendation set will be on the Selectman meeting agenda. All of us should attend. At that meeting we can determine when we need our next meeting.

13. Adjourn meeting. Motion; seconded; unanimous.

The public is welcome and encouraged to attend!
SHELLFISH CONSERVATION ORDINANCE

of the Town of Chebeague Island
MAINE

Adopted by the Town Meeting:
Effective: June 9, 2013

Attest:

Town Clerk

Seal:
Section 101.  TITLE

This Ordinance shall be known as and may be cited as the “Shellfish Conservation in the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance” or “this chapter”.

Section 102.  PURPOSE AND AUTHORITY

The purpose of this Ordinance is to establish a shellfish conservation program for the Town of Chebeague Island’s coastal waters, which will ensure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means that may include:

a) Licensing.
b) Limiting the number of shellfish harvesters.
c) Restricting the time and area where digging is permitted.
d) Limiting the minimum size of clams taken.
e) Limiting the amount of clams taken daily by a harvester.
f) Establishing the Town of Chebeague Island as an interested part in aquaculture activities in accordance with State of Maine law.

This Ordinance is adopted pursuant to 12 M.R.S.A. § 6671. This ordinance, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the municipality provided a certified copy of the ordinance is filed with the Commissioner within twenty (20) days of its adoption.

This Ordinance shall remain in effect until repealed by the Town of Chebeague Island, or rescinded by the Department of Marine Resources.

Section 103.  DEFINITIONS

a) Municipality. The term ‘Municipality’ shall refer to the Town of Chebeague Island.
b) Non-Resident. The term "non-resident" means anyone not qualified as a resident under this ordinance.
c) Resident. The term "resident" refers to a person who has been domiciled in the Town of Chebeague Island for at least three months prior to the time his claim of such residence is made. The term “resident” also includes persons who own real property in the Town of Chebeague Island.
d) Shellfish, Clams, Intertidal Shellfish Resource. Shellfish, Clams, Intertidal Shellfish Resource When used in the context of this ordinance the words "shellfish", "clams", intertidal shellfish resource shall mean soft-shell clams (Mya arenia), surf clams and quahogs.
e) Hand Implements. The term ‘hand implements’ shall refer to implements such as clam hoes. Spades and shovels are not allowed.
Town of Chebeague Island Code of Ordinances
Chapter 18 – Marine Resources
Article II – Shellfish Conservation

f) The definitions contained in Title 29-A M.R.S.A. shall govern the
construction of words contained in this Ordinance.
g) Any words not otherwise defined therein shall be given their common and
ordinary meaning.

Section 104. SHELLFISH CONSERVATION COMMITTEE

The Shellfish Conservation Program for the Town of Chebeague Island will be
administered by the Shellfish Conservation Committee, consisting of five (5) members.
The Selectmen will appoint the members. The Committee’s responsibilities include:

a) Recommending annually - after consultation with the Department of Marine
Resources - the number of shellfish digging licenses to be issued. This
recommendation shall be sent to the Board of Selectmen, who (after approval
or revision) will send to the Town Clerk for implementation.
b) Surveying the clam-flats to maintain current information on shellfish
resources.
c) Reviewing annually the status of the resource using the results of clam flat,
harvester or dealer surveys and other sources of information and preparing in
conjunction with and subject to the approval of the Department of Marine
Resources, a plan for implementing conservation measures.
d) Submitting to the Selectmen proposals for the expenditures of funds for the
purpose of shellfish conservation.
e) Keeping this Ordinance under review and making recommendations for its
amendments.
f) Securing and maintaining records of shellfish harvest from the Town of
Chebeague Island’s managed shellfish areas and closed areas that are
conditionally opened by the Department of Marine Resources.
g) Recommending conservation closures and openings to the Selectmen in
conjunction with the Department of Marine Resources.
h) Submitting an annual report to the Selectmen and the Department of Marine
Resources covering the above topics and all other Committee activities.

The clam-flats of the Town of Chebeague Island are a very valuable shellfish resource,
which is important to the local economy. These flats are not an inexhaustible resource,
and, therefore, must be prudently managed in order to remain viable.

