TOWN OF KITTERY

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1329 Fax: (207) 439-6806

TOWN COUNCIL

WORKSHOP AGENDA

MONDAY, SEPTEMBER 15, 2014

COUNCIL CHAMBERS

6:00 P.M.

The Town Council will meet with the Port Authority to discuss various issues.

Posted: September 11, 2014

McEachern & Thornhill
Attorneys at Law

September 3, 2014

Ms. Nancy Colbert Puff
Kittery Town Manager
200 Rogers Road
Kittery, ME 03904

Re: Kittery Port Authority
Term Limits

Dear Nancy:

You have asked for an opinion on the issue of term limits involving the members of the Kittery Port Authority (KPA). More specifically, you inquire about the interaction between Section 1 of the KPA's Charter involving appointments and terms of KPA members and Sec. 16.1.6 of Kittery's Land Use and Development Code.

KPA Charter and Town Ordinance Provision

As you know, the KPA was established by a special act of the state legislature in the early 1960's. It is governed by powers, duties, and responsibilities set forth in its legislative charter adopted as a special act by the Maine Legislature. The specific provision of that legislation governing appointments to the KPA provides:

> Sec. 1. **Authority established.** The Town of Kittery Port Authority is established, consisting of and governed by a board of 7 members, 6 of whom are appointed by the town council of the Town of Kittery. At least 3 of the appointive members must be permanent residents of the Town of Kittery, and the members serve for a term of 5 years, . . . The members serve until their successors are appointed and qualified. . . . [Emphasis added]

A few years ago, during the recodification of our Town Code, Sec. 16.04.060 of our Code dealing with the Port Authority was

Duncan A. McEachern & Dan W. Thornhill
10 Walker Street, P.O. Box 360
Kittery, Maine 03904-0360
Telephone: 207/439-4881 Fax: 207/439-8893

amended to provide the following in Sec. 16.1.6(F) of our present Code:

> F. No member shall serve more than 2 consecutive terms of 5 years. Any member who has served 2 consecutive terms of 5 years is ineligible to serve on the Board for a period of 1 year. Computation of term limits commences with the first term of 5 years following the effective date of this provision. Computation of term limits does not include service prior to the effective date of this provision nor to terms of fewer than 5 years after the effective date. [Emphasis added]

Discussion

As a state legislative enactment, the KPA Charter cannot be amended or changed by the adoption of a municipal ordinance. Insofar as Sec. 16.1.6(F) of our Town Code (as above referenced) purports to limit the term of office of KPA members to two consecutive terms, it is ineffective. Simply stated, the KPA Charter cannot be so amended through a municipal ordinance. This issue, however, appears to be somewhat academic in the context of the situation you inquire about.

Sec. 1 of the KPA Charter provides that KPA members are appointed by the Kittery Town Council.[1] The term of office as

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[1]The KPA Charter also provides:

> In addition to the 6 appointed members, a member of the Town Planning Board designated by the chair of the Town Planning Board is a member of the Port Authority, serving for a term of 5 years or until membership on the Planning Board terminates, whichever occurs first. KPA Sec. 1.

provided in Sec. 1 of the KPA Charter is five years. Members serve until their successors are appointed and qualified.

Since the Town Council appoints members to the KPA by virtue of the KPA Charter, the Council determines how many terms a KPA member may serve. The Council can opt to follow its own policy with regard to the reappointment of a member to a second or subsequent term. It may simply decide not to do so. In other words, since the KPA Charter gives the Council the appointive authority, it implicitly gives the Council the right to determine a member's term(s). The Council does not require a Town Ordinance to do this. In short, the limitation on terms a KPA member may serve is entirely within the purview and authority of the Council who has the authority to simply choose not to appoint a member beyond a certain term or terms.

Should you have any questions with regard to the above, please give me a call.

Very truly yours,

Duncan A. McEachern

DAMcE/cn

\TOK-ltrs\KPA.TermLimits.opn

TOWN OF KITTERY

Office of the Town Manager
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1329 Fax: 207-439-6806
ncolbertpuff@kitteryme.org

Nancy Colbert Puff
Town Manager

INTEROFFICE MEMORANDUM

TO:	TOWN COUNCIL
FROM:	NANCY COLBERT PUFF, TOWN MANAGER NCP
SUBJECT:	ENFORCEMENT OF KPA SIGNAGE/ RULES
DATE:	SEPTEMBER 10, 2014
CC:	POLICE CHIEF SHORT; BOB MELANSON, CHAIR, KITTERY PORT AUTHORITY (KPA)

I've spoken to the Police Chief regarding the question raised at the Council as to whether the Police Department has the ability to enforce signage, placed by the KPA, at the pier. In our conversation we read the following parts of KPA Special Legislation and their Rules and Regulations (highlights added):

From Special Legislation:

> Sec. 4. Rules and regulations. Said authority may make such ordinances, rules and regulations touching municipally-owned wharves, docks, piers and landings, port captains, pilots and pilotage, harbors and harbor masters, for the areas herein defined as it may deem proper and from time to time may modify, rescind or alter the same. Said rules and regulations shall have the force and effect of law.

From KPA Rules and Regulations:

> Section II-E: 3. Public Nuisance: No person shall loiter, create a public nuisance or partake of alcoholic beverages on town wharves or landings. Town wharves or piers may be closed by the Police Department when it is warranted by acts of vandalism or disturbance of the peace and threats to Natural Resources.

> **VI. PENALTY**

> A. Violations:

> Whoever violates any of these rules or regulations or refuses or neglects to obey any lawful order of a Harbormaster or his or her duly authorized deputy or other law enforcement officer given pursuant to these Rules and Regulations or State Statute, or obstructs a Harbormaster in the execution of his or her duties, commits a civil violation, which may result in the loss of mooring site privileges in the Town of Kittery, and shall pay a fine of fifty dollars ($50.00).Each day the violation continues after notification by the Harbormaster shall be deemed a separate offense. All fines recovered shall accrue to the Town of Kittery.

B. Enforcement by Harbormaster:

The Harbormaster, his or her duly authorized deputy or any other law enforcement officer authorized to enforce laws within the Town of Kittery, shall be authorized to enforce all provisions of this Ordinance and any Rules and Regulations adopted thereunder as well as all applicable State statutes. The Harbormaster is authorized to take all necessary proceedings to seek the recovery of fines authorized thereunder and all such fines and penalties recovered shall accrue to the Town of Kittery.

