

Coastal Waters Commission
Meeting Minutes
Wednesday, September 16, 2015
Council Chambers
6:00 pm

Present: Chairman Lewis Incze, David Carlson, Mike Schwindt, David Witherill, John Berrett & Hugh Judge.
Staff: Town Manager William Shane, Secretary Debbie Flanigan & Town Council Liaison Thomas Gruber.

The meeting was called to order at 6:02 pm.

I. Approval of Riparian Mooring Area for Broad Cove Reserve Homeowners with Two Shared Private Dinghies.

Chairman Incze stated that there are two requests by the Homeowners Association:

- A. To have one mooring per household at Broad Cove Reserve
- B. To have two private shared dinghies at Broad Cove Reserve

A. The Homeowners Association is requesting to have one mooring per household at Broad Cove Reserve. Chairman Incze pointed to the map and indicated where the ten proposed moorings would be located.

Chairman Incze illustrated on the map where the riparian owners access the water in relation to the pier. The ten riparian moorings would be clustered together, one mooring per household. Each of the ten dots represents 75' in diameter.

Dave Carlson inquired about the ten moorings located in the blue triangle on the map. He suggested there may be room to locate more than ten moorings in the triangle.

Manager Shane indicated the green areas on the map, which represents the eel grass. Part of the plan is to limit the eel grass disturbance in the corridor, which he indicated as double yellow lines on the map. He suggested maybe installing some type of channel markers to indicate the route to the water without disturbing the eel grass.

Dave Carlson talked about the access to the water by the ten homeowners from the indicated point on the map to the Town Landing. Would anyone be able to leave the dinghy on the beach?

Chairman Incze stated that would have to be worked out with the CCLT. People will have motorized dinghies. Motors in particular will have the ability to stir up sediments, which will kill the eel grass.

John Berrett inquired what the red dots on the map indicated?

Manager Shane stated the red dots indicate town moorings.

Mike Schwindt asked about the homeowners two private dinghies being tied to the pier. If the Commission approved the two shared private

dinghies being attached to the pier is the expectation that it would be forever or could the Commission approve the request through 2016?

Chairman Incze responded that Commission could approve the request for one year and simultaneously say that Commission has the intention of continuing to try to accommodate these dinghies. At the moment, the infrastructure at the pier is tenuous at best. It's a small float, which is why the Commission would restrict it to only two dinghies for the time being. If you put two homeowner's dinghies and two town dinghies, which may or may not actually be needed next year, at the float, one side of the float has been occupied. As long as the homeowners don't feel threatened that being approved for one year, and the Commission will come to another conclusion the next year.

Dave Witherill inquired about motors on dinghies. Are they ok?

Chairman Incze yes, in and out of the pier, they were inevitable. Having a few buoys marking off the channel would be a good accommodation.

Mr. Gruber asked about the process for the homeowners association in the future asking for dinghies.

Chairman Incze felt that for now the Commission was infrastructure limited; space is limited.

Manager Shane stated that in the agreement that the Commission would be reviewing in October, the number of dinghies at the pier would not increase to the five requested by the homeowners association until the new pier is built.

Mr. Schwindt moved for approval of riparian mooring area for Broad Cove Reserve homeowners with two shared private dinghies through 2016.

Seconded by John Berrett.

VOTE: UNANIMOUS

II. To Hear Update from Chairman re: Pier Replacement Engineering for Broad Cove Reserve.

Chairman Incze deferred to Manager Shane to talk about this item.

Mr. Shane stated that he and Chairman Incze had a meeting with Barney Baker from Baker Design Consultants on the reconstruction of the pier. He indicated an area on the map that was the mean low water mark. The area that comes to the existing ramp is basically under the authority of the Coastal Waters Commission. What Mr. Baker found was that there was anywhere from five feet on one end and up to thirty feet on the other. To go with the crib system that is there, there is always the potential for settlement and there is no bearing on something solid. The pier replacement that is replied is pile structured; 6' wide replacement. At every one of the piling structures there would be "bump outs" that are 3' to 4' that would allow a wheelchair to go around; also a bench for sitting, viewing, and recreation purposes. The ramp that goes down to the float is 80' long for ADA purposes, i.e. for mobility issues, the

longer the ramp the easier it is to go down. He indicated on the map a float for the homeowners association that ran perpendicular to the pier. He also indicated where the town floats would be located, one float could be for dinghy tie-ups and another float could be for kayak storage or dinghy tie-ups. Kayak racks would not be allowed on the land but would be okay on the float. With the geotechnical information, the pilings would work better. A 6' pier is kind of the direction that would head up a municipal pier. Much wider than that it would be a commercial pier.

