

CUMBERLAND COASTAL WATER COMMISSION
FEBRUARY 23, 2011
7:00 PM
COUNCIL CHAMBERS
MEETING MINUTES

Present: Vice Chairman Kinney, Lewis Incze, Peter Dion,
Thomas Gruber, Kathleen Babeu & George Turner,
Council Liaison.
Staff: William Shane, Town Manager & Debbie Flanigan, Secretary.
Other: Barney Baker, Baker Design Consultants.
Absent: Chairman Jock McDonald, John Williams, and Paul Dugas.

Vice Chairman Kinney called the meeting to order at 7:01 pm.

I. Welcome

**II. Approval of Minutes
May 20, 2010.**

Mr. Incze moved to approve the minutes of May 20, 2010.
Seconded by Mr. Dion. VOTE: 5.

III. Review Recommended Changes to Coastal Waters Ordinance.

Vice Chairman Kinney inquired if any members had any
comments or corrections to the proposed changes to the Coastal
Waters Ordinance.

Mr. Incze stated that he has some questions about the proposed
changes:

*Pg. 1. Article II - Definitions

1. "Commercial Vessel: The phrase "commercial vessel" as
used herein shall mean any type of vessel used
exclusively in a business or trade."

Mr. Incze inquired if the definition of commercial vessel pre-
cluded the vessel from being used for personal uses.

Mr. Shane stated that it did not.

"Pg. 3. Procedure.

- 3b. "The Secretary shall maintain..."

Mr. Incze inquired as to the definition of Secretary.

Mr. Shane stated that the term Secretary should Commission.

"Pg. 5. 3. Deeded Access Rights.

Number 3 should have been numbered 2.

- a. "The Harbormaster shall require proof of registration
displaying the name of the vessel owner or master and
mooring assignment number to be affixed to the mooring
float."

Mr. Incze inquired if the proof of registration meant that the
Harbormaster required that the mooring buoy have the owner's

name and registration number on it?

Mr. Dion explained that the registration number should be clarified to mean mooring registration number.

*Pg. 8.3. Inspections.

- a. "If inspection identifies any issues, those issues must be addressed by mooring owner."

Mr. Incze inquired if "in timely manner" should be added to paragraph.

Mr. Kinney stated that the point of inspection of moorings is not done by the harbormaster but rather provided to the Harbormaster. The process should be captured. Inspectors of moorings should be acceptable to Town.

Manager Shane added that the Police Chief will provide a list of mooring inspection companies.

*Pg. 8. Article VI.

Mr. Incze identified an area with less than optimal wording: Second sentence: "The Harbormaster shall notify the master or owner of a watercraft determined by the Cumberland Coastal Waters Commission to be a derelict or abandoned watercraft when said watercraft lacks a permit that said watercraft must be removed within seven (7) days, except that in the event that the Harbormaster determines that the violation causes or threatens to cause property damage, then notification shall be by the fastest means available."

Mr. Kinney stated that the language needs to be clarified.

*Pg. 8. Last sentence: "Other, if the master or owner of said watercraft has not removed it after the expiration of seven (7) days, the Harbormaster is authorized to remove said watercraft."

Mr. Incze stated that it needs to be clarified at whose expense.

Mr. Kinney stated that process wise, there are a number of clarifications to be addressed. Does the Commission wish to have this addressed at the next Coastal Waters Commission meeting?

Manager Shane replied that this issued would be added to the agenda for the public hearing at the March 31, 2011 meeting for finalization, to then be forwarded to the Town Council, who will send it to the Planning Board for recommendation, and then back to the Council.

IV. Case Shoreland/Wharfing Out Permit Application for Property Located at 18 Ole Musket Road, Map U02, Lot 20.

Mr. Kinney stated that the agent representing Mr. & Mrs. Case is

Barney Baker of Baker Design Consultants and the contractor is Custom Float Services. Contained in the Coastal Waters Commission member packets are:

- Army Corps of Engineers permit, dated Dec. 9, 2010.
- Maine DEP application Aug. 19, 2010.
- Natural Resources Protection Act Application, dated Nov. 2010.

Mr. Kinney review Section 423.3.5 - Approval Standards and Criteria, which shall apply to all piers, docks, wharves, floats, bridges and other structures and uses extending over or beyond the normal high-water line of a water body, submerged lands, or wetlands, pertaining to the Case application, noting to Commission members that the copy of the Shoreland Zoning Ordinance referenced in the application was out of date and not in-line with the copy numbered on the town website.

a. Access from the shore shall be developed on land and soils appropriate for such use and constructed so as to control erosion.

