

**PORT AUTHORITY MEETING
Council Chambers**

**APPROVED
February 7, 2019**

1. Call to Order

Chair Philbrook called the meeting to order at 6:00 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

Chair Philbrook cast 1 vote to adopt the agenda as presented.

4. Acceptance of Previous Minutes - Postponed

5. Harbormaster Report and Budget Report

Revenues

Harbormaster Brosnihan stated that no real changes have occurred. Harbormaster Brosnihan does not expect any real changes until March 1, 2019.

Projects

Chair Philbrook asked Harbormaster Brosnihan when he would be attending Harbormaster School. Harbormaster Brosnihan stated that his classes are scheduled for March and he's excited to attend.

6. All Items Involving Town Officials or Invited Guests - None

7. Public Hearing

- a. The Kittery Port Authority moves to hold a public hearing on 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)

Chair Philbrook stated that the Public Hearing that was scheduled regarding an application from Andrew Page has been postponed to March 7, 2019 at the request of Mr. Page's agent. Some questions were raised at the site walk that required the design go back to the DEP and Army Corps of Engineers.

Chair Philbrook stated she received the new paperwork shortly before the meeting, and the changes include pilings to secure the float instead of moorings, and a 30-foot gangway instead

of 24 feet, due to the pitch of the ramp at low tide. Chair Philbrook stated that everything else is in-kind.

Mr. Lawrence moves to postpone a public hearing on 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'x30' gangway, and a 8'x40' float located by pilings. Mr. Bush seconded the motion.

The motion carries 6-0-0.

- b. The Kittery Port Authority moves to hold a public hearing to approve changes to the Kittery Port Authority Rules and Regulations as follows:
 - 1. Rules and Regulations update to add clarification and consistency
 - 2. Appendix A, Fees

Chair Philbrook opened the public hearing.

Tom Allen, Owner of Kittery Point Yacht Yard - Mr. Allen wanted to express his observations regarding Appendix A. Mr. Allen said that over six years, there has been a significant increase. Mr. Allen stated that he understands things increase, including the Port Authority budget, but he would like the board to discuss how the increased revenues will be used so the public is informed.

Chair Philbrook closed the public hearing.

Chair Philbrook stated that the last significant change to the fees was back in 2010-2011. Chair Philbrook stated that quite a bit has changed since then, including the transient facility with more floats to maintain, a full-time Harbormaster with benefits, changes down at Pepperrell Cove requiring more time and effort, and the hiring of a dock attendant. Chair Philbrook stated that she doesn't like to raise fees but the Port Authority does need to be able to pay people and take care of the facilities, which is not currently happening.

Mr. Lawrence stated that one example of the reasoning behind the fee increase is float-in. The cost for float in operations has tripled since the last time the fees were raised.

Chair Philbrook added that the changes in the fees have been discussed over multiple meetings, workshops and in hours spent by the Town Manager and Harbormaster.

Mr. Allen said he does not disagree with Chair Philbrook or Mr. Lawrence. He reiterated that the feedback given by the board is exactly what he believes the public deserves to hear. Mr. Allen suggested the board discuss the analysis that was done in regards to raising fees, to show how the figures relate to the items she previously mentioned.

Mr. Patten stated that he believed a comparison study was done regarding other marinas and where they are in relation to similar fees. Mr. Patten believes Kittery came in under those other marinas.

Harbormaster Brosnihan stated that the floats that they had received via the BIG grant, 5-6 years ago are going to start requiring replacement. Harbormaster Brosnihan stated that Kittery

was coming in under other marinas in terms of fees. Harbormaster Brosnihan added that he expects other repairs to be needed in the near future.

Mr. Allen stated that he appreciated the Harbormaster's comments, but doubling the rental mooring charge minimum seems like a big jump to him.

Harbormaster Brosnihan stated that he understands that Mr. Allen is running a business, but he has concerns with the fees being charged for someone renting with a 16' foot sailboat, versus someone who is renting and re-renting out a mooring as a commercial enterprise.

Mr. Allen stated that he wanted to go on record as having stated that the fee changes are significant and the biggest he's seen since he's been in Kittery. Mr. Allen understands that payroll and future capital expenditure accounts need to be established. Mr. Allen thanked the board for the explanation.

Ernie D'Angelo, 70 Foyes Lane - Mr. D'Angelo suggested a possible discount for local students, enrolled in high school or college.

Chair Philbrook stated that the fees they collect cover their operating budget. Chair Philbrook wanted to note that there have been many savings since becoming a town entity. Chair Philbrook added that if they had to cover everything with CIP funds, the fees would be substantially higher. Chair Philbrook said that the board tries to be as fair as possible.

Chair Philbrook stated she had a few additional changes to suggest for the rules and regulations. Chair Philbrook asked that one of the two recurrences of the word "only", be removed from page 15, lines 470-471. She suggested it be changed to "an applicant may only be listed once". Chair Philbrook asked if the word "only" within line 475 on page 16, needed to remain. Chair Philbrook suggested the word "retain" be changed to "remain" on page 16, line 488. Chair Philbrook asked that the word "new" be removed from the same page and line. Chair Philbrook asked for clarification on lines 492-495, regarding proof of excise tax payment for residents versus non-residents.

Harbormaster Brosnihan stated that it is listed for residents on their registration and that satisfies the requirement.

Chair Philbrook asked how the board felt about changing the date that mooring balls removed for the winter must be reinstalled by, from "June 1st" to "July 1st", on line 547 on page 17.

Mr. Bush stated that he believes June 1st to be a good date.

Chair Philbrook stated that the word "and" should be removed from line 706 on page 22. Chair Philbrook said that on page 33, lines 69-70, it states that Appendix A is the record of change and Appendix B is the fee schedule, when it is the other way around.

