

KITTERY PORT AUTHORITY
January 7, 2016 Meeting Minutes
Council Chambers, Town Hall

Members Present: Kelly Philbrook, Mark Alesse, Steve Lawrence, Mark Drummond, Peter Whitman and Bruce Crawford

Members Absent: None

Staff: Harbormaster Derek Jacobs

Meeting began at 6:00 p.m.

1. Call to order

2. Pledge of allegiance

3. Minutes: December 3, 2015

Mr. Lawrence moved to approve the minutes of the December 3, 2015 meeting.

Ms. Philbrook seconded

Motion Carried: 7-0-0

4. Harbormaster's Report: Derek Jacobs

- Derek provided the board with the newest budget and revenues report.
- The board decided to discuss the mooring moratorium new language and mooring renewals during item 6 of the agenda, public hearing.
- Derek stated he is starting the process of the budget preparation.
- Derek said quotes for lighting and railing estimates came in. The railing alone came in close to \$33,000. Derek is waiting on a lighting specialist for a design layout and quote. Mr. Whitman asked Derek if the CIP budget was about \$80,000 for that project. Derek replied that was correct, there was about \$22,000 set aside in the CIP account for that project and they had asked for the additional \$58,000. That project should get moving once the CIP funding comes in.

Derek continued that he has sent a couple of emails regarding repairs to the Frisbee float and he is waiting to hear back. Mr. Whitman inquired as to the scope of work on that project. Derek replied that the existing cleats are smashed up and bent, the decking is loose and the aluminum bracketing is falling apart. He said it's important make sure there are no punctures and to ensure the integrity of it so it stays afloat. Mr. Whitman asked Derek to put this into a written document.

Ms. Philbrook wanted to add that the budget is usually handled by the KPA not just the harbormaster. She feels that the entire board should have a role in the budget preparation. Derek said the budget will most likely be due around February. Mr. Whitman suggested a work session be scheduled to talk about the budget. A work session was schedule for January 26, 2016 6pm to discuss the budget.

5. Updates

- Mr. Whitman stated the board held a work session last Tuesday night to go over the issues they will be discussing at the town council meeting on January 11th.

Mr. Whitman said recently it's become an issue that people have been asking him to give advisory opinions on various issues. Mr. Whitman wanted to make it clear to the board that he will not be giving advisory opinions. He believes that as a board they should be responding to specific applications and not giving advisory opinions.

Mr. Whitman continued another issue he has become aware of regarding house boats. He is not sure how the rules and regulations apply to house boats but he feels it's important for the board to discuss this issue, gather public input and implement changes to the rules and regulations if needed. Derek stated he had a long talk with CEO to see if they had anything in the charter that might help. The CEO didn't and said it would be the KPA's rules and regulations. A board discussion ensued regarding the house boat issue. Mr. Lawrence felt strongly he didn't want to touch the issue of house boats and declared he will fight this issue tooth and nail. Mr. Whitman thought perhaps San Francisco may have some ideas on how best to manage house boats. Derek stated the biggest concern is if people are living on them year round making sure that everything is up to code.

Mr. Whitman said the board has been requested again by the planning board to have a representative for the comprehensive plan. He asked if anyone would be interested in joining. Derek agreed to be a part of the committee if he qualifies.

Mr. Whitman stated the board has completed interviews and chosen a new member. The new member will be affirmed by the council and joining next month.

Mr. Whitman stated the board has received an appeal from someone objecting to a decision Derek made. The appeal will take place at next KPA meeting February 4, 2016 at 6pm.

Mr. Whitman received a call about cigarette butts at Pepperell Cove Dock. Mr. Whitman asked the public to be considerate of others and the environment and clean up their cigarette butts.

6. Public hearing

- Change of the KPA Rules and Regulations

Mr. Whitman stated there have been some concerns about the assignment of moorings without the port authority's knowledge. The board has developed a new rule that requires new moorings to be approved by the board before the harbor master goes to the wait list. Mr. Whitman opened the meeting to the public.

Mr. Whitman read the new rule language:

"Section a, mooring sites, # 1 Designation of new mooring sites:

KPA board shall review any and all requests for new mooring sites and shall approve said sites by majority vote during its regularly scheduled public meeting. If the site is approved by the KPA then the new mooring site shall be assigned according to the allocation provisions of this section from the established mooring site area waiting lists maintained by the harbor master."

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Mr. Whitman stated #2 is a title change “assignment of existing mooring sites”. The language for existing mooring sites remains the same.

There were no public comments.

Mr. Whitman closed the public hearing.

Ms. Philbrook proposed the word “board” in “KPA board” be stricken from the language in the new rule. All board members agreed.

Ms. Philbrook moved to approve change in rules and regulations for designation of mooring sites amended.

Mr. Crawford seconded

Motion Carried: 7-0-0

7. Darren La Pierre’s Request for Information on Harbor Water Usage Fee

Darren La Pierre & Steve Roberts approached the podium. Mr. La Pierre stated they are confused about the water harbor usage fees. Mr. La Pierre stated Badgers Island Marina, which their company owns, is the only company in Kittery with docks and island marine repair services. Mr. La Pierre stated they have vessels coming for repairs which might exceed 14 days. Mr. Roberts interjected and inquired as to how these fees are collected, how they know which boats have paid, and how it is regulated on boats coming and going. Mr. La Pierre stated since his company is the only public facility like this he would like to have a work shop to come up with a solution regarding the harbor water usage fee.