Dave Carlson referred to the map for the float. It looks like it will be four 20' sections by 8 to 10 feet. The pilings that are in between P8 and P9 are in essence with the ramp. He didn't understand why those two posts are there, when the ramp is right there.

Manager Shane stated that it is such a long ramp. One of the cribs was scheduled to be removed. What they are not sure of, at this point, is that under the conservation easement, the pier can be up to 250' in length. The current pier is 200' long. They want to figure out if there is any advantage to us by sliding the pier out a little bit further. They don't have that information because they are looking to get more survey information. On the 29th of this month, a surveyor will be out there at 6:00 at night with a flashlight picking up more topo on the flats themselves.

Dave Carlson referred to P8 & P9. If the analysis and testing results are favorable where the pier can be extended to P8 & P9, does that mean that the 80' ramp would just start from there and go out?

Manager Shane stated that it would extend it out another 40'.

Chairman Incze stated that the important thing is that the floats are out below the mean low water mark.

John Berrett inquired about what provision there would be for people to get the beginning of the pier if the land comes down; someone in a wheelchair or on crutches?

Manager Shane responded that they don't know yet. That would be up to the Ocean Access Committee. When Alpha One was on site, this is the biggest challenge that we had. The Lands Trust was not happy with the idea of some type of ramp system down to the head of the pier with hand rails on both side and either a switchback or ramp similar to the current one. That would be at least 200 - 300' to get to the pier. Under the conservation easement, structures are not allowed. The Lands Trust has cut the mobility parking spaces from 4 to 2. The Town Council on Monday, September 14th approved the Town Manager to go forward with allowing people to park on the existing access road. In the improved section, they can park on one side of the road.

Chairman Incze referred to the map and reminded the members that it was a preliminary draft and there would be a public hearing that the CWC would be facilitating. The members would need to come up with a format for the types of things that they wanted to say and encourage discussion at the meeting. There would be a meeting before the public hearing to plan for that meeting. They would also need to develop a

website with talking point to inform people about what was going on at the Broad Cove Reserve.

David Witherill made a point that the Commission needed to pay attention to the engineering and the mooring of the floats. He sailed into the cove in August and the seas had built up pretty good. They can build them so they can stay in place, but in the event of an extreme event plans should be in place for getting the boats and dinghies out of there.

Chairman Incze agreed and stated that it was a big ramp and one of the things you do when things get rocky is to lower the ramp. This ramp is twice the usual size and weight as the usual ramp and we would have to be able to lower it onto the float or something.

Manager Shane responded that this ramp is too long of a ramp to be able to pull back onto the pier.

Chairman Incze responded that there are two ways that this used to be done during the days of light ramps. They used to get pulled back onto the pier by manpower and come-along. Nowadays that is not the case. They tend to be lowered.

III. To Set Public Hearing Date to Hear Presentation from Baker Design Consultants and Accept Input for the Proposed Pier Design. October 21 or October 22.

October 21, 2015 was chosen for the date for the Public Hearing to hear a presentation from Baker Design Consultants and accept input for the proposed pier design.

IV. Final Review of Revised Mooring Application.

Mike Schwindt suggested the following changes:

1. On Page 1 of the application under the line listing the Owner's Name, adding another line:

Cumberland Resident? Yes_____ No_____ (see definition on other side)

2. On line for "Cumberland Address", deleting the word "Cumberland".

- 3 On Page 2 of the application:

- in the top box, deleting the letter **s** from the word "Owners".
- In third paragraph, amending the last sentence to read: "The owner must pay the contractor within 60 days or lose mooring privileges".
- In fifth paragraph replacing the word "vessel" with the word "watercraft": "No person shall moor a watercraft in any part of the coastal and tidal waters of the Town of Cumberland without first annually registering or documenting said watercraft with the Town and obtaining a mooring assignment specifying the location of the mooring".

Mike Schwindt moved to accept the mooring application with the revisions.

Seconded by Hugh Judge.

VOTE: UNANIMOUS

V. Final Review of Revised Mooring Ordinance.

Mike Schwindt reviewed the proposed mooring ordinance and suggested the following changes:

Replace the word vessel with the watercraft throughout the entire document.

Page 2: **Coastal and Tidal Waters Plan:**

In second sentence, delete the word "Cumberland."

Delete the "s" from watercrafts in the entire paragraph.

Commercial Vessel:

Change vessel to "watercraft."

