

**PORT AUTHORITY MEETING
Council Chambers**

**APPROVED
January 3, 2019**

1. Call to Order

Chairperson Philbrook called the meeting to order at 6:01 PM.

Members present: Bruce Crawford, Vice Chair, Steve Lawrence, Member; Kelly Philbrook, Chair, Charlie Patten, Member, Bryan Bush, Member, Niles Pinkham, Member.

Absent: Mark Drummond, member

Staff: John Brosnihan, Harbormaster

2. Pledge of Allegiance

3. Agenda Amendments - None

Chairperson Philbrook requested an update on the Government Street Wharf Replacement Project by Shawn from Maritime, be added to item 6.

Chairperson Philbrook cast 1 vote to adopt the agenda as amended.

4. Acceptance of Previous Minutes - None

5. Harbormaster Report and Budget Report

Revenues

Harbormaster Brosnihan reported that there have been no major changes to revenue, and likely won't be until Spring.

Expenses

Harbormaster Brosnihan stated that the boat maintenance and repair account is slightly over budget for this time of year, due to issues with the Carolina Skiff. Harbormaster Brosnihan also stated that the building and ground maintenance account is slightly over budget for this time of year as expected, due to items that needed to be fixed. Harbormaster Brosnihan concluded that we are just over 50% of the total budget for the year, so still in good shape.

Projects

Harbormaster Brosnihan stated that he recently purchased a cover for the small boat and will be storing it at Rice Ave. Harbormaster Brosnihan added that he has some repairs to do to the hoist at Pepperrell Cove, but that the septic tank is good. Chair Philbrook clarified that the issue with the septic tank at Pepperrell Cove was due to a light and alarm sounding, indicating the tank was full and needed to be pumped. Chair Philbrook stated she had concerns as to why the tank would be filling when the bathrooms are closed and the water is currently turned off. Chair Philbrook asked Harbormaster Brosnihan to have the tank inspected when it was pumped to ensure that it is not cracked, or filling from surface runoff.

Harbormaster Brosnihan stated that the problems may have been due to the tank not having been pumped since August. He stated that the repair technician did install a gasket to stop any water from the parking lot getting into the tank. Chair Philbrook stated that it was a relief that there were no major issues with the tank.

6. All Items Involving Town Officials or Invited Guests

a. Shawn from Maritime Marine to provide an update on the Government Street Wharf Project

Shawn stated that pre-construction has been plugging along. Shawn stated that there was a hiccup with Maritime's engineer, and the engineer who did the work on the wall which took some time to work through. Shawn confirmed that the hiccup has been worked through and finalized, so the Port Authority should see the final design early next week. Shawn stated that due to the long lead time on materials, everything has been ordered and will drive the schedule. Shawn added that the lumber is 8-10 weeks out, so the schedule is based on the assumption that materials will arrive closer to the 10-week mark, due to the holiday. Shawn stated that construction should begin the first week of February with the rebuilding of the timber to take place first, followed by the sea wall portion, and finally tying both sections together.

Mr. Bush asked if Maritime will be bringing in a barge.

Shawn responded by saying Maritime will be attempting to do as much as they can from the shore.

Harbormaster Brosnihan asked if Maritime will need anything on the street side, in terms of blocking the road.

Shawn responded by saying that he didn't think any closures or police details were necessary, but they could discuss that again closer to the delivery of materials.

Vice Chair Crawford asked if any of the current piles were in the way.

Shawn stated that none of the current piles are in the way, and they will end up pulling piles as necessary.

7. Public Hearing - None

8. Piers, Wharves and Floats

a. The Kittery Port Authority moves to review and accept an application from Andrew Page, 19 Water Street, Kittery ME 03904, (Map 1, Lot 48) for the modification of an existing structure consisting of a, 8'x48.5' fixed pier, a 3'x20' gangway, and a 8'x16' float, modified to a 6'x48.5 fixed pier, 3'x24' gangway, and a 8'x40' float located by two moorings. (Agent is Steve Riker, Ambit Engineering)

Steve Riker, from Ambit Engineering, representing Andrew Page, stated that there is an existing structure on the parcel consisting of a strangely constructed pier. Mr. Page

would like to modify the docking structure. Mr. Riker stated that Mr. Page owns three boats; 1 of the boats being an inflatable Zodiac that he would like to put on the back of the float. Mr. Riker noted that provided in the board's packets is the Maine DEP application, which has been submitted and is currently under review, along with the approved Army Corps of Engineers permit. Mr. Riker stated that signed concurrent letters from the two abutters have been provided due to part of the float and gangway being within the 25-foot setback. Mr. Riker stated that the corner of the float to the property line extended, is at 20 feet.