We agreed that if the rules passed by the KPA meet lawful and legal standards, the Police Department would be able to enforce those rules. That said, we caution that the Harbormaster is the routine enforcement arm of the KPA.

To Town Council:

For what-ever help it may be in your workshop meeting with the Kittery Port Authority is a copy of the presentation that I made at the outset of the Squid Workshop on September 4, 2014.

At that meeting member Thomas Smith, to help win his argument to limit fishing, said that he has the rules and regulations that prove "there is no fishing allowed from any piers or docks in the State of New Hampshire, commercial or residential, No Fishing Period". I challenge Mr. Smith's adamant statement as being in direct conflict with the facts. Attached is a copy from the State of NH regulations on salt water fishing. It is clear that on the short NH coast are listed 26 public areas including piers and docks that advertise availability for fishing- including #26, Prescott Park. Also NH's promotional fishing site, Takemefishing.org states "there are hundreds of public parks and fishing piers .... that offer anglers the opportunity to cast a line." I think it is harmful to the community for an Authority member to make such strong comments without verifying the validity of those facts.

Later during the public session of the same meeting Past Chairman Milton Hall stated that "all people on boards in Kittery have to be residents". I have verified with the State Legislature (correspondence attached) that the five page attachment at the end of Title 4 is a true copy of the latest revision approved by the State Legislature, i.e. "At least 3 of the appointive members must be permanent residents of the Town of Kittery". Title 16.1.6.1 B "seven (7) members, who are Kittery residents" is not a requirement of State law. The current exclusionary attitude of the KPA is a good example of why the wisdom of the State Legislature should not be modified by local ordinance.

I have added a footnote reference to my original presentation to document my comment about closing the docks at night.

James Forbes, September 5,2014

To begin with I would like to apologize to Chairman Melanson. On Sunday August 17th, following my presentation to the Town Council on August 11th, Mr Melanson approached me to assure me that he was not a racist. I can't help news headlines or the personal interpretation of them, but for the record what I said to the Council was the **comments** made by the KPA were "narrow minded, elitist and in my opinion and that of others who have approached me as **bordering** on racist". Now I am sorry if anyone personalized that as I did not intend to vilify any individual.

I have read the **State of Maine Private and Special Laws** of 1961, Chapter168, which created the Town of Kittery Port Authority; also the **Kittery Town Code** which has attached to the end of Title 4 an amended version of that law. Within the **Kittery Town Code** is Title 16.1.6 Port Authority which conflicts with both the original and the amended law as to makeup of membership and includes term limits. The current on-line version of **The Town Charter** under Article IX, Port Authority, sites the Private and Special Law as amended and "the charter is maintained as it was enacted". I have read the 35 page **KPA's Rules and Regulations** as updated on 3/6/14; and finally I have read the **Maine Revised Statutes, Title 12,** Article 10654 Harassment of hunters, trappers and anglers.

Nowhere in these rules or laws could I find that the KPA is given license to control fishing from the public docks. On the contrary, one of the specific purposes of establishing the KPA was to foster and stimulate commercial and recreational use of the area and aid in development of salt water fisheries and associated recreational uses. The on-line **mission statement** of the KPA and Harbor Master, in part, is to cultivate partnership with fishermen.

The posting of the signs "No Squid Fishing per order of KPA Police take Notice" on or about July 2nd and continuing to the present, was and is an intimidating threat to many fishermen or potential fishermen and women. The action is in direct violation of Maine Revised Statutes, Title 12, Article 10653 and is a finable offence.

Shortly after the sign posting the State Marine Patrol visited the docks, verified that all fishermen were properly licensed and assured us that the signs were posted without legal authority. Then the Harbor Master, acting on his own or under the direction of the Chair, but without public vote of the KPA, that I could find, began padlocking the tax payer provided public toilet. The explanation given was because of the septic tank usage caused by the local restaurant. The restaurant has its own restrooms and the patio area is closed before the public toilet is padlocked. This act can only be seen as further harassment and interference directed at the lawful fishermen and women who fish late at night. Again, this is a direct violation of Article 10653 of the State Statutes.

As seen by the fishermen, the final harassment, was the movement in August of a large float directly over and blocking the most popular squid fishing area. While the movement may have been to provide for more dingy parking, the choice of locations was either thoughtless or mean-spirited. Now that the squid season is all but over, the float has been moved to a more appropriate place.

The charter of the KPA clearly states that the regulations and management of its affairs must be within the laws of the State. These three examples clearly indicate insensitivity to the law.

The discussions by the KPA of closing the docks at night also would be against the DMR laws. *

As to discussions of restricting the docks or the parking to residents only, a look at the on-line mooring waitlist shows that only 28% are Kittery/Kittery Point residents, more than half being out of state.

Would not it have been much better instead of putting up the current signs to have put up signs that requested all users of the docks to clean up any mess that they make and assure hoses are in place? Yes there will always be a few bad behavers, but for the most part you would get a very good response, particularly from the older late night fishing population and this would have been more in alignment with your mission statement.

I think it is time for the exclusionary and elitist attitude to change. The taxpayers need an authority that treats everyone equally, and justly, without favoritism to one local group. The Town Council should exercise the option as provided in the Chapter 163 law of filling the next three vacancies with non-Kittery residents.

As I said at the outset, I am not out to vilify anyone. I just want people to treat each other the way they would want to be treated, if in the same situation.

Our elected and appointed officials have an awesome responsibility in this democracy to constantly be aware of whom they serve. They need to put aside their own self-interests, personal wishes, personal prejudices and serve in an even handed fair way that meets the needs of the majority not just the vocal minority. If that principle cannot be followed then perhaps someone else should be serving the community.

* from erequlations.com/maine/fishing
The Official State of Maine Open Water & Ice Fishing Laws and Rules; Deinitions:

Night Fishing:
Except as otherwise provided by rule, all waters open to fishing are open to fishing 24 hours a day. All lines must be under the immediate supervision of the person who set them.

