**Coastal Waters Commission Minutes**

**Freeport Council Chambers**

**Wednesday, April 12, 2023**

**6 p.m**.

**Attending**: Dayton Benway, Scott Gleeson, Chair Mark Morrissey, Laurie Orlando, Jeff Stenzel, Tod Yankeeand Harbormaster Charlie Tetreau

**Excused:** Peter Polovchik, Joe Fraser

Chair Morrissey called the meeting to order at 6:04 p.m.

1. Approval of the minutes from March’s meeting.

**MOVED AND SECONDED:** To approve the minutes as printed. (Stenzel & Orlando) **VOTE:** (6 Ayes) (2 Excused-Polovchik & Fraser)

1. Harbormaster’s Report:

Charlie advised that while he attended the Harbormaster’s Convention in Castine last month, it was pretty uneventful this year with no more houseboat discussions. There was a lot of aquaculture stuff obviously as it is making its way Downeast so it was pretty quiet. Here in the river, we had 7 moorings that were given up which is typical. Right now, our wait list that had a deadline of March 31st has 143 folks and this is not too much more than we had last year when we saw a huge influx of 2020 to 2022 of 145 people. It is up from last year only about 7 or 8 so it is nothing huge. A bunch of people have moved to town and access for moorings in general and to the ocean have increased tremendously. He met here yesterday with the airboat stakeholder group. Yesterday was the big vote and they voted on whether to put the 75 decibels at nighttime hours and 90 decibels during the day into law or not. The other option was to continue this work group for two years and that is the way the group went to continue for two years. He was in favor of the 75/90 based on the data they had that once they saw that the airboats put mufflers on which is now required by law, it brought the noise down. You can imagine something like a straight pipe compared to something that has a functioning exhaust system on it. The data we got from the previous two years showed that they could work within those parameters. It will give residents a bit of a break and obviously those guys will be able to go to work. The group voted to keep meeting for the next couple of years about it so he will keep the Commission posted on that.

Throughout the last couple of years in these meetings, there has been a push to start a subcommittee to investigate areas in Freeport where you could possibly add an additional boat ramp or another access to deep water. Right now, we don’t have an all-tide boat launch but there is a small committee that is being formed, that hasn’t met yet, but if there is anyone on this Coastal Waters Commission that would like to be on it and have another monthly meeting, let him know and he will hook them up.

Charlie advised that the Gulf of Maine Research Institute is looking for volunteers in the late summer and early fall that would be interested in taking pictures of storms or bad weather or anything like that and uploading it to their site with a brief narrative. They are looking for folks that might go down to the Town Dock every day for a walk or do some work at Winslow Park and would be willing once a week to upload visuals and a brief narrative on their website. It is really just when you are down there and following a storm, if folks want to make a point to go to Winslow Park during a bad storm and high tide to see what the effects are. They don’t have the manpower to have eyes everywhere so Charlie mentioned he would reach out to our commission and anyone else that is interested and he knows it was put out on our Town’s Facebook page. If anyone is interested, he asked that they let him know and he will give them their contact.

Chair Morrissey asked if there is anything new with the aquaculture sites? Charlie noted that it is in law now that they have to have reflective gear on all four corners. That is something that happened recently that we have been trying to get in there for four or five years. On a standard lease, they will get real specific depending on where it is and if they are going to be using a generator, they might put parameters in the lease such as no nighttime hours if in the scoping sessions and public hearings they come up with. It is a lot of site-specific stuff. It would be nice if they got into law that all the gear had to be labeled. That is one big one they are looking for and explained that the other day someone brought two huge masses of cages down to the dock and he had nothing to do with them down there. Most times he lets them sit for a few days and then he takes them up to the landfill because he has no way to get in touch with the owners. With lobster traps, they have tags so he can call and say hey, you have stuff right here. That is one thing he would like to see and have their corner markers be a designated color like you see yellow right now, which is what the towns are putting in and we are not going to sign off on this unless you put yellow gear in it. He is hoping they will do more stuff like that.

1. New Business:

33 Cunningham Road

Tim Forrester of Atlantic Environmental noted he is here on behalf of Christine Farrell and Robert Elwell of 33 Cunningham Road. He hopes this will be the smallest project before Coastal Waters. It is really a shoreland stabilization project. They have existing rip-rap along the shore line. They purchased the house 10 years ago. It had a little platform and a short ramp to give access to the shore for carrying their kayaks down. They are looking to raise the elevation of the rip-rap because it overtops and washes out the stones that are there. They are going to bring it up a foot and a half to two feet. By doing that, it changes the ramp that they have and the pitch of it. It will be too short and it really ought to be in a different location on the property. All it is is a 3’ wide by 16 ‘seasonal ramp that is attached to a granite block that is buried into the rip-rap and allows them access to the gravelly shore. They will take it off in the winter and store it in the upland.

Mr. Stenzel asked how many feet of stabilization is proposed? Mr. Forrester advised that there is 90’ along the face of it and then another 30’ along the side. The face of it takes the brunt of it. The area on the side is a little higher up on ledge so it is really just tucking in some stones in that area. The 90’ stretch is mostly already rip-rapped so they will be building it better and stronger.