Mr. Patten asked if they will be using the existing pilings, or whether the pilings will be replaced.

Mr. Riker replied that the pilings will be replaced. Mr. Riker added that the existing stone cribbing will stay.

Vice Chair Crawford asked for clarification on the length of the gangway as it's listed as 22 feet on the application, but 24 feet on another page.

Mr. Riker stated that the different figures were an error on his part and the correct number is 24 feet.

Mr. Patten asked if they will be using the existing moorings that are in the river.

Mr. Riker stated that they would be using the existing moorings.

Mr. Patten continued and suggested that they may have to move two moorings, to allow for a 40-foot slip.

Mr. Riker stated that he was unsure about the mooring configuration but that he may need to move them.

Chair Philbrook stated that the application is complete, and can be accepted as complete.

**Mr. Bush moved to accept an application, schedule a site walk and hold a public hearing for Andrew Page, 19 Water Street, Kittery ME 03904, (Map 1, Lot 48) for the modification of an existing structure consisting of a, 8'x48.5' fixed pier, a 3'x20' gangway, and a 8'x16' float, modified to a 6'x48.5 fixed pier, 3'x24' gangway, and a 8'x40' float located by two moorings.
Motion seconded by Mr. Lawrence.**

**A site walk was scheduled for Monday, January 21, 2019 at 4:00 PM.
A public hearing was scheduled February 7, 2019 at 6:00 PM.**

Chair Philbrook called for a vote on the motion on the table.

The motion carries 6-0-0.

9. Public Segment - None

10. Unfinished Business

a. Rules and Regulations Update

Chair Philbrook stated that there have been a few workshops to work on the rules and regulations and clean up a few items that were confusing. Chair Philbrook stated that she had some additional comments on the rules and regulations.

Chair Philbrook wanted to call attention to line 285, specifically where it states no person may "loiter". Chair Philbrook read the definition of the word "loiter" and stated that there is a lot of that going on. Chair Philbrook questioned whether that is something the Port Authority wants in their rules.

Harbormaster Brosnihan stated that he would rather have it and not need it, than need it and not have it. He also stated that it would be on a case by case basis.

Chair Philbrook raised a concern regarding staging limits and stated that the board agreed on a limit of "no more than half the float, per day" which was left out of current version of the rules and regulations.

Harbormaster Brosnihan stated that he must have mistakenly left that out and that he would add it in.

Mr. Lawrence asked for clarification as to whether the staging limit applied to everybody. Mr. Lawrence added that one of the problems in Kittery Point is people leaving their traps overnight to save their spot.

Chair Philbrook replied that the local guys do it anyway, but that it would apply to everyone.

Chair Philbrook stated that she is not comfortable with the commercial vessels/haulers permit detailed on line 396-397 as it singles out one group of the boating public. Chair Philbrook suggested the possibility of a commercial launch pass instead.

The rest of the board members stated they were missing that page of the rules and regulations from their packet due to a printing error.

Harbormaster Brosnihan stated that he didn't fully remember the previous discussion but he had included the line as a hail mary to address the issue with the previous \$45 set-up fee for the boat hauling companies to set up their gear that was never properly enforced.

Chair Philbrook stated that her argument from the workshop was that the fee only pertains to sailboats, and it only applies to one business: the haulers, when there are multiple businesses/vehicles that pick-up and drop off on-site. Chair Philbrook had suggested it should be stricken.

Mr. Lawrence stated that he agreed it should be stricken, but that there should be a fee in place for all of the businesses/vehicles.

Mr. Patten stated that he believes the board should be consistent and either strike fees completely or determine a reasonable fee for any commercial operation that uses the facility.

Chair Philbrook suggested the line be stricken for now, and worked on across the board.

The board agreed to strike line 396-397, and in appendix A.

Chair Philbrook raised a question regarding lines 442-445 relating to moorings in the Isles of Shoals. Chair Philbrook stated that currently you must be a land owner or lessee to get a mooring at the Isles of Shoals. Chair Philbrook added that a few boat clubs have recently requested to have a transient mooring in the Isles of Shoals for their members. Chair Philbrook stated that half of the moorings out there are transient moorings that belong to different clubs, and asked if the board wants to allow transient moorings.

Harbormaster Brosnihan stated that there did not seem to be much room in that area, when he was out there over the summer.

Chair Philbrook stated that she did not want this line to be added without further discussion, and asked if the board wants to strike it or keep it.

Mr. Lawrence said that we need to change "transient", and call it "club mooring".

Chair Philbrook suggested the board do more work on it, and strike it for the time being.