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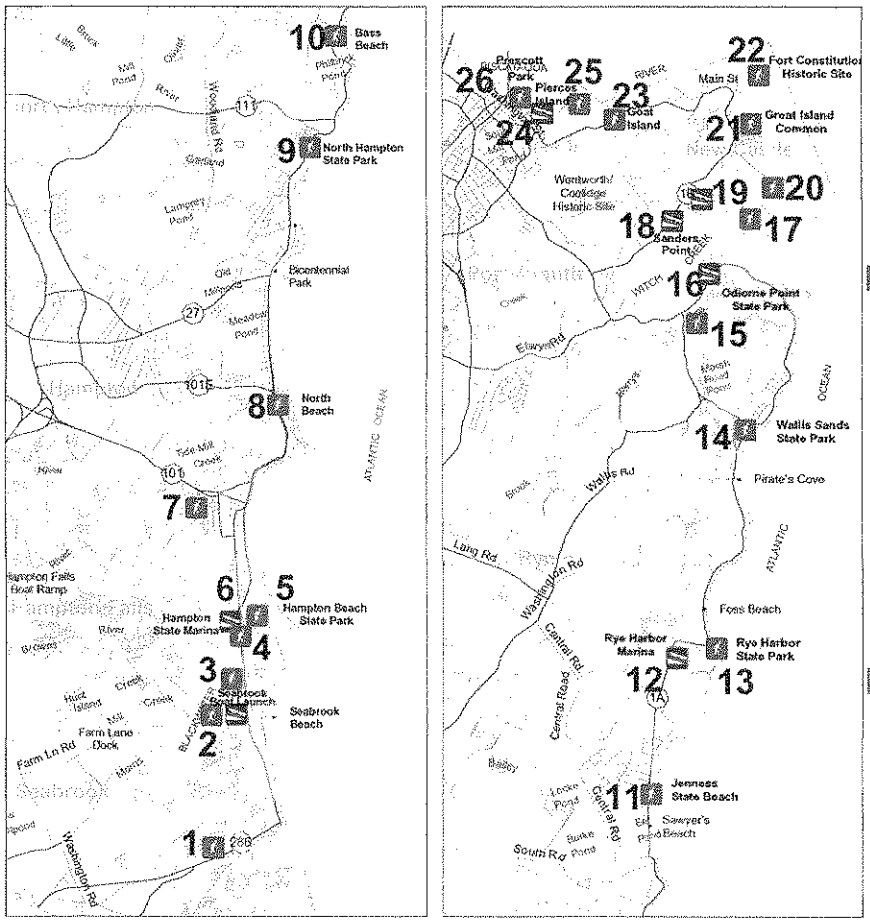
Coastal Access Sites

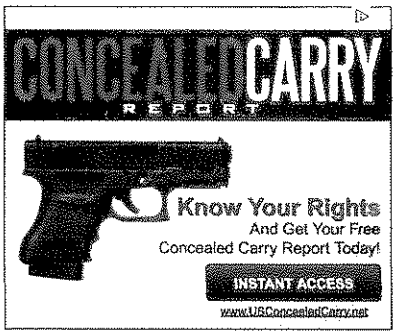
Looking for exciting sportfishing? Surf fishing is great along New Hampshire's sandy beaches and rocky coastline. Use the map on this page to find prime coastal access points.



Legend

- Boat ramp/Marina
- Shore fishing access
- Town boundary
- Conservation
- Road/Street
- Stream/Shoreline
- Waterbody
- Wetland

Site #	Name	Fee	Parking	Comments
1	Blackwater River	N	Limited	Parking along Route 286
2	Seabrook Town Boat Launch	Y	Limited	Boat ramp use open to all, but parking for Seabrook residents only
3	Seabrook Beach	N	Limited	Parking along Route 1A* (Ocean Blvd) on Seabrook side of bridge
4	Hampton-Seabrook Bridge	N	Limited	Parking along Route 1A* (Ocean Blvd) or in state parks for a fee
5	Hampton Harbor State Park	Y	Ample	Jetty and beach fishing access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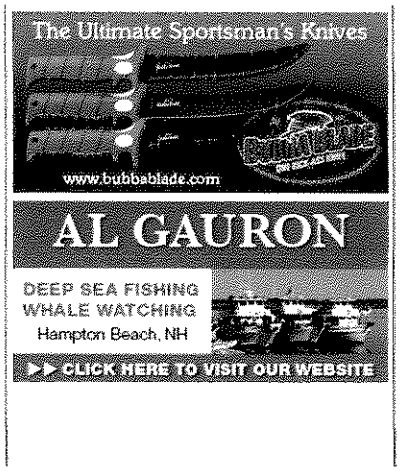
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6	Hampton Harbor State Marina	Y	Ample	Seasonal fees apply
7	Hampton Railroad Trestle	N	N/A	Walking access only
8	Hampton North Beach	N	Ample	Metered parking at state beach
9	North Hampton State Park	N	Limited	Metered parking at state beach; Parking along Route 1A
10	Bass Beach	N	Limited	Parking along Route 1A
11	Jenness State Beach	N	Limited	Metered parking at state beach; Parking along Route 1A
12	Rye Harbor State Marina	Y	Ample	Seasonal fees apply
13	Rye Harbor State Park	Y	Limited	Jetty and beach fishing access; Seasonal fees apply
14	Wallis Sands State Park	Y	Ample	Seasonal fees apply
15	Berry's Brook	N	Limited	Sea-run brown trout fishery
16	Odiorne State Park Boat Ramp	Y	Ample	Jetty and shore fishing access; Boat ramp not accessible at all tides
17	Odiorne State Park Jetty and Beach Access	Y	Ample	Jetty and beach access along trail at edge of parking lot; shore fishing access at other roadside parking; Seasonal fees apply
18	Witch Cove Marina	Y	Ample	Marina; private docks; Fuel dock and boat launch
19	Wentworth Marina	Y	Ample	Marina; private docks; Fuel dock
20	Fort Stark	N	Limited	Jetty and beach fishing access on both sides of fort
21	Great Island Common	Y	Ample	Jetty and shore fishing access
22	Fort Constitution	N	Limited	Shore fishing access behind fort; Follow US Coast Guard Station signs and rules
23	Goat Island	N	Limited	Cartop launch area at state shore fishing access site
24	Peirce Island	Y	Ample	Seasonal fees apply
25	Four Tree Island	N	Ample	Jetty and shore fishing
26	Prescott Park	N	Ample	Temporary boat slips by reservation; Piers for shore fishing access

* May be no or limited parking in immediate vicinity of bridge and beach.
Note: The N.H. Department of Resources and Economic Development (DRED) may restrict fishing at swimming areas at State Park beaches.