Derelict or Abandoned Watercraft:

Change the definition to read: A watercraft that is given up by its master or owner with the intent to never again claim a right or interest in it.

Mooring:

Change the definition to read: A fixed anchor to which a watercraft can be made fast.

Page 3: **Permit year.** The permit year shall be from May 1 through April 30 should not be underlined or in bold print.

Resident. Change the definition to "A property owner or any person who occupies a dwelling within the Town for more than 180 days in a calendar year".

Vessel. Delete the entire paragraph, since the word vessel is being replaced with the word watercraft.

Page 8: Section (3): Last sentence to read: Furthermore, should space be insufficient to meet demand, the number of moorings allowed to a ROW property owner in front of the ROW may be reduced to one.

Page 9: Section B: Change to "Assignment and location of Moorings, deleting the word privileges.

Section (1): Last sentence to read: "The mooring registration number and the name of the watercraft owner or master must be affixed to the mooring float".

Section (2): Delete the words "boat, or watercraft of any kind in first sentence.

In second sentence, insert space between his/her and watercraft.

In second sentence, delete the words "or boat", and delete the "s" in watercrafts.

Section 3: Change to read: Any mooring assignment in the coastal and tidal waters of the Town shall be governed by the following guidelines".

Section (a): Revise to read: "Application for a mooring must be made by May 1 of each year unless an applicant shows good cause why he/she could not apply before May 1 (as for example, a person who acquires a boat or becomes a resident after May 1). A mooring assignment shall be valid until April 30th of the next year".

Page 10: At top of page, in first paragraph, delete the words "privileges" and "of Cumberland".

Page 10: (c): No underline or bolding in text, and delete the "s" in watercraft, and capitalize the word Harbormaster in the last sentence.

Page 10: (d): Change to read: "Each mooring application shall be fully completed.

Page 12: (4): First two sentences amended to read: "In the event that more mooring applications are received than there are available spaces, the Harbormaster shall maintain a waiting list of all applicants who have not been assigned a mooring. Further, if a plan is amended, and that revised plan provides for fewer moorings, the moorings available under the new revised plan shall be assigned to persons who had registered moorings at the time of amendment of the mooring plan under this allocation system, except as otherwise provided by this chapter".

(a): Amend first sentence to read: "A riparian owner who is the owner or master of a watercraft and who is applying for a mooring assignment, shall receive the first vacancy available.....

Amend second sentence to read: "No more than one mooring may be assigned to any shorefront parcel of land under this "priority"....

Amend last sentence to read: "No more than one mooring may be assigned to any shorefront parcel of land under this privilege, but this limitation shall not prevent a riparian owner from receiving additional mooring assignments under this allocation system.

Page 12: (b) Amend to read: "A Homeowners Association member who has recorded rights to the shore through a deed, subdivision plan, or Homeowner's Association document.

Page 13: (d) Any other resident or property owner of the Town.

(e) Any person who does not meet the requirements of a-d above.

Page 14: First paragraph at top to be amended to read: "The Harbormaster shall maintain a record of each mooring assignment, including the location of assignment as well as the application information required by this chapter."

(6) To be amended to read: "Mooring assignments shall not be transferred, and such assignments shall not be rented unless the provision for rental was made known to the Harbormaster."

C. **"Inspections"** shall be replaced by **"Moorings."**

D. Removal of Moorings is replaced with:
"Inspections." "Each mooring must be inspected every two years by a qualified moorings specialist. Inspection results must be reported to the Harbormaster and all deficiencies repaired within thirty days."

E. **Winter Spars** should be in bold print and underlined.

F. **Removal of Moorings.** Add phrase to last sentence:
"at the owner's expense."

Page 15: Second sentence: Replace word " correction" with "corrective."

Last sentence: Delete the word "Otherwise."

A. Fourth sentence: In the event,... delete the word "that."

Mike Schwindt moved to approved the revised mooring ordinance with the proposed amendments.

Seconded by David Carlson.

VOTE: UNANIMOUS.

VI. Update on Historical Kiosk at Town Landing.

John Berrett referred to the last meeting, where he and David Carlson presented some very initial layout ideas, based on other kiosks that they had seen.