As part of the management process, it may be necessary to (a) restrict the taking of
shellfish by limiting the number of shellfish licenses, (b) restrict the size and quantity of
shellfish which may be harvested, and (c) take other measures as outline in the
Ordinance.

Section 105. SHELLFISH CONSERVATION WARDEN

The Selectmen shall appoint a Shellfish Conservation (Clam) Warden yearly and shall
recommend the Warden's compensation. The Shellfish Conservation Warden shall regularly
Town of Chebeague Island Code of Ordinances  
Chapter 18 – Marine Resources  
Article II – Shellfish Conservation

attend meetings of the Shellfish Conservation Committee, but shall not be a member of the Committee. The Selectmen, for cause by them declared in writing, after due notice to the officer and hearing, if requested, may remove the Shellfish Conservation Warden and appoint another one.

Section 106. LICENSING

All licenses sold in calendar year 2013 shall be enforced in accordance with Section A-10 and Appendix B of the Coastal Waters Ordinance.

A Town of Chebeague Island Shellfish License is required. It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without having a current, valid license issued by this municipality as provided by this ordinance. A commercial digger must also have a valid State of Maine Commercial Shellfish License issued by the Department of Marine Resources.

No person shall be issued a Shellfish License who, upon the time of the request, has failed to appear in court for a shellfish violation, or has failed to pay any outstanding shellfish violation fines.

Only one hand implement (clam hoe) is allowed per license, except for the recreational resident “two hoe” licenses; and, the licensee must be present.

Licensing will be compliant with PS Law Chapter 47, LD 1735.

Section 107. COMMERCIAL LICENSES

The Shellfish Commission shall annually review and recommend to the Board of Selectman license fees for three types of Commercial licenses: Resident, Resident Senior and Non-resident.

a) **Resident Commercial Shellfish License:** This license is available to residents of the Town of Chebeague.

b) **Resident Senior Commercial Shellfish License:** This license is available to residents of the Town of Chebeague Island that are over the age of 70 and for a reduced license fee.

c) **Non-Resident Commercial Shellfish License:** This license is available to non-residents of this municipality.

d) At license issue, the licensee will choose any 90 days out of the 365 days available to harvest commercially. The license will serve as a recreational license the remaining 275 days except as may be modified in f) below. In all cases the maximum harvest per tide is 1 bushel.

e) A commercial license under this section entitles the holder to dig and take one (1) bushel of shellfish per tide from the shores and flats of this municipality and reciprocating municipalities.
f) The Shellfish Conservation Committee may specifically recommend the period of validity as well as the areas open to commercial harvesting each year.

g) Commercial Shellfish License Holders are supplied with, and required to keep, a Shellfish Harvesting Log, which must be submitted to the Town Clerk monthly, by the 10th day of the following month. The Log will include the license holder’s name and address, and will show the date, location and quantity harvested during each tide. Commercial license holders, who do not submit Harvesting Logs, as required, will not be eligible for a commercial License during the next period of issuance of Commercial licenses.

h) All commercial license holders that participate in the annual Clam Survey undertaken by the Shellfish conservation committee shall be guaranteed a renewal of their license for the following year. If the number of licenses available is less than the number of licenses guaranteed in this fashion, then a lottery will be held by the Town Clerk prior to the day licenses go on sale to determine which of the Survey participants receive their guaranteed license. Any license holder wishing to renew their license must have submitted a Shellfish Harvesting Log under Section 107(g) of this ordinance. The license holder who wishes to take advantage of the license guarantee must also indicate in writing to the Town Clerk their intention to take advantage of this guarantee at least one week prior to the day licenses go on sale.