Chair Philbrook stated she has a few changes to discuss pertaining to Appendix A. Chair Philbrook believes the changes that were previously discussed at the last meeting for items C - E should have been updated. Chair Philbrook thinks there is some confusion with what "other commercial uses" are, and what the figures should be.

Harbormaster Brosnihan could not recall the exact discussion.

Mr. Lawrence said he believed it was \$30 per foot, across the board.

Town Manager Amaral clarified that “other commercial use” is any commercial use outside of the currently defined commercial fishing and coast guard inspected passenger vessels.

Harbormaster Brosnihan agreed to make the change to make the fee the same for all commercial uses.

Chair Philbrook asked if the board would consider keeping the fees for “kittery resident commercial vessels” the same as they were before, at \$50 per visit for single use and \$10 per foot for seasonal use.

The board agreed with Chair Philbrook and kept the fees at \$50 per visit for single use and \$10 per foot for seasonal use.

Mr. Lawrence asked where the discussion landed regarding the storage of gear. Chair Philbrook read the rules for gear storage to the board. Mr. Lawrence was happy with the rules as presented.

Mr. Lawrence moved to accept the amended DRAFT Rules and Regulations, dated January 28, 2019.

Mr. Pinkham seconded the motion.

The motion carries 6-0-0.

Vice Chair Crawford moved to accept the amended fees in Appendix A.

Mr. Lawrence seconded the motion.

The motion carries 6-0-0.

8. Piers, Wharves and Floats

- a. The Kittery Port Authority moves to review and accept an application from Timothy and Carolyn Roy 27 Chauncey Creek Road, Kittery Point ME 03904, (Map 44, Lot 63) to add a 3’x20’ aluminum gangway and a 10’x20’ float to an existing pier.

Chair Philbrook stated that Tim and Carolyn Roy already have the pier in place, and are just looking to add the float, which is standard size.

Mr. Patten said that on other applications the board receives, the applicant typically includes the high/mean/low water area marks as well as abutter boundary lines, and those are not all included, aside from high water. Mr. Patten questioned whether those items are needed.

Chair Philbrook stated that she also wondered if those were needed, since the pier is already in place.

Mr. Patten said the gangway shows a roller, but there is nothing holding the float or stopping the float from going into the pier.

Mr. Bush asked if it had a ramp and float at another time.

Chair Philbrook stated that there was, but it was a very long time ago.

Mr. Lawrence said that he understands Mr. Patten's comments, but since it's fairly dry across the creek in that area, he does not see a problem with moving forward without the high/mean low water marks.

Mr. Patten asked if the Port Authority is responsible for looking at the plans as presented and stating whether they will work successfully or not, because he does not believe the plan will work as presented.

Chair Philbrook stated that she believes the board should make recommendations as they see fit.

Mr. Lawrence suggested the board move the item to a site walk to review and discuss further.

Mr. Lawrence moved to accept the application from Timothy and Carolyn Roy 27 Chauncey Creek Road, Kittery Point ME 03904, (Map 44, Lot 63) to add a 3'x20' aluminum gangway and a 10'x20' float to an existing pier, and move it to a site walk and public hearing.

Mr. Bush seconded the motion.

Mr. Lawrence said that he is not doubting Mr. Patten's comments, but moving it forward so it can be reviewed and discussed at the site walk.

Mr. Pinkham asked if the board deems the plan doesn't work after the site walk, whether they can enforce a change so it does not become a problem.

Chair Philbrook stated that the board can deny the application at the point, if they deem it necessary to do so.

The motion carries 6-0-0.

Chair Philbrook scheduled a site walk for Tuesday, February 26, 2019 at 4:00 PM.

9. Public Segment

Kendra Amaral, Town Manager - Town Manager Amaral stated that she appreciates the board's hard work in reviewing and passing the Rules & Regulations and Appendix A.

10. Unfinished Business - None

11. New Business - None

12. Committee and Other Reports

- a. Communications from the Chairperson

Chair Philbrook showed a book she received from Sam Reid of Wood Island Life Saving Station, detailing the recent work done on the island. Chair Philbrook will be leaving the book with the Harbormaster if anyone from the public would like to view it.

Chair Philbrook stated that she and Harbormaster Brosnihan recently met with the Chair of the Conservation Commission to discuss a piece of commissioned artwork to have displayed at Pepperrell Cove. Chair Philbrook believes there is a good place to display the art along the railings, near Milton Hall's bench and the picnic table for the public to enjoy.

b. Government Street Wharf Updates

Vice Chair Crawford stated that the contractor has started mobilizing, and will be starting on the wooden pier. Vice Chair Crawford added that the abutters have hired their own surveyor and there is now a discrepancy between their survey and the town's survey. Vice Chair Crawford is hoping to have a resolution within the next couple weeks.

Mr. Patten asked what the new completion date is for the project.

Vice Chair Crawford said the contractors are not going to be working below the high-water mark after April 9.

13. Board Member Issues or Concerns

Mr. Patten - None

Mr. Pinkham- None

Mr. Lawrence - He would like to tell Ann Grinnell he's thinking of her and to continue fighting.

Mr. Bush - Thanked Tom Allen for his feedback, for discussing his concerns about the fees and for pushing for transparency for the public.

Vice Chair Crawford - None

Chair Philbrook - Echoed Mr. Bush and reiterated how thoroughly she has read and reviewed the rules and proposed fee changes and that she truly believes they are necessary.

14. Executive Session - None

15. Adjournment

Mr. Bush moved to adjourn the meeting at 7:03 PM

Mr. Lawrence 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>.