

TOWN OF KITTERY, MAINE

Port Authority

Approved Minutes of July 7, 2016 - Recorded by Jennifer Scrafford

A complete video record of this meeting is available online at kitteryme.org

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

Members Absent: None

Staff: Harbormaster Derek Jacobs

- 1) Call to order – Meeting called to order by Chair at 6:03 p.m.
- 2) Pledge of allegiance
- 3) Minutes Approval – Ms. Philbrook noted a typo “Derry” on line 182.

***Mr. Alesse moved to accept the minutes as printed and read, dated June 2, 2016.
Mr. Johnson seconded. Motion carried 7-0-0.***

- 4) Harbormaster Report –
 - a) Budget and Revenues – \$136,000 total revenue for year, \$21,000 over expenses. Chair applauded these numbers and reminded the public that fees were raised this spring and are not reflected in budget. Boat traffic has been down but second half of the summer may see better weather and more traffic.
 - b) Moorings – 10 abandoned moorings and notices were sent out by certified mail; eight have been signed and returned to Derek. Both mooring and waitlist databases are ready for publication. Derek will check on moorings near Mr. Crawford’s home.
 - c) Vessel and Aircraft Tracking Receivers - New equipment offered to KPA that will track vessels. Receiver will be mounted in Pepperell Cove. Mr. Johnson had one of the first receivers put on his home and noted these receivers do require maintenance. Derek said maintenance should be provided. Information should be shared with public, especially schools. Mr. Drummond asked what equipment consists of and Derek answered it is a small box with antennas. It will be mounted on the shack. Mr. Johnson said the higher the antenna is, the better. The Chair felt Derek should implement.
 - d) Out Hauls – Derek questioned if a homebuyer purchases a home that is too small for a riparian mooring, can they do an outhaul and what paperwork is required? Ms. Philbrook said the homeowner needs to fill out application and follow rules outlined in rules and regulations. She feels there should be a separate application. The land anchor points can be subject to setbacks or

other issues. Out hauls should be along bottom of water and other standards should be developed. Applications go to Derek and not the Board. Mr. Johnson mentioned people should not be on an outhaul when they could be on a mooring.

5) Chair updates

- a) Erosion at Pepperell Cove Ramp – Chair wants a serious look into WILSSA barge activity and potential for scouring. Mr. Alesse confirmed that WILSSA is being charged regular fees. Chair did follow up with Dave Allan and he is no longer willing to put up bond due to tension of WILSSA fees over the last month. Ms. Philbrook noted that fixing the damage is a large undertaking and KPA is not set up to handle the damages or taking the bond. Chair does not feel we have adequate controls in place to protect abutters and questioned whether operation should be shut down until protections are in place.

Ms. Gozzo and Bill Higgins were asked to speak. Ms. Gozzo said the barge pulled in three times a day and erosion is very clear. It affects her property but also town use of the pier. Ms. Gozzo thinks a bond would protect the town and the abutters. Mr. Higgins said barge activity has removed eight inches of silt. Ms. Gozzo has taken pictures over the last two weeks. She is confident the barge caused the problem because it wasn't a problem before work started at Wood Island.

Mr. Alesse said if nothing is done by KPA, they are exposing town to lawsuit. Mr. Kaselauskas said that rock has been tumbling down since 1800s. He feels confident Captain Allan will repair pier. Mr. Alesse worries a \$5,000 bond is not enough money to repair silt and seawall. Mr. Kaselauskas said barge activity will be declining because majority of materials are already on Wood Island. The Chair suggested he will talk to Captain Allan about the bond or else a stop work order may be issued. Mr. Johnson worries that normal wear and tear is a vague idea; a proper ramp should have precast concrete. Ms. Philbrook noted the barge will be needed for future activity to repair the seawall and for the tramway. Derek has spoken to Mr. Allan as has the Chair but nothing has been provided in writing. Mr. Alesse said Board should stop activity until proper inspection is done. Mr. Drummond wants a solid commitment that the ramp will be fixed. Mr. Lawrence feels a responsibility to taxpayers and the Chair noted a bond may not protect taxpayer so taxpayer should talk to their insurance company. Mr. Johnson suggested WILSSA or the town should prove a bond is in place to protect the facilities before July 15. He would like to support business interests. Mr. Crawford said he is sure Captain has insurance but he would be more interested in plan to fix damage and ensure plan is approved by Board.