Mr. La Pierre continued they have approximately 50 slips between his 2 companies however every slip isn’t occupied every season. Mr. Roberts asked again as to how this fee is regulated.

Mr. Whitman responded this is a fee that was approved by public hearing and has been paid by other marina owners. He continued that Badgers Island Marina has not been responsive to this issue. Mr. Whitman stated this first started March 12, 2015 when Mr. La Pierre said he wasn’t going to pay the fees. This issue is now being handled by the town attorney.

Mr. Roberts asked if the fee is the responsibility of the marina or the boat owner.

Mr. Whitman responded that it is the marina’s responsibility to come to the harbor master and come up with a reasonable fee based on the specifics of the marina. Mr. Whitman said if the marina owner objects to the fee Derek comes up with than an appeal can be made to the board. Mr. Whitman continued that its Badger Island Marina’s lack of response that is disappointing to the board.

Mr. La Pierre stated that he would like to have a work shop or an individual meeting to resolve this issue.

Mr. Whitman stated the first step to be taken is talking with the harbor master.

Mr. Roberts asked how individuals not associated with a marina pay this fee.

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Mr. Crawford responded that he pays \$1 per foot for his boat. He writes a check to the town of Kittery and gives it to the harbor master.

Mr. Roberts asked if a notice was sent to individual boat owners advising them what was owed.

Mr. Crawford responded he is told the amount of his fees when he registers his boat.

Mr. Roberts said they registered their work boat for 2016 and did not receive a sticker or a notice with fees owed. Mr. Roberts asked again how individual boat owners receive this bill.

Derek responded that it's typically through registration. When boat owners come into town hall to register boats or moorings they are sent down to see the harbor master and the fees are paid there.

Mr. Roberts said it must have been an anomaly that they didn't receive a bill or a sticker when they registered their boat.

8. Public Segment

Mr. Hall approached the podium he asked if Derek had looked into the mooring fees at Pepperell Cove for residents and nonresidents. Derek responded that he did look into that and they don't charge separate fees. There is one fee that is charged and the only way around that is if someone goes outside of the Federal Navigation Project then the fees can be changed. Mr. Hall said he emailed Mr. Clements, the head of Corps of Engineers in Maine, and his answer was "Inside boundaries of the Federal Navigation Project it has to be the same charge for residents and nonresidents. Outside of the FNP according to state law a town can charge nonresidents up to 5 times more than residents."

Mr. Hall also commented that the comprehensive plan is typically the harbormaster and a member from the board.

Mr. Whitman asked Mr. Hall for a copy of the correspondence from Mr. Clements.

Mr. Whitman closed the public segment.

9. Schedule For Future Work Sessions

Workshop is scheduled for January 26, 2016 at 6pm.

10. Board member discussion

- Mr. Lawrence said he would like to discuss an issue from last month's meeting about handing over replacement in kinds to the CEO. Mr. Lawrence stated the board has to vote on that, it can't just be handed over. Mr. Whitman clarified that in order for someone to do work it's a 2 part approval process. The applicant must first get approval from the KPA and then get approval from the CEO. Mr. Whitman stated the issue the board has been discussing specifically is the replacement in kinds. Mr. Whitman continued that the issue is who is going to be controlling the replacement in kinds. Mr. Whitman said it was decided that the process was going to remain the same but someone with under \$2,000 in work the KPA will go out and measure to ensure the job

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is a replacement in kind. If the work is over \$2,000 the person will need to go to the town and the CEO will be responsible for ensuring the work is a replacement in kind.

Mr. Lawrence said the KPA is responsible for anything below the high water mark. Mr. Lawrence continued that the KPA needs to revisit this issue and make sure that the KPA is responsible for the replacement in kinds. Mr. Lawrence, Mr. Crawford and Derek stated they would be responsible for checking the replacement in kinds.

Ms. Philbrook stated when board approves a replacement in kind the chair then writes a letter to the CEO and the applicant which goes into the file. A permit cannot be issued without a letter of approval from the KPA. Ms. Philbrook stated if something goes wrong it will come back on the KPA.

Mr. Whitman said if Mr. Lawrence and Derek are fine with having control of the replacement in kinds, he will go back and talk to CEO.

- Ms. Philbrook wished to discuss having packets containing all the documents for the monthly meetings. She said when she was the chair she was responsible for preparing packets for each board member for the meetings. She pointed out if everyone has the packets then all the documents are the same. The board agreed that Derek would be responsible for putting together the meeting packets.

11. KPA Chair's report

The chair's report was included with the updates.

12. Executive Session

All board members were in agreement that an executive session was not needed.

13. Adjourn

Motion to adjourn the meeting was made by Mr. Alesse.

Ms. Philbrook seconded.

Meeting adjourned 7:00 pm