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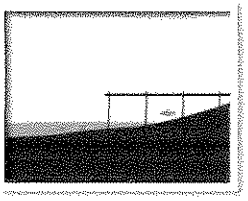
SALTWATER PIER AND SURF FISHING

Share on your social media pages:

Saltwater pier and surf fishing are two of the most versatile types of fishing for everyone from beginning anglers and families, to the most seasoned veterans. There are hundreds of public parks and fishing piers located near beaches, boardwalks and ocean shorelines that offer anglers like you the opportunity to cast a line. To get started:

1. Make sure you have the right saltwater fishing tackle and gear for the conditions and species.
2. Determine what fishing techniques you will want to use when you get to your perfect fishing spot
3. For both saltwater pier and surf fishing, check your local tide charts to see if the tide is coming in or out, this will affect the fishes' feeding patterns
4. Make sure you have your fishing license and know your state fishing regulations

Saltwater Pier Fishing



If you are trying to decide between saltwater pier and surf fishing as a beginning angler, try pier fishing first. Fishing from a pier is a great way to get started, as a limited amount of saltwater fishing tackle is required. It is also exciting and diverse because of the range in water depth covered by many of these structures and the range in species you may catch. *One of the most important pier fishing tips to remember is safety first since there are usually* several anglers casting and reeling in fish within close range to each other. Make sure you are not casting overhead near another angler to ensure no one gets hurt.

Suggested Saltwater Fishing Tackle for Pier Fishing

6 to 9-foot medium heavy action rod with corrosion resistant spinning reel

10 to 15-pound test braid or monofilament fishing line with 20 to 30-pound fluorocarbon leader line

2/0 to 4/0 size circle hooks (if you choose larger baits, the larger hook size will work better)

Assorted pack of sinkers. You may want to buy split-shot and egg sinkers of varying weights, use the heavier sinkers for areas with stronger current

Lures such as jigs, soft plastic shrimp, spoons and topwater plugs or live bait such as shrimp

A popping cork or float to keep live baits off of the bottom

Saltwater Pier Fishing Spots

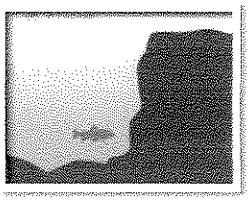
When looking for the best fishing spots along a pier, consider trying the areas below. You may need to try a bit of trial and error if you cannot see below the water if its high tide, or ask another angler who may be fishing there as well.

Pilings

Oysters, barnacles and small marine plants live on the pilings and rocks that can be found near fishing piers. All of these organisms provide food for larger game fish. Pilings and rocks also offer fish cover from the sun or protection from larger, predatory fish. Try live lining a live shrimp rigged on a 2/0 circle hook with a popping cork when fishing from a pier near pilings.

Seawalls or Bulkheads

Most piers are located near seawalls or bulkheads to help keep the ocean from eroding the shorelines, and for anglers these types of structures often mean good pier fishing because there are plenty of hiding places for bait and fish. When fishing seawalls or bulkheads, drop any of the above baits or lures straight down and jig them or bounce them near the base of the structure.



Print Close

RE: search 1961 law

From: **Reference, Lawlib** (Lawlib.Reference@legislature.maine.gov)
Sent: Fri 9/05/14 12:34 PM
To: 'James Forbes' (jimforbes@msn.com)

James,

Thank you for contacting the Law and Legislative Reference Library, a non-partisan office of the Maine Legislature.

I checked from 1961 to the present day and the only laws related to the Kittery Port Authority were the Private and Special Laws from 1961 and 1963.

If you have further questions please feel free to contact us again.

Ryan Jones

Reference Librarian

Maine State Law and Legislative Reference Library

email: lawlib.reference@legislature.maine.gov

website: http://www.legislature.maine.gov/lawlib

phone: 207 287-1600

From: James Forbes [mailto:jimforbes@msn.com]
Sent: Friday, September 05, 2014 11:50 AM
To: Reference, Lawlib
Subject: RE: search 1961 law

Ryan,
Thank you for your very prompt response. Once again your level of service is just amazing!
Can I assume that there have been no other State approved changes to this law. My particular concern is Sec.1. The law as revised calls for six appointive members, at least 3 must be residents. One of the "old timers" claims all members must be residents. I want to know what is the law.
Thank you,
Jim Forbes

From:Lawlib.Reference@legislature.maine.gov
To: jimforbes@msn.com
Subject: RE: search 1961 law
Date: Fri, 5 Sep 2014 14:46:06 +0000

James,

Thank you for contacting the Law and Legislative Reference Library, a non-partisan office of the Maine Legislature.

The only other legislation I could find relating to the Kittery Port Authority was P. & S.L. 1963, ch. 97, which is attached.

If you have further questions please feel free to contact us again.

Ryan Jones

Reference Librarian

Maine State Law and Legislative Reference Library

email: lawlib.reference@legislature.maine.gov

website: http://www.legislature.maine.gov/lawlib

phone: 207 287-1600

From: James Forbes [mailto:jimforbes@msn.com]
Sent: Thursday, September 04, 2014 4:34 PM
To: Reference, Lawlib
Subject: RE: search 1961 law

Ryan Jones,
In August you were kind enough to send me a copy of P & S L 1961 Ch 163.
Can you tell me if there is a record of any amendments to that law?
James Forbes

From: Lawlib.Reference@legislature.maine.gov
To: jimforbes@msn.com
Subject: RE: search 1961 law
Date: Tue, 26 Aug 2014 12:03:51 +0000

James,

Thank you for contacting the Law and Legislative Reference Library, a non-partisan office of the Maine Legislature.

I have attached a copy of P. & S.L. 1961, ch. 163.

If you have further questions please feel free to contact us again.

Ryan Jones

Reference Librarian

Maine State Law and Legislative Reference Library

email: lawlib.reference@legislature.maine.gov

website: http://www.legislature.maine.gov/lawlib

phone: 207 287-1600

From: Charbonneau, Edward
Sent: Monday, August 25, 2014 5:05 PM
To: 'James Forbes'
Cc: Reference, Lawlib
Subject: RE: search 1961 law

Thanks for writing to the Office of the Revisor of Statutes in the Maine Legislature.

I have forwarded your e-mail to the Law and Legislative Reference Library so that they may assist you with your request.