Mr. Crawford moves to require Captain Allan to provide plan by July 15, 2016 to fix the pier once work has been done. Ms. Philbrook seconded. Motion carried 6-1-0. (Mark Alesse opposes).

- b) Signage at Cove – Operating budget should cover new signage and report back on draft signs and budgets. Derek will report back next month with drafts.
 - c) Building Permit – Mr. Crawford talked to Bob and they don't have to go to Planning Board. He'd like to start early fall. It does need a state electrical permit.
 - d) Insurance – Chair reported annual insurance is up for renewal and it was signed last week.
 - e) Life jacket loaner program – Derek will set up program.
 - f) Pump out station – 90% funding is available. There is an extra float that could be used. Ms. Philbrook remembers that a change in Code from the Planning Board needed to be done the last time this was suggested. The Conservation Commission also needs a say. Mr. Alesse will work on this as liaison to Planning Board.
 - g) Working Group Between Council and Port Authority –
 - Excise payments are on group's agenda.
 - Parking at Pepperell Cove - will continue to handle tickets and tickets will now be submitted to the Town.
 - Harbor Master Arrest Powers - It was decided not to give Derek arrest powers, primarily for safety reasons. Harbormaster will go through Chief if problems at Cove. It was suggested KPA pay police officers to go out with Derek randomly to patrol area as a deterrent. Ms. Philbrook felt these were town waters and town property so extra policing money should not be spent. Mr. Lawrence concurs. Mr. Alesse wanted to wait until money from fees is available. Chair will talk to police about Ms. Philbrook's concerns. Mr. Crawford noted most times harbor master boat is enough to make people behave. Mr. Johnson discussed that Derek contact Marine Patrol or Coast Guard if he needs further assistance.
 - Finally, town manager and police chief went out and saw patrol areas and facilities. This tour should be open to other members of town government.
 - Fees between town and Port Authority will be discussed by working group.
 - h) Email regarding use of boat during the weekend of July 4, 2016 – Ms. Philbrook raised concerns about who was on harbormaster boat. Derek responded that he and assistant harbormaster had spouses on the boat. Chair noted there may be a policy against having non-town employees on the boat so, until further notice, non-employees should not be allowed on boat.
- 6) Public Comment –
- Milton Hall concerned moorings were being moved at Shoals. NH moorings were moved to get clearance between state lines. Town took silt out of rocks in previous years so maybe Captain Allan is doing Kittery a favor removing silt. Harbormaster needs to call police anytime help is needed; harbormaster shouldn't go out alone, even with a weapon. Yacht yard is talking about putting a pump-out. Sanitary boat is working again. Kittery Point is a wharf, not a pier, so getting the tank in there took almost five years.

- Norm Albert, Kittery Public Works Commissioner – Mr. Albert never received a report on the installation and removal of moorings. This spring, moorings were installed and one floated away within a week. In Harbor Master training program, it shows proper assembly of mooring and they used stainless steel wire so installation was correct. The only change is now they use zip ties plus stainless steel wire. Albert wants reports by next month.
 - Dick Draper, Kittery Point - Would like to explore possibility of attaching piling to the wall at Pier. It is very difficult to use the wall now. Mr. Draper was the person Derek referred to in his report, included in the Board's packet. He feels town council reaction to KPA was inappropriate.
 - Mr. Kaselauskas thinks anyone who uses stainless steel as a retainer for a mooring is a fool. Insulated copper wire is the best.
 - John True, Ferry Lane Kittery – Created his own mooring for last 14 years and it has worked great.
- 7) Election of Officers – Ms. Philbrook nominated Mr. Crawford to be Chair. Mr. Crawford declined. Mr. Alesse said he wanted to maintain current officer structure.