Section 108. RECREATIONAL LICENSES

a) A person holding a recreational shellfish license may not engage in the wholesale or retail sale of any shellfish harvested under that license. Maine certified shellfish wardens of the Town of Chebeague Island shall be issued a recreational shellfish license.

b) Resident Recreational Shellfish License: This category of license shall be made available in a “one hoe” and in a “two hoe” license. This category of license is available to residents of the Town of Chebeague Island and entitles the holder and guests to dig and take no more than one peck of shellfish per tide for the use of the licensee, guests and immediate family. The Resident Recreational Shellfish license may be issued for the following durations:
   - Annual
   - Month
   - Day

c) Resident Senior Recreational Shellfish License: This category of license shall be made available in a “one hoe” and in a “two hoe” license. This license is available to residents of the Town of Chebeague Island who are over the age of 65 for a reduced license fee. It entitles the licensee and guests to dig and take no more than one peck of shellfish per tide for the use of the licensee, guest and licensee’s immediate family.
Town of Chebeague Island Code of Ordinances  
Chapter 18 – Marine Resources  
Article II – Shellfish Conservation  

d) Non-Resident Recreational Shellfish License: This license is available to non-residents of the Town of Chebeague Island, and entitles the holder and guests to dig and take no more than one peck of shellfish per tide for the use of the licensee, guests, and immediate family and may be issued for the same durations as the Resident Recreational Shellfish License described in a) above.

e) To facilitate weekend recreational clammers, the Town Clerk and the Shellfish Warden have arranged for a few licenses to be ‘delegated’ to the Shellfish Warden, who may be available on the weekend to sell daily licenses. The Shellfish Warden can then complete the license issuing process, collect the funds, etc. A daily license can also be obtained by mail in advance from the Town Clerk. At no time shall any recreational license enable the harvest of more than one peck of shellfish per license per tide.

Section 109. REQUIREMENTS

a) Signature: The licensee must sign the shellfish license to make it valid.

b) A Shellfish license must be on the licensee’s person when harvesting shellfish.

c) Fees: The fees for licenses will be maintained on a separate fee schedule reviewed annually by the Shellfish Conservation Commission, recommended to the Board of Selectmen and approved by the Maine Department of Marine resources. The fee structure and number of licenses available must be available at the Town Office.

d) Misrepresentation: Any person who gives false information on a shellfish license application will cause said shellfish license to become invalid and void.

e) Expiration Date: Each shellfish license issued under the authority of this Ordinance expires at midnight on the December 31st next following date of issue, unless otherwise specified in this Ordinance.

f) Reciprocal Harvesting: Privileges: Licenses from other municipalities cooperating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of their shellfish licenses.

g) Numbers of Licenses and Notice of Period of Issuance: Numbers of licenses and period of issuance will be reviewed annually by the Town of Chebeague Island Shellfish Conservation Committee, submitted for approval of the Commissioner of the Department of Marine Resources and by the Board of Selectmen.

h) Minimum Legal Size: Pursuant to 12 M.R.S. §§ 6671 and 6681, as amended from time to time, it is unlawful to possess soft-shelled clam shell stock whose shells are less than 2 inches in the largest diameter. For purposes of this Ordinance the term, “possess”, means dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft-shelled clam shell stock.

i) Legal Hours: Shellfish may only be harvested from ½ hour before sunrise until ½ hour after sunset.
j) Method of Determining Tolerance: Pursuant to 12 M.R.S. §§ 6671 and 6681, as amended from time to time, any person may possess soft-shelled clams that are less than 2 inches if they comprise less than 10% of any bulk pile. The tolerance shall be determined by numerical count of not less than one (1) peck nor more than four (4) pecks taken at random from various parts of the bulk pile or by a count of the entire pile if it contains less than one peck.

k) Implements: Shellfish may be harvested by hand implement only, such as clam hoes. Spades and shovels are not allowed.

Section 110. OPENING/CLOSING OF FLATS

The Selectmen with the approval of the Commissioner of Marine Resources may open and close areas for shellfish harvest.

When information in the possession of the Shellfish Conservation Committee indicates a clam-flat should be opened or closed, it shall advise the Selectmen. Upon concurrence of the Department of Marine Resources Area Biologist that the status of shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the Selectmen may call a public hearing, and shall send a copy of the notice to the Department of Marine Resources.

After the hearing is closed the Selectmen shall make findings of fact on the relevant evidence presented. The Selectmen shall then make a decision based on those findings of fact as to whether opening or closing of the flat is warranted with the concurrence of the Department of Marine Resources shall order the flat opening or closing and shall set such time limitation and other harvesting conditions as are consistent with good conservation practices. The Commissioner of Marine Resources prior to enactment shall approve any proposal for opening or closing of flats.