Edward A. Charbonneau, Esq.
Acting Revisor of Statutes
Office of the Revisor of Statutes
Maine Legislature
(207) 287-1650

From: James Forbes [mailto:jimforbes@msn.com]
Sent: Monday, August 25, 2014 4:30 PM
To: Revisor's Office (revisor.office@legislature.maine.gov)
Subject: search 1961 law

Dear Sirs:
I have not been able to find on line the Private and Special Law 1961, Chapter 163, as amended: article IX. This act created the Town of Kittery Port Authority. Would you please direct me to the on -line site. If not available on-line could you advise how I could get a scanned copy sent to me.
Thank you,
James Forbes, Kittery Resident
jimforbes@msn.com
207-439-9161

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and First Legislature

OF THE

STATE OF MAINE

Published by the Director of Legislative Research in accordance with the Revised Statutes of 1954, Chapter 10, Section 27, Subsection VI.

The Knowlton and McLeary Company
Farmington, Maine
1963

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE

As Passed by the One Hundred and First Legislature

1963

'Said board shall have an office **either** in the City of Portland **or the City of South Portland** in which shall be kept all maps, charts, plans and documents relating to the lands and waters over which it has control; and the present boards of commissioners for the City of Portland and for the City of South Portland, shall deliver to the board hereby created, such maps, charts, plans and documents now in the custody of said boards respectively, relating to the waters and lands heretofore in charge of said boards.'

Effective September 21, 1963

Chapter 97

AN ACT Providing for Jurisdiction of Kittery Port Authority Over Town Wharves and Relating to Organization and Powers of the Authority.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. P. & S. L., 1959, c. 39, amended. Chapter 39 of the private and special laws of 1959 is amended to read as follows:

'**Town of Kittery; Commissioner of Public Works, duties.** The road commissioner for the Town of Kittery shall hereafter be known as the Commissioner of Public Works, and in addition to existing duties and powers, he shall supervise under the direction of the selectmen of the town the operation, maintenance and repair of the town-owned sewer systems and shall be custodian of municipally-owned buildings and real estate, excepting school properties ~~but including~~ **and** municipally-owned wharves, docks ~~and~~, piers **and landings.**'

Sec. 2. P. & S. L., 1961, c. 163, § 1, amended. Section 1 of chapter 163 of the private and special laws of 1961 is amended to read as follows:

'**Sec. 1. Authority established.** There shall be a Town of Kittery Port Authority, consisting of and governed by a board of 7 members, ~~5~~ **6** of whom shall be appointed by the selectmen of the Town of Kittery. At least 3 of said appointive members shall be permanent residents of the Town of Kittery, and shall serve for a term of 5 years, providing that of the first appointment hereunder, ~~one~~ **2** shall be appointed for a term of one year, one for a term of 2 years, one for a term of 3 years, one for a term of 4 years and one for a term of 5 years. Said members shall serve until their successors are appointed and qualified. Any vacancy occurring in the membership of the appointive members shall be filled by the selectmen for the unexpired term. ~~In addition to the 5 appointive members, the following officers shall be, by virtue of their offices, members of said board. The Chairman of the Town Planning Board and the Chairman of the Budget and Finance Committee.~~ **In addition to the 6 appointive members, the chairman of the Town Planning Board by virtue of his office shall be a member of the port authority, if such a board exists in the Town of Kittery. Otherwise, the 7th member shall be appointed by the board of selectmen, the tenure of such appointed member to be terminated upon the establishment and occupancy of the office of chairman of the Town Planning Board.** The board

shall elect one of its members as a chairman, one as a vice-chairman and one as secretary. The members of the board shall receive no compensation for their services; but their reasonable expenses incurred in the performance of their duties shall be paid by the Town of Kittery. The board shall have the right to adopt a common seal and to alter same, and to establish bylaws and regulations for the management of its affairs within the meaning of this authority, the laws of the State of Maine and the ordinances of the Town of Kittery.'

Sec. 3. P. & S. L., 1961, c. 163, § 2, amended. The first paragraph of section 2 of chapter 163 of the private and special laws of 1961 is amended to read as follows:

'The Town of Kittery Port Authority, in cooperation with ~~the Town of Kittery Planning and Development Board~~ **other appropriate planning and development boards that may exist in the Town of Kittery,** shall:'

Sec. 4. P. & S. L., 1961, c. 163, § 3, sub-§ III, amended. Subsection III of section 3 of chapter 163 of the private and special laws of 1961 is amended to read as follows:

'III. Be authorized and empowered to appoint and compensate a harbor master, who will enforce the directives of the authority, such as the placement of moorings, the assignments of anchorage areas and the movement of traffic, **and the use of municipally-owned wharves, docks, piers and landings.**'

Sec. 5. P. & S. L., 1961, c. 163, § 3, sub-§ IV, repealed and replaced. Subsection IV of section 3 of chapter 163 of the private and special laws of 1961 is repealed and the following enacted in place thereof:

'**IV. Be authorized to raise funds for defraying the costs of administration and operation of the authority and projects under its supervision, through fund appropriation articles in the town warrant, submitted for consideration at any town meeting, and through any and all other sources of revenue authorized by this act.**'

Sec. 6. P. & S. L., 1961, c. 163, § 3, sub-§ V, additional. Section 3 of chapter 163 of the private and special laws of 1961 is amended by adding a new subsection V, to read as follows:

'**V. Be custodian of municipally-owned wharves, docks, piers and landings.**'

Sec. 7. P. & S. L., 1961, c. 163, § 4, amended. The first sentence of section 4 of chapter 163 of the private and special laws of 1961 is amended to read as follows:

'Said authority may make such ordinances, rules and regulations touching **municipally-owned wharves, docks, piers and landings,** port captains, pilots and pilotage, harbors and harbor masters, for the areas herein defined as it may deem proper and from time to time may modify, rescind or alter the same.'

Effective September 21, 1963

Maine Revised Statutes

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Title 12: CONSERVATION

§10655

Part 13: INLAND FISHERIES AND WILDLIFE HEADING: PL 2003, C. 414, PT. A, §2 (NEW); PT. D, §7 (AFF); C. 614, §9 (AFF)

Subpart 3: LAW ENFORCEMENT AND GENERAL OFFENSES HEADING: PL 2003, C. 414, PT. A, §2 (NEW); PT. D, §7 (AFF); C. 614, §9 (AFF)

Chapter 909: GENERAL OFFENSES HEADING: PL 2003, C. 414, PT. A, §2 (NEW); PT. D, §7 (AFF); C. 614, §9 (AFF)

§10654. Harassment of hunters, trappers and anglers

1. Interference with taking. A person may not intentionally or knowingly interfere with the lawful hunting, fishing or trapping of a wild animal, wild bird or fish.

