



COASTAL WATERS COMMISSION

MEETING MINUTES
Wednesday, April 19, 2017
6:00 PM – 8:00 PM
Council Chambers

Committee Members:

Lew Incze, Chairman
David Carlson
Hugh Judge
Brent Sullivan
Mike Schwindt
Richard Thompson
Bob Vail
David Witherill

Town Staff:
Tom Gruber
Charles Rumsey
Milton Calder
Jean Duchesneau

Present: Chairman Lew Incze, David Witherill, Hugh Judge, Mike Schwindt, Richard Thompson, Bob Vail, David Carlson and Bob Vail
Absent: Brent Sullivan, committee member; Milton Calder, Lieutenant/Harbormaster; Charles Rumsey, Police Chief
Town Staff: Bill Shane, Town Manager, Thomas Gruber and Jean Duchesneau, Committee Secretary
Guests: None

1. Call to Order

Lew Incze called the meeting to order at 6:07 p.m.

2. Adopt the March 15, 2017 Minutes

There were no corrections or comments.

Motion: To Approve the Minutes

Moved by: Rick Thompson

Seconded by: Bob Vail

Vote: All Approved – Unanimous

3. Basket Island Mooring Update

A discussion took place regarding the request by Charlie Garland for the commission to make an exception to the ordinance and allow him to pay the resident fee instead of the non-resident fee. David Witherill read a portion of an email that Lew sent to Mike summarizing a lot of the discussion points at the last meeting and sent it back to Mike as a means to record the discussion points. It reads in part ... "We specifically want to avoid the proliferation of such convenience moorings in the coastal waters of Cumberland, and would have a hard time defending this single mooring simply on historical grounds given its low usage. We noted that our current ordinance does not address this topic, and that we handle mooring applications on a case-by-case basis. A policy might be appropriate at some time. I note here that such moorings are not completely "public" moorings in that the owner maintains bumping rights. If we were to support the installation of public moorings for some reason in some locations, this is not the best way to do it." This email was dated on or about April 13, 2017.

Bill stated what we can do tonight, if we take a formal vote in support of that email, we can put it in a letter on town letterhead and state at last night's coastal waters commission meeting, the action was taken on your request for reconsideration and what the outcome of the vote was. Bill will copy Penny Asherman from the Land Trust on the letter so if Mr. Garland would like to follow up with them, he can do so. Lew recommended a vote be taken.

Motion: We do not grant an exception to the mooring ordinance for this application.

Moved By: Lew Incze

Seconded by: Mike Schwindt

Vote: All in favor – Unanimous.

Bill asked Mike about the ordinances' appeal process and who the appeal would go to. Mike stated it would come back to the commission for a final decision. The next step for him in the appeal process would be to the Superior

Court and file a Rule 80B of the Maine Rules of Civil Procedures.

Bill stated he would reference the appeals process to him in the letter and also make a suggestion that he reach out to Penny Asherman, president of the Land Trust and list her email so he can contact her directly.

4. Appointment of Interim Chair

Chairman Lew Incze asked David Witherill (the current Vice Chairman) if he would serve as Chairman until December 31, 2017, when the annual elections are held. David agreed to do so.

Nomination: Lew Incze nominated David Witherill to fill the position of Chairman. Lew closed nominations.
Acceptance: David Witherill accepted the position.
Vote: All approved – Unanimous.

Chairman David Witherill took over the meeting and opened nominations to fill the position of Vice Chairman. Bob Vail nominated Mike Schwindt to serve as Vice Chairman and he agreed to do so.

Nomination: Bob Vail nominated Mike Schwindt to fill the position of Vice Chairman.
Acceptance: Mike Schwindt accepted the position.
Vote: All approved – Unanimous.

After some discussion, it determined that the Commission did not need to make changes to the ordinance regarding the chairman and vice chairman's responsibilities, as all the committees in the town follow Robert's Rules of Order (a manual of parliamentary procedure) and those types of meeting details are contained within Robert's Rules of Order.

5. Ordinance Discussions

- Use and non-use of Moorings

Our ordinance requires a mooring and vessel to match; however, it does not prohibit another boater from using it. Mike Schwindt stated one way to fix this would be to put language in the ordinance to state "no one else can use the mooring except you (the mooring owner)". Lew Incze and others were uncomfortable with that type of restriction. After some discussion, it was recommended no changes be made to our ordinance to limit its use. Should there be issues regarding the use of moorings, they can be logged by the Harbormaster and the commission notified.

Chairman Witherill asked Richard Thompson to check with Falmouth to see how they handle issues such as: (1) the registered mooring and vessel do not match; (2) the vessel using the mooring is too large for it; (3) the liability issues regarding possible damages; and let us know his findings at the next meeting. Richard agreed to do so. Mike Schwindt did note that on page 2 of the mooring application it does state, "This permit is non-transferable and is for the use of the above named boat, except on a temporary basis."

- Update on missing ordinance sections and mooring application fine amount error

Mike Schwindt stated that after review, there are no missing sections. The problem is a formatting error, in which the indentations do not line up.

The fine amount listed on the mooring application, page 2, and paragraph 4 is incorrectly stated. Per the ordinance, it should read, "Moorings must be registered before they are occupied or you will be subject to a fine of up to \$200.00 per day, unless prior arrangements have been made with the Harbormaster." The application needs to be changed to indicate a fine of up to \$200.00 **per day**.

Mike also stated that on the mooring application, page 2, paragraph 3 and sentence 2, it references an action to be taken that is not in our ordinance. "The owner must pay the contractor within 60 days or he/she will lose mooring privileges." After discussion, Bill Shane suggested we would look at assessing any of those costs to the next renewal period and offered to work with Mike Schwindt to formulate language to get it into the ordinance. It would give the

Harbormaster a little more latitude.

6. Other Business

- Chairman Witherill inquired about the number of moorings applications we have received. Jean stated we have received 16 and of those, four (4) are for Broad Cove. There are no applications from 179 Foreside Road, to date.
- Bill Shane stated the Town has another grant in with DOT for a 50/50 match to get the kayak rack. The kayak rack would sit on another float. Bill suggested that at the next meeting he would bring the grant application to Dave and discuss what the fees should be for the seasonal rentals and get some input, because right now there is no mechanism to charge a fee, or we have no recommendation from the commission to the council to add that to the fees and fines ordinance.
- Bill Shane stated he had great news from the State. We are in the queue for funding in 2019 for \$200,000.00 from DOT for the pier and the developer has committed \$150,000.00 from the homeowners association.

Outlook for the next few months:

- Bill stated the parking lot is built.
- There is an Ocean Access Committee meeting next month that would need a representative from this commission to be in attendance. That committee meets at 6 pm on the second Wednesday of the month and the last meeting will be in November.

7. Adjournment

Motion: Motion to adjourn at 7:00 p.m.
Moved by: Bob Vail
Seconded by: Richard Thompson
Voted: All approve – Unanimous