Mr. Bush agreed with Chair Philbrook.

Chair Philbrook stated that the verbiage, "or a club transient mooring holder" on line 44 would be stricken.

Chair Philbrook asked for clarification on line 456 which reads, "applicant must indicate the preferred mooring site using the area designation codes in 3.1.1. A second mooring site may be requested". Chair Philbrook asked if the wording should be "an alternative mooring can be requested" in place of "a second mooring site may be requested", to simplify and safeguard against applications requesting two moorings.

Chair Philbrook stated that she had a concern with line 473-474, specifically the "10 business days" given to applicants to accept a mooring. Chair Philbrook asked if the board would accept changing that line from "10 business days" to "10 days".

Mr. Patten stated that the difference would only be two days.

Chair Philbrook agreed, and stated that every day counts.

The board agreed to make the change from "10 business days" to "10 days".

Chair Philbrook raised a question with line 484 and stated she believes “retain on the mooring” should be changed to “remain on the mooring”.

Harbormaster Brosnihan stated that it should read “retain the mooring”.

Mr. Pinkham added to strike the word “on”.

Chair Philbrook asked for clarification regarding revocation letters being sent by both certified and first-class mail, which appears multiple times, but initially on line 515.

Harbormaster Brosnihan stated that courts accept both forms as a valid attempt to make contact instead of one or the other.

Chair Philbrook noted flow issues on page 16, and stated that section E should be moved to go along with section C.

Harbormaster Brosnihan said he would move the sections as requested.

Chair Philbrook stated that lines 563-565, regarding the temporary mooring site program, should include a time frame indicating when mooring holders need to alert the Harbormaster that they would like to participate.

Harbormaster Brosnihan said that by not defining a date, it would allow him to use moorings any time throughout the year, if something comes up unexpectedly with a mooring holder.

Chair Philbrook stated that she believes there should be a date.

Mr. Pinkham suggested April 15 to save mooring holders from paying all of their fees.

Mr. Lawrence suggested the date be changed to “April 1st, or at the discretion of the Harbormaster.”

The board agreed to Mr. Lawrence’s statement.

Chair Philbrook referenced lines 584 and 587, regarding mooring inspections and who would be authorized to complete them. Chair Philbrook stated that the board ended on a stalemate the last time the topic was discussed. Chair Philbrook recalled Mr. Patten’s previous concern of the board deciding who could and could not perform inspections. Chair Philbrook asked the board if they were now in agreement on this topic.

Mr. Patten agreed that they are.

Harbormaster Brosnihan stated that a legal opinion from the town attorney had been sought for this topic.

Mr. Pinkham suggested that the town has lists for other services, and that a list of divers would not be any different.

The board agreed that lines 584 and 587 would stay.

Chair Philbrook stated that she would like to review and further discuss lines 672-677, regarding riparian mooring rights as the section is confusing. The board was missing those sections due to a printing error, so Chair Philbrook suggested they address the lines at a later date.

Chair Philbrook raised a question on line 927 regarding “Harbormaster Responsibilities”, and asked whether “per KPA rules and regulations” should be added.

Harbormaster Brosnihan stated that he believed that went without saying.

Mr. Patten suggested making the change to section “D”, to specify that the Harbormaster has the ability to enforce the rules and regulations as stated by the KPA.

Harbormaster Brosnihan stated that he believes that statement is included in the beginning of the section.

Mr. Crawford agreed that it is stated in the beginning of the section.

Chair Philbrook stated the rules and regulations no longer include the Assistant Harbormaster and Dock Attendant. Chair Philbrook asked if they should be added, as they are also required to enforce the rules and regulations.

Harbormaster Brosnihan stated that line 940 covers the request as it includes duly authorized assistants or officers.

Mr. Lawrence asked to revisit line 682, section C, regarding non-qualified lot riparian moorings. Mr. Lawrence is concerned that if the rules are adopted, residents with those non-qualified lot riparian moorings could potentially lose their moorings. Mr. Lawrence asked for confirmation that the language is correct.

No changes were made to the language.

b. Fee Changes

Chair Philbrook asked to discuss item 6, in Appendix A, regarding public memorial mooring sites. Chair Philbrook stated that she believes there are no longer any memorial mooring sites.

The board was unsure as to the number of possible memorial mooring sites. The board came to a general consensus to keep the language at this time and research the topic further.

Chair Philbrook raised a question regarding section E in Appendix A, and whether both the commercial use line items should have the same rate, as they currently are listed with different rates.

Harbormaster Brosnihan stated that he believes the different rate to be a typo, and that they should be the same.

