Town of Freeport, Maine

Coastal Waters Commission

Meeting Minutes

April 14, 2021

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| Participants:  Absent:  Guests: | Jeff Stenzel  Dayton Benway  Laurie Orlando  Peter Polovchik  Mark Morrissey  Joe Frazer  Tod Yankee  Amy Tchao – Town Attorney  Charlie Tetreau – Harbor Master  Barney Baker  David Kent  Ethan Parker  Gordon Smith  HYC Secretary  John Cunningham  Linda Harroff  Mary Foster  Max Verhey  MJ  Parker Hadlock  Stafford  Stephen Smith  Thornton Ring  One phone caller – unidentified |

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| Coastal Waters Commission (the Commission) Meeting was called to order at 6:00 pm on April 14, 2021 via Zoom video conference.  Minutes from the March 2021 meeting were reviewed. One minor edit was made to revise a date reference. Ms. Orlando moved to approve the revised minutes, and Mr. Morrissey seconded the motion. All members of the Commission were in favor with none opposed.  **Harbormaster Report**  8 moorings were given up and awarded to individuals on the waitlist this year. The size of the boats on moorings has increased consistently over the past few years. There have been rare situations where boats collide due to the size of boats increasing and swinging into each other. The more that boat sizes increase the fewer spots will be available in the river. There were 14 LPA applications which is the highest Charlie has seen in his experience. Charlie will look to register moorings outside the Harraseeket River, and believes an annual will confirmation of tackle to keep them safe would be appropriate. There are as many as 110-115 moorings outside the river now. There is currently a form that is completed once to notify the Harbormaster the mooring exists, but when the boat is upgraded or tackle should be replaced there is no current means to follow-up. The issue of moorings outside the river will be included on the agenda of a future meeting.  **New Business**  The election of officers will take place during a meeting in the next month or two.  **Harraseeket Yacht Club (HYC) Hoist and Float Improvement Application**  Mr. Morrissy takes the chair for this issue after Mr. Stenzel recuses himself as he is a party to both the Commission and the HYC. Mr. Yankee and Mr. Frazer are similarly conflicted and recuse themselves.  The Commission has a sufficient quorum after the members have recused themselves.  Mr. Morrissey asks if the Commission has been able to review the draft findings of fact that Ms. Tchao prepared for consideration at this meeting. The document was shared earlier in the week. Mr. Benway thanks Ms. Tchao for preparing the comprehensive document.  Mr. Morrissy welcomes Mr. Barney Baker to address the Commission and public. Mr. Baker reiterates his appreciation of having the findings of fact for the Commissions review.  Mr. Parker is welcomed and expresses his concern over items he believes that are missing from the statement of fact.  Mr. John Cunningham, legal counsel for the Parkers, is welcomed and asks if the issue remains open to public hearing.  Ms. Tchao suggests that when deliberations begin the Commission do so without continuing to involve public comment.  The issue of prior approval of Float H remains open. Mr. Tetreau received information from Mr. Baker earlier in the week including the submerged lands lease and documents suggesting the Harbormaster at the time approved Float H in 2006. Formal documents do not appear to exist showing the Commission Chair at the time approved Float H.  Mr. Baker comments the Harbormaster in 2006 approved Float H in the current location, and the Harbormaster contacted the DEP and Army Corps to notify them of the approval. Since Float H is seasonal DEP approval would not be required. The Army Corps did not regulate floats at that time as they are now and documented approval would not have been performed. Today, Float H is in the intertidal zone and an agreement with the neighbor to the north is in process, but not complete. Additionally, an agreement must be reached with submerged lands to acquire the necessary lease. Until that agreement is completed Float H is proposed to move to where Float M was previously placed.  There are no further questions about Float H from the Commission.  As the Commission considers the application it will be with the understanding that Float H goes into the place of Float M. If the lateral lines issue can be resolved with the land owner to the north a separate application would be needed to move Float H back to its pre-existing location from the Float M location.  Mr. Morrissey comments his position that the Commission must move forward with this tonight and make a decision.  Ms. Tchao suggests there are several threshold issues that should be addressed in making a finding tonight. The first matter considers if the Commission believes right, title and interest has been established for the Commission to make a decision. Next, does the Commission have jurisdiction to make a decision about the hoist. Finally, discussion of the eight standards of float expansion under Article XIII of the CWC ordinance.  Mr. Morrissey introduced the issue of right, title and interest and the Commission unanimously believes that standard has been met.  The issue of the hoist is deliberated with the Commission unanimously confirming the matter is not under the jurisdiction of this body. Mr. Tetreau confirms the hoist would not impact navigation or use that would be applicable under the CWC ordinance.  The eight standards of float expansion under Article XIII are discussed. All Commission members voice no concern with the HYC application meeting any of the standards. Mr. Tetreau speaks to Standard 4 with respect to the relocation of two HYC moorings if navigation becomes an issue.  Mr. Morrissey expresses concern over the Parkers access to their mooring, but believes Mr. Tetreau will be a good steward of the river to notify the Commission of any future issues. Mr. Benway makes a motion to approve the HYC application, and Ms. Orlando seconds the motion. There is no further discussion. The vote is held by role as follows: Mr. Benway is in favor of approval, Ms. Orlando is in favor, Mr. Polovchik is in favor, and Mr. Morrissey is in favor. None opposed or abstained.  Mr. Parker addresses the Commission and thanks them for the effort to make this difficult decision.  Ms. Mary Foster thanks the Commission and asks if the Project Review Board will be informed the hoist is not under the jurisdiction of the CWC and the Project Review Board will hear that issue. Mr. Morrissey confirms they will be informed.  Ms. Orlando moves to adjourn, and Mr. Benway seconds. All Commission Members are in favor with none opposed.  The meeting adjourns at 7:22 pm. |