Section 111. ADMINISTRATION AND ENFORCEMENT

This Ordinance shall be administered by the Town Administrator. This Ordinance shall be enforced by the shellfish warden, special officers as provided in 30-A M.R.S.A. § 2672, municipal officers, code enforcement officer or law enforcement officer with jurisdiction in the Town of Chebeague Island.

Section 112. PENALTIES

A person who violates this ordinance shall be punished as provided in 12 M.R.S.A. § 6671, as amended from time to time.

Section 113. SUSPENSION OF LICENSE

a) Violation of Shellfish Ordinance: The Town Clerk shall suspend any and all shellfish licenses issued under this Ordinance, if the license holder is convicted in court of violating any section of this Ordinance.

b) Suspension based on conviction in a Town closed Conservation area: The Town Clerk shall suspend any and all shellfish licenses issued under this
Ordinance if the license holder has been convicted in court of possessing shellfish from a Town Closed Conservation Area.

c) Length of Suspension for Section 113a) and Section 113b) above for a first conviction is 30 days from the date of first conviction or, for a second conviction; 365 days (one year) from the date of the second conviction. Any conviction more than three (3) years before last conviction shall not be counted in determining lengths of suspension.

d) Suspension Based on Refusing Inspection. The Town Clerk shall suspend any and all shellfish licenses if the license holder refuses to allow inspection in the enforcement of the Ordinance. This suspension may not exceed 90 days.

e) Any licensee whose shellfish license has been suspended shall be entitled to a hearing before the Selectmen, upon the filing of a written request for hearing with the Selectmen within thirty (30) days following the effective date of suspension. The applicant shall be given at least seven (7) days prior written notice of the date, time and place of hearing before the Selectmen. Any person aggrieved by the Selectmen's decision may appeal to the Superior Court within thirty (30) days from receipt of the Selectmen's written decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

Section 114. AMENDMENTS

This Ordinance may be amended by Town Meeting at any properly noticed meeting after it has been approved by the Commissioner of Marine Resources and shall become effective after its adoption by the municipality provided a certified copy of the ordinance is filed with the Commissioner within twenty (20) days of its adoption.

Section 115. SEVERABILITY

In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.
MUNICIPAL LICENSE
ALLOCATION REQUEST

Page 2 of 2

To: Area Biologist  
Date: December 18, 2012

From: Town of Chebeague ___________ Shellfish Conservation Committee.

The Shellfish Conservation Committee upon review of the shellfish resources and in consultation with the DMR Regional Biologist requests the following shellfish license allocation for the coming year.

<table>
<thead>
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<th>Number</th>
<th>Cost @</th>
</tr>
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<tbody>
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</tr>
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<tr>
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</tr>
<tr>
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<td>75.00</td>
</tr>
<tr>
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<tr>
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</tr>
<tr>
<td>Day/Week/Month Nonres.</td>
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</tr>
<tr>
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</tr>
</tbody>
</table>

Contact Person for the Shellfish Committee or municipality:

Name: Ron Tozier  
Address: 192 North Road
Chebeague Island, ME 04017
Telephone: (207) 846-3148
Fax: (207) 846-6413

11/23/09
November 13, 2013

To: TOCI Selectmen
From: The Cemetery Committee
Re: Perpetual Care Fund and Cemetery Rules

Now that the Cemetery Ordinance has been adopted, the Cemetery has two follow-up actions to submit to the Selectmen.

1. Changing the Percentage of Money from Cemetery Lot Sales that goes to the Perpetual Care Fund. Since Chebeague became a town, the Cemetery Committee and Town administration has been depositing all the money that comes in from the sale of cemetery lots into the Perpetual Care Fund. The fund is like an endowment, and the interest from it is used for maintenance of the cemetery. Last year our Perpetual Care Fund generated about $100 in income.

One of the elements of the Cemetery Ordinance was to create a capital fund for the capital expenditures on the cemetery including large equipment, building repairs and gravestone repairs. The State only requires us to deposit 30 percent of the money from the sale of cemetery lots to the Perpetual Care Fund, so we are proposing that 70 percent of the money from the sale of cemetery lots go, not to the Perpetual Care Fund, but to the Cemetery’s Capital Fund that was established in the Cemetery Ordinance.