A. A person who violates this subsection commits a civil violation for which a fine of not less than $100 nor more than $500 may be adjudged. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §70 (RPR).]

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §70 (RPR).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §70 (RPR) .]

2. Disturb or attempt to disturb. A person may not intentionally or knowingly disturb or attempt to disturb a wild animal, wild bird or fish with the intent to interfere with the hunting, fishing or trapping of a wild animal, wild bird or fish.

A. A person who violates this subsection commits a civil violation for which a fine of not less than $100 nor more than $500 may be adjudged. [2003, c. 655, Pt. B, §70 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §70 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §70 (RPR) .]

3. Injunctions. The District Court or Superior Court may enjoin conduct that would be in violation of this section upon petition by a person affected or who reasonably may be affected by that conduct upon a showing that the conduct is threatened or that it has occurred on particular premises in the past and that it is not unreasonable to expect that under similar circumstances it will be repeated.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §70 (RPR) .]

4. Property rights otherwise provided by law. This section does not limit ownership use, access or control of property rights otherwise provided by law.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §70 (RPR) .]

SECTION HISTORY
2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B422 (AFF). 2003, c. 655, §B70 (RPR).

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If you need legal advice, please consult a qualified attorney.

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LETTERS TO THE EDITOR

PRIMARY DEADLINE

Please submit all letters to the editor regarding candidates for the Sept. 9 New Hampshire primary election by 5 p.m. Friday, Sept. 5.

Schiller Station is city's dirty secret

Aug. 31 — To the Editor:

I appreciate Deborah McDermott's recent article raising our attention to Schiller Station ("Power plant petitioners aim to shut down Schiller," Aug. 14, Portsmouth Herald). I continue to be both surprised and saddened to know how few people living in our communities know of Schiller Station and the amount of mercury, sulfur and nitrous oxide it has been emitting into our air, rivers and ocean for many years.

People have been cleaning off soot collected on patios, etc., but the truth of how harmful the soot and invisible emissions coming from the station is has not gotten out to our communities. As one former city councilor told me last fall, Schiller Station is Portsmouth's dirty secret. He knew the truth, but didn't want to go on record having stated this.

We who breathe the air, eat produce grown in this air and eat seafood raised in water affected by these toxins deserve to know the truth. As the truth is learned, I'm confident we'll ask and demand our city and state officials to write and carry out legislation to protect us, and them, from the harm that one self-serving industry is forcing upon us.

Rebecca Potter
Portsmouth

Have Portwalk developers been held accountable?

Sept. 1 — To the Editor:

On Aug. 27, I, together with members of the Historic District Commission and other wishes? Or if not, did the developer walk away with a simple slap on the wrist? Many of us suspect the latter.

So, I challenge the city Planning Department and the HDC to publish this information in a simple, uncomplicated way. Only then will we be able to judge for ourselves what really happened.

Lawrence Cataldo
Portsmouth

Kittery should avoid Port City's mistakes

Sept. 1 — To the Editor:

First the bar, Wally's, left downtown. Now the scrap metal pile has been evicted.

The working class is long gone from Portsmouth, outside of a few ghettos. What's next? The salt piles? Maybe the fishing pier? Maybe even the Prescott Park Arts Festival?

The festival's music floats across the river to Kittery Foreside. It always has. It blends with the 24/7 noise of the Navy Yard. It's part of where we live. So is the smell from the commercial fishing docks.

And most of us like it that way, or at least accept it.

At a recent public meeting — called by Foreside residents for Foreside residents — people said what they like is our neighborhood's "grittiness," "diversity," "economic mix," old and sometimes funky houses, and sense of community. "We don't want to become like Portsmouth," more than one resident said.

It's not that we don't like Portsmouth. It's just that we don't want to live there. (Nor could most of us afford to live there. My family moved across the river after the fevered "buy-to-sell" house flipping of the mid-1980s.)

That neighborhood meeting at a local coffee shop was packed. Some people couldn't even get in the door. There was a lot of talk about traffic and dog poop.

But the underlying and most deeply voiced concern was that the Foreside will not be able to retain what makes it special — a fear that it will be sacrificed, as half of Badger's Island has been, to high-end condos occupied by high-end people. A fear that people will start complaining about the noise and lights of the Yard. And the smell of fish bait. And the music of the arts festival across the water.

A lot of people in Portsmouth didn't realize what was happening to their town until it was too late. Maybe we in the Foreside, and Kittery officials, can get ahead of the curve and figure out how to preserve all we love about our town and our neighborhood.

Cathy Wolff
Kittery, Maine

False dichotomy a recipe for disaster

Aug. 26 — To the Editor:

We live in an amazing country, a country based on freedom, democracy and human rights. We once stood head and shoulders above the rest of the world, leading by example. The U.S. has slipped continually from its perch high on the totem of freedom and human rights, and I now seriously doubt that we can be classified a democracy. The book "1984" by George Orwell has become reality to the degree that it appears the book was used as a training manual. The thought process of our citizens has changed, not for the better in my opinion, and our trends have been accepted around the world, which is detestable. Our politicians, Supreme Court justices and almost every facet of life leads us to picking one of two choices when there are many, and the choice is made by the most simple assumption that "If this is wrong, that must be correct."

The world by our example has become simple minded, without true individual thought. Bandwagon mentality has created the "either you're with us or against us" option, two choices for every situation without even a notion that may be several other scenarios. Every question, every situation has more than two finite answers and several ways to solve it. We live in a world of false dichotomy and both sides of the table embrace the fallacy completely. Both sides are wrong.

Internet arguments and online hogwash are among the main causes. When a disagreement begins, the tailspin of false dichotomy is already sending the argument down in a ball of flame. With easy information propping up each side's position, true thought never enters the picture. All the ammo each side needs to "prove" he is right is a click away. This information is hardly true, but any position — whether it be right, wrong, in jest or psychotic — is ready to cut and paste.

We once talked to each other, not only one-on-one, but in groups, on the front porch, under a tree, at the water cooler — anywhere there were people, there was talk. Never was there just two answers to any problem. Usually there were as many answers as people participating in the discussion. If we disagreed, we didn't call each other names, or threaten each other, we shook our heads in disbelief and continued.

