

1 **TOWN OF KITTERY, MAINE**

2 **Port Authority**

3 **Approved Minutes of June 2, 2016 - Recorded by Jennifer Scrafford**

4 [A complete video record of this meeting is available online at kitteryme.org](http://kitteryme.org)

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

7 **Members Absent:** None

8 **Staff:** Harbormaster Derek Jacobs

9 1) Call to order – Meeting called to order by Chair at 6:03 p.m. Chair thanked Mr.
10 Crawford for help running the meetings while the Chair was on travel. Ms.
11 Philbrook asked that public comments be added to agenda.

12 2) Pledge of allegiance

13 3) Minutes Approval – Discussion ensued.

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15 *Mr. Lawrence moved to accept the minutes as printed and read, dated May 5, 2016.*

16 *Mr. Crawford seconded. Motion carried 7-0-0.*

17
18 4) Harbormaster Report –

19 a) Budget Report - Financial director on vacation so budgets and revenues not
20 available. Derek will send them electronically and in paper. Derek said there
21 are no red flags; revenue and budget looks good.

22 b) Mooring – 13 moorings have not renewed after attempts to contact. Derek
23 gives them 30 days to respond. A certified letter will go out; no moorings
24 have been revoked yet. The reissue list is about 6 in Pepperell Cove, 2 in Back
25 Channel, 1 in Spruce Creek.

26 c) FY17 Budget update (workshop) – no questions asked so budget looks good.

27 d) Float in – Derek is obtaining third estimate and hopes to have work done mid-
28 July. Two old floats were repaired enough to use them.

29 e) Reissue list – a few moorings need to be issued.

30 f) Transient mooring issues – Moorings were not constructed properly. Two
31 have completely given, one is unsuitable and one could be used but Derek
32 doesn't trust it. Gunnar Ek inspected the moorings and explained bottom chain
33 was not attached; swivel was lying in mud. Stainless steel wire created
34 massive erosion. All six moorings are deemed unsuitable. Quote for roughly
35 \$2,595 to fix all six moorings plus some additional fees (\$240) already
36 incurred for video on three out of the six moorings. Mr. Crawford asked what
37 recourse is available to Board. Mr. Johnson asked if there was a performance
38 standard written into the previous contract and the Chair believes there is.
39 Moorings will start losing money as of June 1. Harbormaster wants to get

work done and keep paper trail so can chase down responsible parties. Chair understands moorings were supposed to have been inspected by Public Works. Gunnar Ek reported they used wrong material and were not configured correctly. Videos support that analysis. Most of the cost of repairs is materials. Mr. Ek said he would bill in next fiscal year. Mr. Johnson stated they are modifying design so original contractor will only repair in kind. Original design is ok but steel chain is too big and too long. Should have used plastic coated copper wire. Mr. Ek's quote is for rebuild of moorings. Some material can be reused. Gunnar said moorings will be able to hold big boats. Derek said the board does not need to get more bids when under \$5,000. Board asked Derek to investigate recouping the costs from the original contractor.

Mr. Johnson made motion to authorize expenditure of no more than \$3,000 for repair and redesign of transient moorings. Mr. Alesse seconded. Motion carried 7-0-0.

- g) Boat equipment – The Fire Department has donated several items for the boat: LED light bar, spotlight, siren and radio. Light bar already installed and siren and radio are installed tonight. Sunday for spotlight. Electrical on boat suffering from corrosion will also be replaced. Chair publicly thanks Chris Emery and Fire Chief O'Brien for setting up the boat for operation. Ms. Philbrook asked if SOP need to be finalized. Derek replied it is mainly related to boat log, which everyone needs to use more. SOP includes list of names of people authorized to run the boat; Chris Emery has been the operator of the vessel almost exclusively. A recent emergency did not follow protocol but both sides have apologized and will correct their procedure going forward. Just like the fire trucks require protocol for driving, so should the boat. Derek will send SOP to Board. Chair stated this needs to be done soon.