At its meeting on June 17 the Cemetery Committee voted unanimously for this proposal. We are now sending it on to you for action.

2. Adopting the Cemetery Rules
The Cemetery Ordinance creates a structure for the administration of the Cemetery. When we were part of Cumberland, the Cemetery has also had detailed Rules that governed the public use of the Cemetery grounds and the procedures for burials. The Cemetery Committee has reviewed the rules we inherited from Cumberland, has made some changes to them, and is submitting them to you for consideration and adoption.

The Committee thinks that the Rules do not require action by Town Meeting, but would more logically be adopted by the Selectmen. This would make changing them, which we expect to do in the future, a more flexible and easier process.

In fact, the Committee has discussed additional changes that might be made to the Rules. And we expect that other people, including the Selectmen, might have other changes to suggest. At the moment, however, we hope that the Selectmen will adopt the attached Rules which differ very little from the ones we inherited from Cumberland. Once these are in place, we can take up changes that could be made.

Thank you for your consideration of these two issues.
Rules and Regulations for the Town of Chebeague Island Cemetery

1. General Rules

   a. The Cemetery Committee reserves the right to recommend to the Selectmen the adoption of additional rules and regulations, or the amendment or repeal of any rule or regulation at any time as shall be deemed necessary.
   b. A copy of these Rules and Regulations must be given or sent with every cemetery deed issued by the Town. They must also be posted on the Town website.

2. Access and Use

   a. Vehicles, other than authorized cemetery vehicles shall only enter the cemetery through established entrances and shall only use the authorized roads.
   b. Snowmobiles, and unregistered vehicles such as motor scooters and all-terrain vehicles, are prohibited within the cemetery. Vehicles for the handicapped, such as motorized wheel chairs, are permitted.
   c. No person shall destroy, mutilate, deface, injure or remove any monument, gravestone, marker or cemetery property within the cemetery.
   d. There shall be no functions other than funerals or memorial services conducted within the cemetery.
   e. Unleashed dogs shall not be permitted to go at large in the cemetery. Persons walking their dogs must collect any droppings that their dogs leave and dispose of them off the cemetery property.

3. Lots and Owners

   a. Persons desiring to purchase a lot, grave or right of interment should notify the Town of Chebeague Island Clerk. The Clerk may send them to the Cemetery Superintendent who will then aid them in making a decision.
   b. No lot or grave shall be used for any other purpose than the burial of the human dead.
   c. Before any burial is permitted in the lot or grave, complete payment for the lot or grave must be made by the grantee. No partial payments will be accepted. Payment must be made in full at the time of purchase. All lots purchased shall include in the purchase price a fee for perpetual care which the Town of Chebeague Island will hold and invest. The income therefrom will be used to defray the cost of the general operation of the cemetery.
   d. The Town disclaims all responsibility for losses or damages from causes beyond its reasonable control as a result of the elements, acts of God, thieves and vandals.
   e. All monuments shall be located and set by the Superintendent, or a person designated by the Superintendent, at the lot owner’s expense.
   f. Monuments may be erected on a lot or grave, and shall be maintained in a safe condition by the grantee herein or his or her heirs and assigns. Generally, the repair and replacement of a monument, after damage, shall be at the expense of the grantee.
   g. No single grave shall have more than one (1) above-ground memorial and/or two (2) flush memorials. Only flush monuments are allowed in the Cremation Garden.
h. On single graves, the base of any monument shall be no wider than thirty-two (32) inches.

i. No lot, grave or rights of interment shall be assigned or transferred without endorsement by the Town Clerk and the Cemetery Superintendent. If “perpetual care” was not included on the deed that is being transferred and/or assigned, the person who is acquiring the lot, grave or right of interment must pay the Town for perpetual care at the current rate. This payment must be made in full prior to the issuance of the new deed. Forms for the transfer of rights of interment may be obtained from the Cemetery Superintendent. Such a transfer will not be recognized without the consent of the Superintendent.

j. When a lot or right of interment is sold back to the Town, the perpetual care portion of the sale price, by State law, cannot be reimbursed. The refunded amount shall be the original purchase price less the perpetual care portion. The Town has no obligation to repurchase any lots, graves or interment rights.

k. No lot or grave may be defined by a fence, railing, hedge, crypt or enclosure of any description. Fences, railings, hedges, crypts or enclosures in place on July 1, 2007 are exempt. There shall be no eternal flame or other open flame design on any lot or grave.