I believe this trend has even hurt our position in the world as innovators, inventors, artists, writers and thinkers. Watch people as they walk down the street. Most avoid eye contact because they are staring at their electronic messiah, too busy to communicate directly. In the past, many great eras of astounding artistic,

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ONE DAY S

KITTERY PORT AUTHORITY

ANNUAL REPORT

2013-2014

To the Citizens of Kittery:

Over the course of the year the Port Authority continued to work at improving the resources and services to the boating community and the Town.

- In response to the Town Council's charge, the Port Authority became more of an enterprise operation.
- The Boating Infrastructure Grant project completed the approval process, with a scheduled opening of July 11, 2014.
- The Port Authority was awarded a Small Harbor Improvement Grant (SHIP) from the Maine Department of Transportation to improve the float system at the Traip Academy launch facility.
- The Port Authority received a Shore and Harbor Grant from the Maine Coastal Program to conduct a feasibility study to construct a submerged reef off Fishing Island.
- The Harbormaster conducted a search to upgrade the Port Authority patrol boat.
- The Port Authority applied to the Army Corps of Engineers to conduct a dredge survey of Pepperrell cove.
- A right of way dispute with Frisbee Holdings LLC was resolved in favor of the Town.
- The holding tank for the Frisbee pier bathroom was replaced.
- The Harbormaster submitted his resignation, effective July 19, 2014, after serving the Town for two and one half seasons.

Budget and Revenues: The Port Authority completed the year with a modest surplus. Expenses totaled $110,541 with revenues of $120,300, resulting in a surplus of $9,760. The Authority approved changes to the Fee Schedule, including a Harbor and Water Usage fee and a schedule of charges for the new Transient Moorings and Boat Slips.

Boating Infrastructure Grant (BIG) Project: The project approval process began in 2010 and was finally approved in November, 2013. The design focus centered on six floats, 8 transient moorings and an 85-foot ADA ramp. The facility is to include water, power, internet service and a pump out system at a later date. As the funding process evolved it was expanded to include a new utility infrastructure down Bellamy Lane to the Pier. The MDOT and the Town collaborated

on a shared expansion from a $242,000 federal grant, with a $90,000 Town share, to add the upland and waterside utilities. This expanded the project to $487,000 with Kittery's Department of Public Works acting as the general contractor for the upland work. Construction began in March and was completed on time and $15,000 under budget. Fishermen who use the facility have expressed concern over the ramp removal. This was not a problem in the spring, and the Authority is confident this issue will be addressed by next spring.

Traip Launch Float System: The Harbormaster spearheaded a proposal to expand the Traip launch float system to include three 8' x 20' floats to better accommodate boaters and fishermen. A grant was awarded late in 2013, with plans to proceed in the fall of 2014.

Wave Attenuation Program: The Army Corps of Engineers (ACOE) plan to dredge the Eliot turning basin in 2016. The spoils from this project include 20,000 cubic yards of ledge material and the Authority has been awarded a grant to conduct a feasibility study on using the ledge material to mitigate the wave action in Pepperrell Cove.

Port Authority Boat: The Authority acquired a 23' Sea Pro with cuddy cabin in April. With two vessels, the Harbormaster and Assistant Harbormasters have expanded their patrol program in an effort to promote boating safety.

Pepperrell Cove Dredge Program: The ACOE has received our request to survey Pepperrell Cove. They have indicated this will be a long process. Pepperrell Cove was last dredged 100 years ago in 1914.

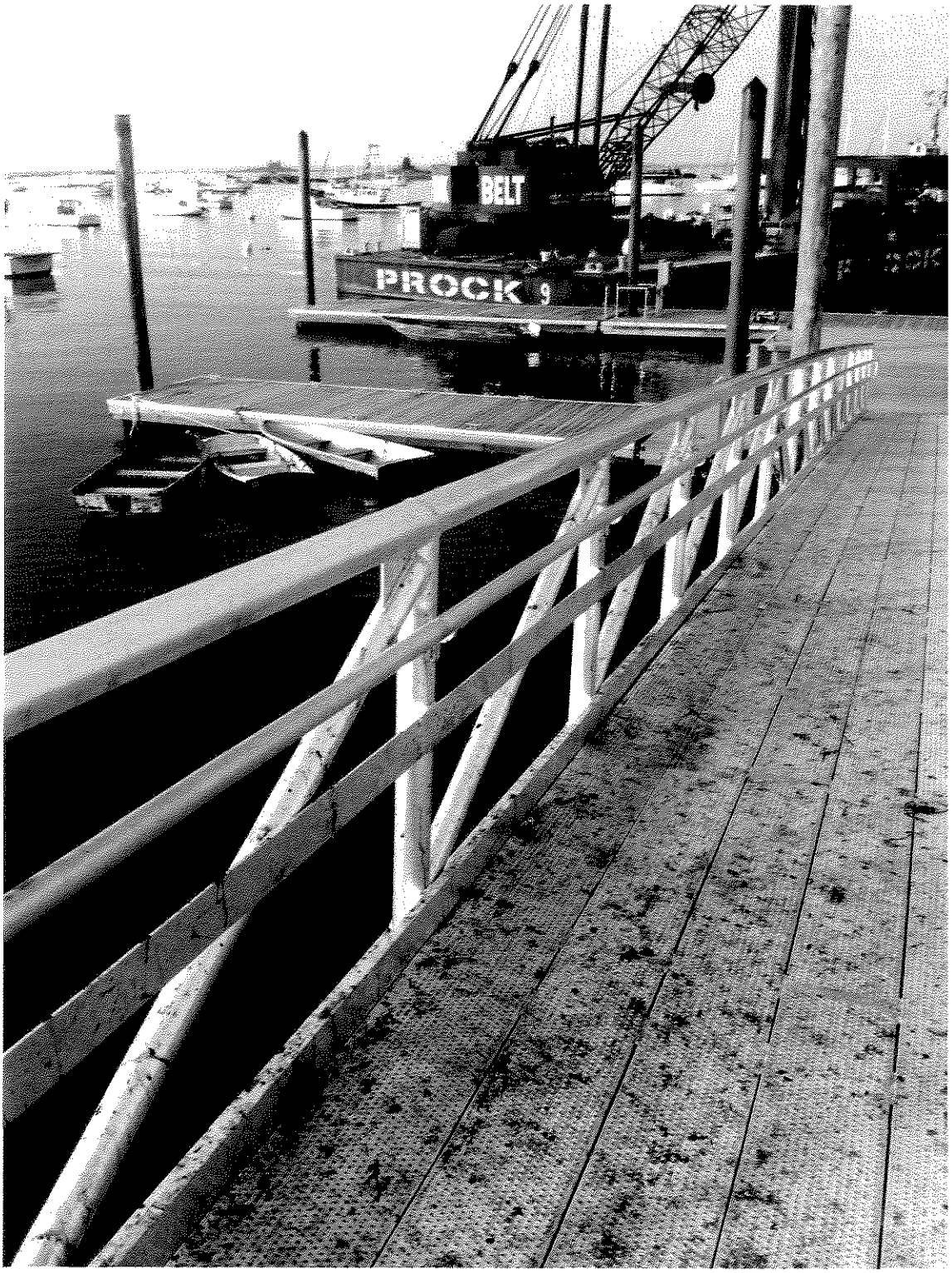
Right of Way Dispute: Frisbee Holdings LLC made an effort to charge commercial haulers to cross 150 square feet of land at the Pepperrell Pier launch ramp. The Town obtained a restraining order to prevent this and over the course of the year negotiated to obtain a Right of Way. The defendant granted the ROW and the dispute has been resolved.