There were no other questions or changes to the DRAFT Rules and Regulations suggested by the board.

**Chair Philbrook moved to accept the January 3, 2019 DRAFT Rules and Regulations as amended, and scheduled a public hearing on February 7, 2019.
Mr. Lawrence seconded the motion.**

The motion carries 6-0-0.

Chair Philbrook asked if there were any questions or comments from the board, regarding Appendix A.

Chair Philbrook advised the Harbormaster that a copy of any proposed changes is always posted in the Planning Department for the public to review. Chair Philbrook asked if a copy of the fee changes could also be put on the website for the public to view.

Harbormaster Brosnihan agreed to post a copy of the revised fees online.

Mr. Lawrence raised a question regarding section C, and whether the facility use permit fees applied to mooring holders. Mr. Lawrence said that it is not clearly stated, and that "Kittery mooring holders are exempt" should be added.

Chair Philbrook agreed that "Kittery mooring holders are exempt" should be added.

Harbormaster Brosnihan agreed that it would be added into section C.

Mr. Crawford stated that in the workshop, the board changed section D to read "non-resident harbor water use fee".

Harbormaster Brosnihan stated that the language is included in the rules and regulations.

Chair Philbrook suggested "Kittery residents are exempt" be added to section d, regarding the harbor water use fee, as well.

Harbormaster Brosnihan agreed to make the change.

**Mr. Lawrence moved to accept the Rules and Regulations - Appendix A - Port and Harbor Fee Schedule as amended, and scheduled a public hearing on February 7, 2019.
Mr. Crawford seconded the motion.**

The motion carries 6-0-0.

11. New Business

a. Election of Officers

Mr. Lawrence moved to name Kelly Philbrook as Port Authority Chair through January 1, 2020.

Mr. Crawford seconded the motion.

The motion carried=s 6-0-0.

Mr. Lawrence moved to name Bruce Crawford as Port Authority Vice Chair through January 1, 2020.
Chair Philbrook seconded the motion.

The motion carries 6-0-0.

Chair Philbrook stated that the third position to be discussed is the board Secretary, and the position is currently held by Mark Drummond. Chair Philbrook stated that she is unsure as to whether Mr. Drummond would like to continue in the position.

Mr. Lawrence stated that he would like to give Mr. Drummond the opportunity to continue as Secretary.

Chair Philbrook asked to table the discussion of board Secretary at this time.

The board agreed to table the discussion until the next meeting.

12. Committee and Other Reports

a. Communications from the Chairperson

Chair Philbrook stated that someone has asked her if they will be doing the kayak storage this year. Chair Philbrook advised them the KPA will most likely not be doing the storage this year as there are too many other things going on.

b. Government Street Wharf Updates

Chair Philbrook stated the board has them.

13. Board Member Issues or Concerns

Mr. Patten - None

Mr. Pinkham- None

Vice Chair Crawford - Wanted to thank Chair Philbrook for all of the hard work she's done as Chair of the board. Vice Chair Crawford stated they would be lost without her.

Mr. Bush - Echoed Mr. Crawford's statement about Chair Philbrook, and added his thanks for Vice Chair Crawford as well.

Mr. Lawrence - Thanked Chair Philbrook, and Vice Chair Crawford for all his work down at the Kittery dock, which he appreciated very much.

Mr. Lawrence asked Harbormaster Brosnihan for an update on the float moorings that were approved in the Back Channel. Harbormaster Brosnihan stated that one of the Foyes has his complete and the other one is being worked on, and the Ducettes will have theirs done by spring.

Mr. Lawrence asked Harbormaster Brosnihan how the replacement of Assistant Harbormaster, Allen Bretton would be handled. Harbormaster Brosnihan stated that he would draw up a job description and get it posted soon.

Mr. Lawrence asked Harbormaster Brosnihan to contact the Eliot Harbormaster and find out what their rules and regulations are for non-residents using dead duck to set gear and traps at their facilities. Harbormaster Brosnihan stated he would find out.

Chair Philbrook - Thanked everyone on the board for their hard work.

14. Executive Session - None

15. Adjournment

Mr. Lawrence moved to adjourn the meeting at 7:15 PM

Mr. Pinkham seconded the motion.

The motion carries 6-0-0.

Submitted by Suzanne Esposito

Disclaimer: The following minutes constitute the author's understanding of the meeting. Whilst every effort has been made to ensure the accuracy of the information, the minutes are not intended as a verbatim transcript of comments at the meeting, but a summary of the discussion and actions that took place. For complete details, please refer to the video of the meeting on the Town of Kittery website at <http://www.townhallstreams.com/locations/kittery-maine>.