4. Care of Lots

a. The general care of the cemetery is assumed by the Town and includes the cutting of grass, raking and cleaning of the grounds.

b. Prior approval from the Superintendent must be obtained before the planting of any shrub.

c. Shrubs planted or growing on any lot or grave may be pruned or removed at the discretion of the Superintendent.

d. Planting of trees on individual lots is prohibited.

e. The Superintendent or his designee has the right to remove all floral designs, vases, urns, decorations, flowers, shrubs, wreaths and plants that become unsightly, dangerous, detrimental or diseased, or that interfere with normal maintenance.

f. The Cemetery Committee does not provide trash receptacles in the Cemetery. Any objects such as vases, clippings or other refuse that are to be disposed of must be disposed of off the Cemetery property.

g. The Superintendent shall conduct a fall cleanup between October 1 and November 15, and a spring cleanup between April 1 and May 15 of every year. Any item of value to the owner shall be removed by the owner prior to the cleanup periods. Any memorials, decorations and/or ornamentals deemed dangerous and/or detrimental shall be removed.

5. Interments

a. The cemetery shall be open for interments at the discretion of the Superintendent, based on the condition of the ground.

b. When an interment is to be made, the location of such interment shall be designated by the lot or grave owner. Should the lot/grave owner fail or neglect to make such designation, the Cemetery Committee reserves the right to make the interment in a location recommended by the Superintendent.
c. In order to maintain a high standard of care and to eliminate sunken graves, it is required that all burials be made in outside containers made of natural stone, metal, reinforced concrete, fiberglass or any container approved by the Superintendent. Cremated remains must be interred in a permanent container.

d. Forty-eight (48) hours notice must be given prior to all interments.

e. The cemetery will not be responsible for any order given by telephone, or from any mistake occurring from lack of precise and proper instructions as to the particular space, size of grave or location on the lot.

f. No interment of two (2) or more bodies shall be made in one (1) grave except in the following cases: a mother and child or two (2) infants may be buried in one grave; one (1) casket and one (1) cremation may be buried in one grave; and two (2) cremations may be buried in one grave. All interments shall be located and made by the Superintendent.

6. Disinterments

   a. Disinterments shall be governed by State law.
   
   b. Costs of the disinterment shall be at the discretion of the Superintendent.

7. Definitions

   a. Burial: The remains of a single person, whether in a casket or in cremated form.
   
   b. Grave: A portion of a cemetery lot suitable for one burial in a casket. A single grave may contain two burials as specified in Section 5.f, above.
   
   c. Lot: a defined block of up to 8 graves.
Town of Chebeague Island Cemetery Committee

Possible motions related to items Submitted by the Cemetery Committee:

Cemetery Rules

   Move to adopt the Cemetery Rules as submitted by the Cemetery Committee

Perpetual Care Fund

   Move to change the percentage of the income from the sale of cemetery lots that goes into the Perpetual Care Fund from 100 percent to 30 percent. Seventy percent of the revenues from the sale of cemetery lots will be deposited in the Cemetery’s Capital Fund.
Possible Loss of Tort Claims Act Protections. There are no cases on point, but it is arguable that the Maine Tort Claims Act will not protect either the municipality or the municipal employee while performing what is essentially a private service. For example, if a plow driver negligently injures a pedestrian on a private road, to the extent that the municipality is not immune from liability, the $400,000 cap on municipal liability in the Tort Claims Act may not apply. Also, the municipality’s insurance may not cover occurrences on privately owned property on the basis that such work is not a public activity. Moreover, because work on a private road is outside the scope of government activity, the grant of specific immunities and the $10,000 limit of liability for a municipal employee may not apply to any personal injury or property damage that might occur. In other words, both the municipality and its road employees could be liable without limitation and without insurance coverage (for defense costs and for damages) for any personal injury or property damage caused by them in the plowing of a private road.