Holding Tank: The holding tank at Frisbee Pier needed replacement. The Department of Public Works acted as the general contractor and saved the Town almost $10,000.

Harbormaster Resigns: Harbormaster Michael Blake resigned on July 7. He will be missed. The Port Authority, in collaboration with the Town Human Resources, has begun a recruiting process, and the position description for the Harbormaster will be updated.

The Port Authority remains committed to serving the boating public and preserving Kittery's working waterfront.

Respectfully Submitted, Robert P. Melanson Jr., Chairman, Kittery Port Authority



Squid Damage

Photo: Steve Delaney

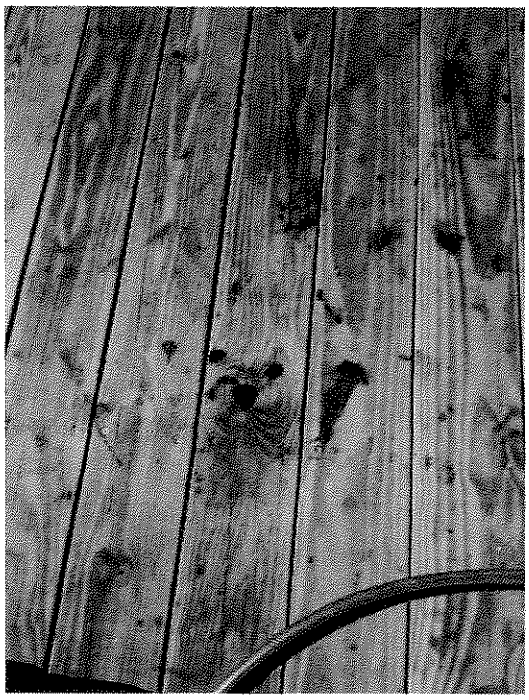
More ink on deck (8/20/14)

Photos: Steve Delaney

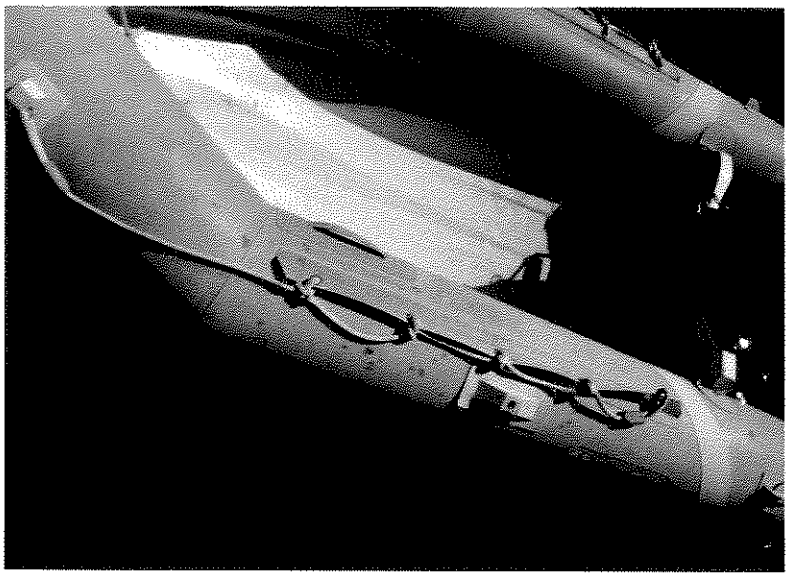
Ink on BIG float (8/20/14)

Ink on Harbormaster Boat (8/20/14)

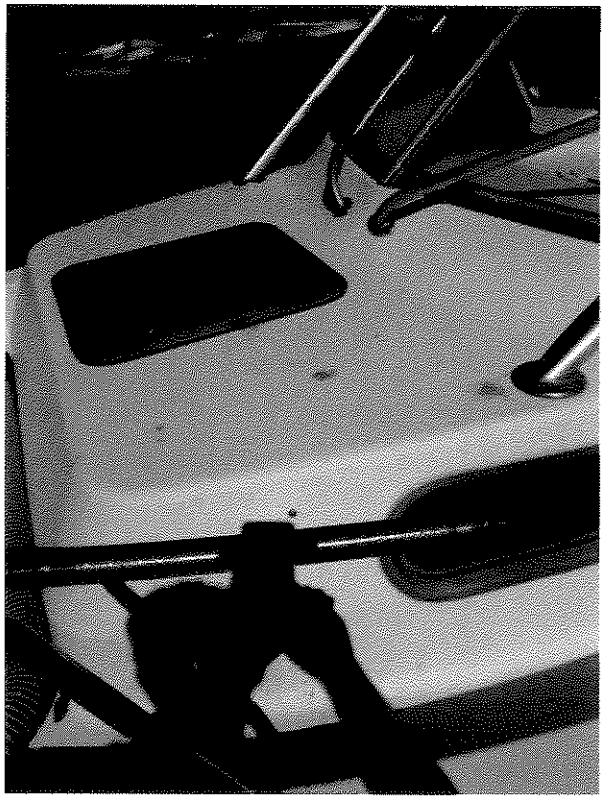
Ink on deck (8/20/14)



Ink stain on float (8/20/14)



Ink on private dinghy (8/20/14)



Ink on Harbormaster boat (8/20/14)

Lure on Harbormaster boat flag (8/20/14)