Case application: there is an existing stair and landing area protected by an existing seawall that provides access to the pier. The existing RC pier is removed and replaced with a pile supported structure that is fastened directly to the ledge.

Mr. Kinney inquired of Mr. Baker if the cement was going to be removed.

Mr. Baker stated that the cement would be removed along with the block.

b. The location shall not interfere with existing developed or natural beach areas.

Mr. Kinney stated that on his review that it indeed is the case. In fact, with the block removed, it is less.

c. The facility shall be located so as to minimize adverse effects on fisheries.

Case application: The proposed facility provides tidal access and will not interfere with fisheries.

d. The facility shall be no longer in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock, or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.

Case application: The replacement pier is in a similar footprint to the structure that is removed.

Mr. Kinney inquired about the width of the structure.

Mr. Baker stated that the structure is 6', with the pier being wider. There is a 1.5 foot bench and storage underneath.

e. No new structures shall be built on, over, or abutting a pier, wharf, dock, or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

Case application: Not applicable.

f. New permanent piers and docks on non-tidal waters shall not be permitted unless it is demonstrated to the Coastal Waters Commission that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

Case application: Not applicable.

g. No existing structures built on, over, or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

Case application: There are no structures on the proposed pier.

h. Except in General Development District and Commercial Fisheries/Maritime activities District, structures built on, over or abutting a pier, wharf dock, bridge, float or other structure extending beyond the normal high-water mark of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

Case application: Not applicable. There are no structures on or abutting the proposed pier.

i. Structures shall not unduly interfere with passage along or within the intertidal zone in order to protect established colonial rights for fishing, fowling and navigation. This may require accommodations such steps or pier elevations that would allow passage over a beneath a structure.

Case application: Access is provided below the seasonal pier for pedestrians. Refer to the plans. At a mean high tide, the clearance will be approximately 6 ft.

j. Where a waterfront structure is proposed that will serve more than one property, the property owners shall submit to the Town a proposed easement deed demonstrating that permanent access and maintenance

rights shall be granted to parties sharing the structure. The parties shall submit to the Code Enforcement Officer proof of recording of the easement after its review and approval by the town.

Case application: The existing and proposed replacement piers are intended to be private and serve the Case family and their guests only.

k. Storage of floats, ramps and pier accessories is prohibited within the Intertidal Zone.

Case application: Not addressed.

l. Storage of floats, ramps and pier accessories must comply with all Federal, State and local Shoreland Zoning rules and regulations.

Case application: Not addressed.

m. Lighting on piers, wharves, docks, bridges, floats and other structures should be designed and installed to minimize negative impacts on other properties and safe navigation at night. Negative impacts include excessive lighting and unnecessary glare that can be a hazard to navigation.

Case application: Not applicable. No lighting is proposed for the seasonal pier.

Mr. Kinney inquired if the proposed project will have any effect on migratory birds.

Mr. Baker responded that there will be no impact on migratory bird nesting. There are no nesting areas that are mapped. There will be some drilling noise during construction. The applicants would like to have the proposed construction done by spring so they would be able to use the pier in the summer.

Mr. Kinney expressed concern as to how the cement was going to be removed.

Mr. Baker stated that one option would be to take the cement apart and break into small pieces.

Mr. Shane asked Mr. Baker how does the Town ensure blobs of concrete don't just sit there and wait to be removed. The Demolition Plan should be a condition of approval. A time frame would be necessary.

Mr. Baker responded that he would get a construction plan from the contractor, as the applicants are in South Africa.

V. Schedule Site-Walk & Public Hearing for Case Shoreland/Wharfing Out Permit.

Mr. Kinney stated that on March 21st or 22nd the low tide would be around 1900 or 2000 hours, with most of the area being completely exposed.

Mr. Baker stated that March 23rd would not be a good date for him.

A date of March 21st was chosen at 5:30pm for the site-walk, with the public hearing scheduled for 7:00 pm.

VI. Adjourn.

Mr. Gruber moved to adjourn at 8:08 pm. Seconded by Mr.Dion.
VOTE: UNANIMOUS (5).

Respectfully submitted,

Debbie Flanigan, Secretary