Anti-trust Liability. Another potential problem is violation of federal anti-trust laws. Since the municipality usually gets its bituminous mix, gravel, salt, sand, gasoline and other supplies at a good price (bulk amounts and no taxes), it can perform road plowing and maintenance for less than a private contractor charges. A private contractor who maintains private roads for a living could argue that municipal maintenance of private roads is an anti-competitive practice. The municipality has an inherently unfair advantage because of its position as a governmental entity. The U.S. Supreme Court held in Community Communications, Inc. v. City of Boulder, 102 S. Ct. 835 (1982) that a municipality is not exempt from anti-trust liability unless it can show that there is a precise and affirmatively expressed state grant of power to engage in anti-competitive actions. We are aware of no road-related anti-trust cases involving a Maine community, but the potential exists.

Closing Roads

Sometimes the best way to maintain or repair a road is to close it or limit its use. Three laws address this subject.

The winter closing process contains four steps: (1) list roads for closing; (2) public hearing; (3) order; (4) vote.

Closing Roads to Winter Maintenance. The legislative body of the municipality may designate that certain roads (or portions) be closed to winter maintenance. Under this law, maintenance of a road can be discontinued for a specific number of months from November to April, inclusive. The winter closing process requires four steps. The law specifies that some of these steps be taken between May 1 and October 1. To be safe, we recommend that the entire process be done in that time period.
• First, the municipal officers themselves, or upon petition of at least seven voters, draw up a list of roads proposed to be closed. The issue is whether it is “unnecessary” to maintain a road in view of its population, use and travel in winter.

• Second, the municipal officers schedule a public hearing to discuss the list of proposed winter closings. They must place written notice of this hearing in some conspicuous public place at least seven days before the hearing.

• Third, after the public hearing the municipal officers file with the clerk an order specifying the road (or portion thereof) to be closed to winter maintenance. This order also must specify the months of non-maintenance and the number of years the closing order will be in effect. A winter closing can run from one to ten years; if the order fails to specify, it is for one year only.

• Fourth, the legislative body must vote to approve each order, or vote to provide that each order made by the municipal officers is a final determination. In a town meeting town, this step will require a town meeting vote.

Sample orders and articles pertaining to this process are included in Appendix G.

A winter closing order can be altered, but only after one year from the date the legislative body has approved it. Alteration of an order can be proposed by the municipal officers or upon petition of seven voters. The steps in the alteration process track those of the initial approval process, except that only the municipal officer need approve the alteration.

A winter closing order or alteration order may be appealed to the county commissioners within thirty days of this final determination by the legislative body. The appeal must be brought by petition of seven voters to the county commissioners. The county commissioners will conduct a de novo hearing on the appeal of the order, and so the municipality should be prepared to prove that the road closing or alteration meets the statutory standard.

There is some confusion about who can use roads that have been closed to winter maintenance. It is not uncommon for private citizens to volunteer to plow a closed road at their own expense, in order to use the road for logging or some other purpose, but we recommend that the municipality not authorize or condone plowing such roads for easier access. The reason for this advice is that a plowed road may appear open and safe to passersby, when in fact it is poorly plowed and hazardous to travel. The municipality would likely be sued in the event of an injury, and even if not liable it would incur legal fees in defending itself. The safe approach is to disallow closed roads to be privately plowed.  

Snowmobiles and all terrain vehicles (ATVs) are a different matter. In both cases, snowmobiles and ATVs may operate on any public way which has been closed for winter
Maine law is silent about whether other vehicles may use snowbound roads that have been closed for winter.

**Temporary Closings and Weight Restrictions.** Many roads are vulnerable to damage during certain times of the year. Maine law allows municipalities to close a road to all traffic during these seasons, or to impose restrictions upon the gross weight, speed, operation and equipment of vehicles, as determined by the municipal officers.

Closing roads requires adoption of an ordinance or regulations; posting signs is insufficient.

Also, although this section no longer specifically authorizes only a temporary closure, that was its original intent, and so MMA Legal Services staff is of the opinion that this law only authorizes a temporary closing. (If year-round regulation of a road is necessary to protect the public health, safety and welfare, the municipal officers may adopt a traffic ordinance under 30-A M.R.S.A. § 3009.) However, this temporary closing may be at any time of the year—it is no longer limited to springtime or “mud season.” The law allows posting of bridges as well as of roads.