Mr. Stenzel asked who would be doing the rip-rap work. Mr. Forrester advised it will be Brian Elwell from Arrowsic. He mentioned he has done a couple of projects with him recently and found him to be very talented. The work will all be done from land with a mini excavator.

Mr. Stenzel asked Mr. Forrester where the present ramp is located and Mr. Forrester pointed it out on photographs and also Google Earth. He mentioned there is a small shed and the ramp is just the inside of that shed. It is at 63.5’. Mr. Stenzel asked where the off-season storage is? Mr. Forrester advised that it is all lawn behind and pointed out where the present structure is located, just the ramp.

Mr. Gleeson noted the commission typically waits 30 days but he has already looked at this and doesn’t have any questions. Chair Morrissey mentioned that it is under our discretion and we have made decisions in the past. Because it is essentially replacing an existing structure, we do have that discretion. Mr. Forrester pointed out that he has to go to the Project Review Board for this next month so if Coastal Waters wanted to wait until the next meeting to approve this, it will not affect him at all. Project Review will give him the stabilization approval. Mr. Stenzel noted that the deed indicates that the owner has riparian rights.

Mr. Yankee advised that he is a member of the Project Review Board and will check to see if he has a conflict of interest but he doesn’t think he does.

Mr. Gleeson noted he does not have a problem with this application. Chair Morrissey mentioned he does not have a problem approving this and moving it along. We have 30 days if someone comes out of the woodwork, and we could always circle back but he doesn’t see that happening because it is replacing exactly what we have. He feels it is a pretty benign project.

**MOVED AND SECONDED:** To approve the wharfing out application at 33 Cunningham Road. (Benway & Gleeson) **VOTE**: (6 Ayes) (2 Excused-Polovchik & Fraser) (0 Nays)

4 Dixon Road

Charlie advised that the applicants are trying to work out issues with our Town Attorney. It appears they have two systems on the property that have been there for who knows how long. They are trying to work that out and he doesn’t believe they will be coming in tonight. Mr. Stenzel added that there is only one pier. Charlie was told that there is one that the application is in front of us for but someone else has deeded access or something. Carter Becker advised that there is a 5’ right-of-way up the hill on the same property that Link owns a pier that was put in and that caused an ordinance to be written to have 60’ minimum frontage to have a pier which also triggered he just heard to have two piers on the same property. He pointed it out for Mr. Stenzel.

1. Old Business:

159 Maquoit Drive

Chair Morrissey advised that Mr. Becker presented this application last month and he saw an e-mail that Charlie and Nick Adams went down and looked at it and did not have any issues with it. Mr. Becker advised that he sent some fresh info and Charlie advised that he passed them out. There was an e-mail asking about a survey so Mr. Carter noted he went down at 4 a.m. this morning at high tide, set up a laser and took some data for a survey. If Mr. Adams found the same that he found, it is not an issue but he did some elevation work that verified that the survey here says you have. It is basically as drawn is what he verified this morning.

Mr. Gleeson asked if this is a family trust? Mr. Becker advised that the applicant has multiple businesses and this is his family’s get-away. Brian Biggins is his name. Mr. Becker has talked with the house contractors and what they are doing in the house. He has determined that this is the applicant’s personal house and not a rental. He added that from the HAT to the tip was 83’

but it wasn’t on the commission’s drawing.

Mr. Gleeson asked if the commission is going to do a site walk on this application? Chair Morrissey advised that the commission is doing site walks whenever members request it. Mr. Gleeson advised that he would like to do a site walk and feels the commission should be consistent with site walks. Mr. Stenzel added that he is okay without it. Chair Morrissey did not have a preference. He noted that if Mr. Gleeson wants to do one, we can do it but this one was well under the maximum distance. Mr. Gleeson added that he is one vote and would vote on it if there is a site walk or if the commission votes to approve, he will abstain.

Mr. Stenzel advised Mr. Becker that he has been trying to figure out how to read the deeds a bit better and is wondering if the applicant has rights. Mr. Becker advised that he provided supporting sheets for that and referred to page 317 and read the verbiage on that deed into the public record.

Mr. Stenzel addressed the site walk issue with Mr. Gleeson and explained that the commission has done site walks on places where it might be environmentally sensitive or in the case of the last one there were issues of whether or not it would impair navigation. Mr. Gleeson pointed out a similar area when we were over at Birch but he knows it is not Maquoit, but again, he is one person.

Chair Morrissey asked if anyone wants to make a motion to approve the project or conduct a site walk?

**MOVED AND SECONDED:** To approve the wharfing out application for 159 Maquoit Drive. (Benway & Orlando)

Mr. Stenzel asked if Mr. Adams will have any objection to the survey that Mr. Becker did? Chair Morrissey advised that they went down today and he was okay with it.