He pointed to a layout that he had been working on with the Town Interns, Eliza Porter and Emily Fisher. Once the layout was done, a review process was done with Manager Shane, Chairman Incze, Librarian Thomas Bennett and Historical Society President Carolyn Small. Some of their comments were small and technical and some of the comments were trying to improve the logic. The comments have all been incorporated into the draft layout. Thomas Bennett asked his employee, who is a professional editor, to

review the layout. She has a couple of minor things that were corrected. He presented the final layout to the Commission members. Information on the Town Landing was entered on the front of the layout, and a map was added to the back of the layout that illustrates Town of Cumberland circa 1857. Mr. Bennett is currently working on a version of the map with the Cumberland islands on it. Mr. Shane stated that adding the islands would stretch the map out and the text would be smaller. Maybe a pullout map with the island on it would be better. John Berrett stated that he would be researching if there were any national standards for historical markers.

VII. Public Moorings. Discussion.

Phase 1 – 2 Shared Dinghies, 10 Public Moorings.

Chairman Incze stated the Homeowners Association might want their moorings closer to the channel leading to/from the pier. He suggested starting out with 10 public moorings and 2 shared dinghies. The dinghies would be non-motorized. If the 10 moorings were in the proposed area, they would be available to the public, and 1 or 2 rowing dinghies may be provided. Otherwise, anyone who had a mooring off shore, would need a dinghy out there, and there is not enough space for that many dinghies. He indicated on the map that the red dots would be the first 10 proposed moorings. The white area represents the travel lane to get to the water. If the proposed mooring area were to be filled, the travel lane may be needed to facilitate passage. The blue dots represented a 75' diameter for each mooring, with enough space to be able to pass between each mooring.

Manager Shane stated that there have been mooring requests from people who do not own shorefront property. Issuing 10 moorings at a time seemed to be the rational thing to do.

VIII. Other Business.

A. Future Meeting Dates Through June '16.

The Commission members were given a list of dates, which represented the third Wednesday of the month.

B. To Review & Recommend to the Town Council the 179 Foreside LLC Cost Sharing Proposal for Pier Replacement (October meeting).

Chairman Incze suggested adding this item to the next meeting. However, he felt that the Commission should discuss it and be prepared.

The Broad Cove Reserve Homeowners Association has proposed to cover 50% of the capital costs of the new construction of the proposed pier, and 50% of the ongoing maintenance costs.

John Berrett stated that the point is that the Town would share the entrance to the property with them, so it's not highly unusual that you'd share access to the water with them. It's not

a foreign concept, since you're sharing that piece of land with those 10 property owners.

Chairman Incze stated there would be a range of reactions when people hear about this arrangement.

Tom Gruber added that it has already been responded to. It was the point about grant funding, that the Town had cut itself short because of this arrangement.

Manager Shane stated that no ownership will be relinquished. If the town goes after any state or federal funding for this facility, it has to open up to everybody; it can't be restricted to Cumberland residents only. We have to be careful; the engineering didn't have those strings attached.

John Berrett inquired what do the 10 property owners benefit other than the float for their 2 dinghies? What benefit do they get that any other town resident doesn't get?

Manager Shane responded that they are walking down to the facility from their property on property; they don't have to worry about parking because they are already there. It's just little things because they live there. They are restricted to the dawn to dusk restrictions. The only ones who aren't restricted to dawn to dusk is the Robbins family. The homeowners association will pay up to \$5,000 per year for maintenance of the pier. They will also be asked to have the floats and ramps stored very year and put in every year. They cannot be placed on the beach.

Dave Carlson stated that this would also be a guarantee that the homeowners would have a pier.

Manager Shane told Tom Gruber that he would send a copy of the contract to him, that stated that the homeowners would pay half of the cost of the new pier, which has not been approved by the Town Council yet.

Mike Schwindt expressed concern with the sufficiency of the liability clause.

Manager Shane responded that he would discuss that with the Town Attorney.

Dave Carlson stated that one of the things that he had noticed in the proposal of the new pier; it seemed like one of the floats would be designated for the association and the other would be for the public. He was concerned with the public not realizing one of the floats would be for the homeowners only.

Chairman Incze stated that there would need to be some signage for the homeowners float.

John Berrett thought that this would be a good deal for the homeowners, a better deal for the taxpayers of Cumberland, and a dynamite deal for the town.

Manager Shane stated that it follows the Coastal Waters Ordinance for piers, docks, floats and wharves; we want to restrict the number basically are on the shores of Cumberland, and by doing this we have guaranteed that. Even though it's in the conservation easement, we're also following the rules we have set up. We made these rules prior to even owning the pier or the float.

IX. Adjourn.

John Berrett moved to adjourn the meeting at 8:10 pm.
Seconded by David Witherill. VOTE: UNANIMOUS.

Respectfully submitted,

Debbie Flanigan, Secretary