A temporary closing/weight restriction may be accomplished by regulations or an ordinance adopted by the municipal officers. MMA’s Road Weight Limits/Seasonal Road Closings Information Packet contains sample forms, a sample ordinance and other information on this topic. When restricting the weight limit for vehicles on a road or bridge, we recommend that the *registered weight* of the vehicle be used as the guideline. This will avoid the need for scales or other devices to measure the vehicle’s actual weight.

Some weight-limit regulations provide that a permit can be obtained to use an otherwise off-limits road. The permit should require the vehicle owner to post a bond or other security to repair any damage to the road, as authorized by state law. For example, a logging operation could be allowed to use a dirt road in the spring if the logger agrees to pay for any road or drainage damage resulting from his operation. To protect the town, we recommend that a bond or other surety be required to cover the full cost of all potential damage, not just surface damage.

Typically, road weight regulations contain exceptions for emergency vehicles, fuel deliveries and utility trucks. State law now specifically exempts vehicles delivering home heating fuel from having to obtain a local permit so long as they operate in accordance with a permit issued by MaineDOT. It also specifically exempts “a person operating a vehicle that is transporting well-drilling equipment for the purpose of drilling a replacement water well or for improving an existing water well on property where that well is no longer supplying sufficient water for residents or agricultural purposes” from county or municipal permit requirements if the operation is during a period of drought emergency as declared by the Governor. Also, some regulations allow vehicle passage
Date: December 3, 2013

Eric Dyer
Town Administrator
Town of Chebeague Island
North Road
Chebeague Island, ME 04017

Re: Zoning Change Request Letter for the Board of Selectmen

Dear Eric Dyer:

Per the request of the Board of Selectmen at the November 13th Town Meeting, I am submitting an official request to have the property located at 68 South Road on Chebeague Island be considered for a zone change by the Board of Selectmen.

As you are aware, the Chebeague Island Inn is located on the property at 68 South Road. Despite having operated as a hotel for over 100 years, the site, as currently zoned, does not list hotels as an allowable use. The “grandfathered use” clause under which the Inn currently operates presents legal hurdles and significant business risk.

I understand the grandfathered use clause to mean that the Inn is able to continue to operate as a hotel because it has a certain period of historic use as such. However, should the Inn be closed for a period of 3 years the grandfathered use goes away, prohibiting the Inn from operating in as a hotel in the future. Additionally, closure due to natural disaster destruction, such as a hurricane, nor’easter, or fire also ends the grandfathered use clause.

While we have been aware of these issues since 2010 when we were performing our due diligence during the acquisition process, we concluded that the rezoning risk was low due to the historic nature of the hotel, the fact that it has been operating as a hotel for well over 100 years, and that the hotel had the general support of the island community given it’s landmark status. This past April we refinanced the property and the bank also took note of the zoning risk. While they approved the loan, their underwriting team was quite uncomfortable because of the natural disaster risk. This has prompted me to undertake the long overdue task of speaking with the Board of Selectmen about going through a rezone process.
I understand from Beth Howe that the Planning Board is uncomfortable changing the Commercial zone to include Hotels as an allowable use because this would enable anyone else in this zone to build a hotel; Beth had thought that a contract zone would be a good alternative solution. However, a contract zone is extremely specific in what it allows and would not alleviate the banking risk.

My solution would be to create a new zone called “Commercial 2” or some other modification to the Commercial zone name. This zone would be identical to the existing commercial zone in every way, with the exception that it would add hotels as an allowable use. We would then apply this newly created zone to the property at 68 South Road.

My solution would mitigate my business and banking risk and also maintain the town’s ability to control whether or not another hotel can be built on the island. The creation of a new zone would also alleviate any concern over “spot zoning”.

I appreciate the Board’s attention to this matter and hope we can work through what I believe to be a simple “zoning housekeeping” item.

I have enjoyed being a part of the island community for the past 4 years and am excited to make the required zoning changes to ensure the continued successful operation of the Chebeague Island Inn.

Sincerely,

[Signature]

Casey W. Prentice
Chebeague Island Inn