Mr. Alesse moves to nominate Peter Whitman to remain as Chair of Port Authority. Mr. Crawford seconds. Motion fails 2-4-1 (Mr. Alesse and Mr. Crawford vote Yea; Mr. Lawrence, Ms. Philbrook, Mr. Drummond and Mr. Johnson vote No; Mr. Whitman abstains)

Mr. Johnson moves to nominate Ms. Philbrook for Chair of Port Authority. Mr. Crawford seconds. Motion passes 5-1-1 (Mr. Lawrence, Mr. Drummond, Mr. Johnson, Mr. Alesse and Mr. Crawford vote Yea; Mr. Whitman votes No; Ms. Philbrook abstains).

Mr. Lawrence moves to nominate Mr. Crawford for Vice Chair of Port Authority. Mr. Johnson seconds. Motion passes 6-0-1 (Mr. Crawford abstains).

Mr. Lawrence moves to nominate Mr. Drummond for secretary. Mr. Philbrook seconds. Motion carries 6-0-1 (Mr. Drummond abstains).

8) Public Hearing

Zachary Taylor – Site visit conducted for small seasonal dock that allows them to gain access from upland to mud flat so they don't have to traverse marsh grass at low tide. Dock is aluminum with removable panels, a 4x16 flat section leading out to gangway and float. Army Corps of Engineers has completed their review and it is waiting for signature in Concord.

There were three comments raised by abutter: 1) Concern with erosion caused by installation of dock but Mr. Taylor said they tried to locate dock away from drainage area plus structure is to protect marsh grass so it is designed to have a positive impact on erosion 2) there is a right away on abutting property from lot 1 to lot 2 strictly for foot traffic. However, Mr. Taylor noted the dock is located

entirely within applicant's property so there shouldn't be an impediment to lot 1's access 3) abutter was concerned town's tax map shows property takes a 90 degree turn. However, baseline survey specifically notes this is not correct.

Mr. Whitman asked how far abutter was from applicant and Mr. Taylor responded they were roughly 100 feet. Mr. Whitman said this was not properly put into the paper so he contacted applicant and abutter, who wanted to go forward. Ms. Philbrook expressed concern about notification of the general public because it wasn't in newspaper.

Mr. Lawrence moved to table the public hearing because notification was not made correctly. Mr. Crawford seconded. Motion carried 6-1-0 (Mr. Whitman abstained).

9) Rehearing Request – WILSSA – Mr. Johnson clarified that fees will be charged 45 days from date fees were approved during last meeting (June 2) or else money will be returned or credited.

10) New Business - Derek said WILSSA requested to put temporary moorings near Wood Island to save the trip of returning back and forth between dropping and picking up workers.

Mr. Alesse moves to allow WILSSA to have two temporary moorings for duration of construction. Mr. Whitman seconded. Motion carried 7-0-0.

Mr. Johnson noted they are not charging certain contractors for use of the ramp at this time. The burden of that falls on mooring holders. The ramp is a public facility and businesses that benefit should share the cost. Perhaps non-residents should pay. The boat haulers are charged and that is passed onto the customer. Mooring holders can have fee waived. Mr. Johnson would like to stay competitive in rates but also maintain a first-class facility. Derek clarified that non-mooring holders who want to step their mast should be charged \$10 / foot. Mr. Drummond wants low-volume urinal in bathrooms. Derek did get quotes but needed to wait for new budget on July 1. Mr. Lawrence noted he was frustrated someone from town did not come to meeting to explain WILSSA fees.

11) Old Business – none

12) ***Mr. Lawrence made a motion to go into executive session to discuss harbor master evaluation. Mr. Crawford seconded. Motion passed 7-0-0.***

Meeting went into executive session at 8:11 p.m.