5) Chair updates

- a) KPA jurisdiction over navigable waters – Chair mentioned someone came before Board and asked about jurisdiction over Spinney Creek. He feels page 19 gives Board authority over navigable waters and, in his opinion, fresh water as well. Ms. Philbrook does not feel they have jurisdiction since they have not had it in the past; jurisdiction goes to the Planning Board. Derek said Spinney Creek application was deemed incomplete but Chair would like to discuss jurisdiction for a future application.
- b) Insurance Renewal July 1 - \$5600 and goes into effect July 1. Has not changed from previous year, covers docks and wharfs and KPA Directors.
- c) Meeting on Town Council / Port Authority Working Group – Chair reported this meeting went quite well. Agenda was distributed to Board. Chair has meeting set up with town manager, Derek and police chief on Monday at 2:00 to see what Chief's thoughts are on Derek carrying a weapon. They also discussed allocation of excise tax payments to KPA budget. KPA will soon have excise tax payments applied to Port Authority budget, according to a 2011 MOU. KPA agreed to repay \$90,000 to town for large projects and excise tax payments should pay more than a third of that loan. Port Authority

and Council wanted KPA to achieve self-funding enterprise account status. Mr. Lawrence expressed concern about being an enterprise zone and not owning infrastructure.

- d) Legal Opinion Regarding Relationship with KPA and KPB – There were some question going to planning board about installing lights and railings. Opinion came down that town regulations must be followed. Port Authority must submit application and code enforcement will decide if replacement in kind or new work that needs to go to planning board for approval.
- e) Wood Island Update – Sam Reed spoke on behalf of Wood Island, a historic building to save mariners in distress. During WWII, the U.S. Navy was there. It was decommissioned in 1948 and unused ever since. Kittery took ownership in 1973. Very little maintenance has been done. In 2009, Kittery wanted to demolish. Two contracts were granted to Chesterfield: 1) \$250,000 for cleanup of hazardous materials (EnviroAdvantage) 2) restoration of building with new roof, gutters (Preservation Timber Company). Fundraising goes on. This station is the only one with a surviving marine railway. Mr. Reed will come back in late summer to ask for a permit to repair the marine railway and new pier – this is the only historic building of this kind to have a marine railway. There is a long way to go but building will be safe and secure and not a danger. The Maine National Guard has been very interested in helping at Wood Island. Mr. Alesse confirmed that anyone is welcome to site visit. Mr. Wood thanked Derek for his responsiveness and help. Tomorrow at 9 am at Town Dock, a sign will be revealed to describe funding sources.

Discussion on Tying up Work Boat – no fee for tie-up

The Board considered the proposal to dock Chesterfield's 23-foot boat for free. Ms. Philbrook stated KPA has no place for a 23-foot boat, except in a spot limited to 14 days and that would reflect more than \$4,560 in lost fees to KPA. There is a face dock behind harbormaster boat but that is susceptible to weather and part of transient facility. There may be some private docks but town dock is the best location. Mr. Johnson asked if it had to be a dock since the boat does not draw much water. D'Amico may have slip but the hope is to keep the cost down. Mr. Lawrence said his concern is that the boat goes against regulations because it is too big to be tied there for such a long time. Mr. Allan suggested they adjust their timeline to use it before June 20 and then again after Labor Day. Perhaps they could use a dinghy and use Dave's mooring.

Mr. Lawrence made motion to deny that fees be waived for a tie-up for the 23-foot boat for the summer months. Ms. Philbrook seconded. Motion carried 7-0-0.

Discussion of Sign

Ms. Philbrook would rather not see the sign facing the ocean. Mr. Reed said they have thought about putting sign on the island but its more visible on town dock. Mr. Johnson said the square footage is too large to put on the railing so perhaps

Fort Foster is better idea. Mr. Allan said they would talk to D'Amico about putting sign on stockade fence, looking into parking lot.

Discussion of Landing Craft

Mr. Lawrence stated people have been concerned about mud when landing craft is being loaded and undermining the wall. Dave Allan operates the landing craft and said he would put landing craft into neutral as soon as front wheels are on the landing craft. They can make two trips to the island, if diligent. They will do this roughly 15 times. They have done it 4 times so far. Mr. Allan stated he knows they are guests in the community. Mr. Crawford asked if scour holes will be filled in. Mr. Johnson is worried about wear and tear on ramp and he worries about the precedent of waiving fees that are designed to keep ramp in good repair. Mr. Allan said he is willing to offer \$5,000 bond check to ensure that ramp is in same condition as when he began working. Parking spaces were taken up with loading materials but Mr. Allan said that would not happen again.