 **VOTE:** (5 Ayes) (1 Abstention-Gleeson) (2 Excused: Polovchik & Fraser) (0 Nays)

Moorings outside the Harraseeket River

Chair Morrissey pointed out that Charlie had sent everyone a couple of weeks back changes from the Town Attorney. Charlie advised that the only change that was made was about property owner/non-property owner. Definitions were removed. . Attorney Tchao had a number of issues with them. Essentially, she thought it would be better if someone lives out of town, we just keep it as it currently is right now which is pretty much as approved by the Harbormaster. On that same subject, Chair Morrissey noted he had to sit down with the Council about a week and a half ago in a workshop and this obviously was the one big item they talked about. He could sense that it is safe to say that there will be more discussion on it when it is presented to them. If we approve this, it will be a good starting spot for them, far better than when they pass it down to us but again, this is just going to be a launching off point for them and what we thought after all of the community input we put from it. He asked if anyone has questions about the moorings?

Going back to process, Mr. Yankee asked if today the intent is to approve this as a recommendation to the Town Council? Chair Morrissey replied correct. Mr. Yankee asked when it goes to the Town Council, is there also a report of recommendation on why rather than just here it is. Is there a written report that goes with it? Chair Morrissey advised that in the meeting, Dan Piltch mentioned that he might ask him to come or any of us to come and give the Town Council a brief synopsis of what we have done, what information we have gathered for this and basically our recommendation. They will take community input like any other issue that would go before them. This is just a Coastal Waters’ recommendation. Mr. Yankee clarified that all we are doing is suggesting language. We are not providing them with a formal basis for our recommendation or how we got to this. Chair Morrissey agreed that we are not, it is just our recommendation. Charlie advised that he will be at the meeting. Chair Morrissey suspects it is going to be pretty heated but they wanted something from us as a launching point for them and it will be quick, down and dirty and done. It will be a starting point for them.

Mr. Gleeson added that we kind of already voted on this way back in the day and this is just going to be some revisions if they were going to do anything. He feels it will probably be best if we let Charlie take it to the Council. It is almost like we are approving it again. Mr. Morrissey apologized but added that we are approving the language to get to them which is a formality.

Mr. Yankee feels the commission needs to do that as a recommendation. Mr. Gleeson mentioned that since it is a hot topic, he doesn’t know if we want to do that without noticing that we are changing the language because we are technically approving the Ordinance again. Mr. Gleeson asked if there are any substantive changes? Charlie advised that the only changes he has done is what he and the Town Attorney did the other day which is take out property owner and non-property owner and switch it to all other requests should be approved by the Harbormaster.

Mr. Stenzel offered to frame it this way: we made a motion and voted to send what we did to the Council and we could almost consider Charlie updating us on polishing some dominimus changes in the language. We have pushed it on to the Council which was all properly noticed. Chair Morrissey agreed but was under the impression that we had to approve those changes, the verbiage even though they are minor. He thought we had to approve those changes before we could send it on to Council. That is why we have been here for the last four months working with Attorney Tchao to get these few words changed. He was under the impression from everyone else that that is what they wanted to do so that is why we are going down this path. Mr. Stenzel asked if the commission can say it has a consensus on approving the minor changes as opposed to a vote?

Mr. Gleeson thinks what Jeff is saying is fine. If we come up with a consensus because in looking at it, there really isn’t anything changing what our intent was. This is just legal verbiage. He doesn’t think it needs a vote. It was tweaked and we can say we are fine with the tweaks. Mr. Yankee asked when did we vote on this? Chair Morrissey advised that it was in November. Mr. Benway added that because of the notice, he doesn’t think the commission should vote but agrees that if we can form a consensus that the slight dominimus word changes did not alter the intention of the Ordinance that we passed and voted on sometime in the fall or early winter, he thinks we can pass that along. Other commission members agreed. Chair Morrissey mentioned he just wanted to make sure we all agree with this and we are passing it forward as a unified group. Mr. Gleeson pointed out that we gave it to our liaison Staff Harbormaster and he tweaked it litigiously with our attorney to get our intent and he has now come back with it and a straw poll shows that no one has any issue with it. He suggested letting it go to the Town Council. Chair Morrissey mentioned this is all new ground for us and that we are all in agreement with this. Mr. Yankee feels no further action is needed.

1. New Business: Mr. Stenzel pointed out that one of the things we should be considering in the building of piers is lighting. In Yarmouth their wharfing out standards say that safety lighting only downward facing and there are a number of piers that have bright LEDs projecting out into the river and if you are trying to come in at night, it wrecks your night vision. He thinks aesthetically it looks better. It is something to consider. Chair Morrissey asked if the harbormaster has discretion on LED lighting? Charlie advised that he thinks it would have to be in a standard. He can’t say that he personally doesn’t like that light shining as much as he would like to. He offered to see if other towns have similar verbiage and if that is something we want to look at adding. All kidding aside, Mr. Benway mentioned that if this ordinance does come back, we can add it in then. He noted that the commission can start working on the other stuff we want to add in once we get this thing back. Chair Morrissey asked Charlie when he e-mails other Harbormasters about their services, can he throw that in and see what they have? Charlie agreed.
2. Adjournment

**MOVED AND SECONDED:** To adjourn at 7:45 p.m. (Gleeson & Orlando) **VOTE:** (6 Ayes) (2 Excused-Polovchik & Fraser) (0 Nays)

Recorded by Sharon Coffin