Discussion of Waiving Fees

Mr. Reed said the town of Kittery has waived all fees for the nonprofit and he hopes KPA will do the same. Mr. Lawrence said he couldn't support waiving fees; these nonprofit organizations contract out to private organizations. Ms. Philbrook is very concerned about waiving fees since KPA is being pressured to raise money. However, she notes these fees were unknown when bid was made. Wood Island Association will have to pay fees if they are enforced; these fees are not covered by Chesterfield as per contract. Dave Kaselauskas, Kittery Point, said fees will be an important part of any future contracts non-profits hold. Chair is concerned that the Board knew the Wood Island project was in pipeline and they still voted in favor of increasing the fees. Ms. Philbrook calculated these fees as much as \$6,800, although Mr. Allan may do multiple trips a day and cut those costs. Insurance should cover any damage.

Ms. Philbrook made a motion the KPA waive the commercial usage fees of \$400 per day for Kittery / Wilsa and Chesterfield Associates until September 30, 2016. Mr. Crawford seconded. Motion failed 1-6-0.

6) Public Comment –

- Dave Baxter, commercial fisherman, was billed \$600 to keep his boat on a KPA slip for 15 days. Derek said Mr. Baxter came to him because he needed a slip for the night while his mooring was checked. Mr. Baxter's boat stayed on the slip space for 15 days. Mr. Baxter's boat went back to his mooring but it hasn't been repaired yet. He cannot afford the fee. The Chair explained an application needs to be filled out and brought to the Board. The appeal can be on the agenda next month.
- Nate Hubbard, 10 Baxter Lane, Cutts Island, near Seapoint Beach. He has qualified for riparian mooring but he is at bottom of list. He thought if he fulfilled requirements, he should get one as soon as it can be provided. He cannot moor in front of his house because on beach. Kelly said this is State

177 Law. The Chair said application needs to be filled out to appeal the decision.
178 Mr. Hubbard did not know he had to renew every year; he has a 14-foot
179 powerboat. Kelly asked if a mooring could be added to Chauncey Creek and
180 Derek replied that might be possible. Mr. Hubbard will reapply and work with
181 Derek.

- 182 • Milton Hall said Spinney Creek and Baxter Creek are not navigable waters
183 because not continuous. Mr. Hall doesn't see how KPA can charge fees
184 because they are a state board, operating as a town board.
- 185 • Jim Forbes applauds courage of board to go against Wilsa to protect the assets
186 under their responsibility.

- 187 7) Applications - Marleen Szymanski & Gretchen Stewart, 15 Folcutt Road, Kittery
188 Point Me 03905. 4' x 16' Seasonal pier with a 4' x 16' access ramp leading to a 3'
189 x 20' seasonal gangway leading to an 8' x 10' seasonal float.

190
191 The Chair stated the Board must determine if the application is complete enough to
192 have jurisdiction and, if so, whether they want to set a date for a site walk and public
193 hearing. Ms. Philbrook inquired how close it was to riparian line. He replied it is only
194 a few feet.

195
196 ***Ms. Philbrook moved to mark the application as being complete and schedule a site***
197 ***walk. Mr. Crawford seconded. Motion carried 7-0-0.***

198
199 June 16 at 4:30 was selected for site walk.

200
201 ***Ms. Philbrook moved to hold public hearing for Marleen Szymanski and Gretchen***
202 ***Stewart, 15 Folcutt Road, Kittery Point ME on July 7, 2016. Mr. Crawford***
203 ***seconded. Motion carried 7-0-0.***

204
205 Chair stated the application was well done.

- 206
207 8) Schedule for future work session – skipped
208 9) Lighting and Railing projects – Mr. Crawford reported the project is going
209 forward. Changes to the plans have been made. It will be reviewed at a public
210 hearing.
- 211 10) Office election – Mr.. Crawford suggested elections need to be on a schedule. Ms.
212 Philbrook read bylaws to say elections should occur in July. Chair said elections
213 should be scheduled for next meeting.
- 214 11) Board member discussions – The Chair brought up that they do not have a policy
215 on others using KPA facilities. Mr. Lawrence asked Milton how votes should be
216 taken. Roll call should occur when there is discrepancy among voters, according
217 to Milton. The Chair said he will call a roll call vote when he senses vote is not
218 unanimous. Ms. Philbrook asked about Basnet application because it has
219 disappeared from agenda. Derek thought the tax map and list of abutters was
220 missing.
- 221

222 12) Adjourn – *Mr. Lawrence made a motion to go into executive session to discuss*
223 *harbormaster evaluation. Mr. Crawford seconded. Motion passed 7-0-0.*

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225 Meeting went into executive session at 8:30 p.m.

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