**Coastal Waters Commission Minutes**

**Freeport Council Chambers**

**Wednesday, November 9, 2022**

**6 p.m**.

**Attending**: Joe Fraser, Chair Mark Morrissey, Laurie Orlando, Jeff Stenzel and Peter Polovchik

**Excused:** Dayton Benway, Scott Gleeson, Tod Yankee

Chair Morrissey called the meeting to order at 6:04 p.m. He requested that the Harbor Master’s Report be provided while waiting for a couple of members to arrive.

1. Harbormaster’s Report

Charlie advised that this season held on longer than anyone thought because of the warm weather. We have 15-20 boats out in the mooring field. For the record, he wanted to add that this fall or late summer, he has seen a lot of folks using the Town dinghies and their personal dinghies with not enough life jackets in them or some of them have no life jackets in them. This spring he will make it a point to put up a separate sign up by the dinghy racks but everybody should be well aware that for every person on a dinghy, you need to have a life jacket. He keeps one life jacket in all the Town dinghies so if there are two people on them, they obviously need two life jackets. Some folks have complained that he has been a bit of a stickler about that. The accident is most likely going to happen going to and from your mooring similar to your vehicle. It is said that you get into an accident a mile from your house 90% of the time so he wants to make sure that everyone has those life jackets in their dinghies.

Charlie heard back from the Town Attorney this morning with a few changes on the ordinance changes we have been working through. She provided a few notes so after this meeting, he will send them out to everyone as well as post them on the Town’s website. It will be added to the agenda for December. He has one new non-resident commercial passenger application that he received the other day so he will reference the ordinance but believes we will review that in January, if the residents don’t get filled out which he thinks it is how it goes. The Commission should look out for that.

2.. Approval of Minutes from September’s meeting

Chair Morrissey noted that we had a full slate at this meeting and it was the last time we discussed the moorings outside the Harraseeket and there was a good spirited discussion.

**MOVED AND SECONDED:** To approve the Minutes of 9-14-22 as written. (Polovchik & Fraser) **VOTE:** (5 Ayes) (3 Excused-Benway, Gleeson & Yankee)

1. New Business:

Chair Morrissey advised that he originally put two items on the agenda but 14 Merganser Way/Falls Point Marine was removed so we only have one tonight, 50 Rising Tide.

**50 Rising Tide Lane/Waterman Marine**

Peter Spencer explained that this application is on the east side of the Cousins River. It is basically 121.5 feet in total. They have a 4’ x 6’ access ramp and a 72’ x 5’ pier. The pier is to be pile driven for the first 40 feet or so and the balance of the pier going into the river is pile on ledge secured by chain. They have a seasonal ramp of 34 feet attached to a 12x24’ float with appropriate tackle to the float. There was some question of whether they had sufficient depth in the river to allow this to proceed and they did a measurement and discovered that it was but in order to confirm that this was true, they had surveyors come in to do that for them. There is a copy of the survey with the application. The application is pretty straight forward. The slope of the land coming down to the pier itself is a fairly gentle gradient unlike the other lots on the river going to the south with a 30 or 40 foot elevation off the river.

It is an open woodland of mixed conifers and some hardwood thrown in. The applicant is a fisherman that likes to get out and fish and this should sit in water 24/7. There won’t be a lot of water, perhaps 3 feet and 2 feet in some circumstances. The total wharfing out is 121.5 but the Ordinance says 125’ is maximum. Mr. Stenzel mentioned that if he looked at it and he is accurate, it is more than one-quarter of the way across the river. Mr. Spencer added that the survey in the application confirms that there is still some 10 feet left over. Mr. Stenzel pointed out that he meant that the wharfing out goes more than a quarter of the way across the river. Chair Morrissey added that this is the same issue they had with another project on Kelsey Brook. Mr. Stenzel does not know how he could get Army Corps approval for something that is going to go more than a quarter of the way across the navigable channel. Mr. Spencer did not feel it is in the navigable channel but Mr. Stenzel disagreed and explained that people go up and down that channel all the time. Mr. Spencer added that this is coming out from the shore a matter of 35 feet and the navigable channel is about 45-50 feet away. He has watched boats go up and down there and they can’t get through there at low water.

Mr. Stenzel noted that side of the river if he is correct, is the deep channel. Mr. Spencer disagreed but agreed it is if you go farther south. If you go to the Mills property which is next door which is 400 or 500 feet away, there is a channel there but it switches over rapidly to the other side of the river. Mr. Stenzel asked if anybody knows if the navigable channel is based on HAT or mean low tide? Charlie pointed out that he believes our ordinance says HAT but he did not have it in front of him. He added that Army Corps deals with the navigability. Mr. Stenzel explained if you look at Google Earth 2006, it is quite a bit further than one-quarter of the way across. Mr. Spencer advised that he is not relying on Google Earth, he is relying on the survey. Charlie offered to check with Army Corps on this. One thing he thought of after we briefly met is that it would be helpful to get a stake at the end of it so he could run up at low tide or mid tide. If a stake won’t work, perhaps a little poly ball would.

Chair Morrissey asked what Mr. Spencer’s target date is for this? Mr. Spencer advised that the plan is to start construction in the spring. He mentioned that the question of is it navigable has been raised. He knows a survey has been done but we definitely need to walk this space to see where the navigability is and if it is a quarter of the way across. Mr. Spencer pointed out where the navigable channel is and it is about 200 feet from where they are at least. It is on the west side of the river at that point.

Mr. Fraser mentioned there is another pier right down from there and asked how long it is? Mr. Spencer did not provide an answer. Chair Morrissey asked Mr. Spencer if the Mills property is upstream? Mr. Spencer advised that it is downstream and the river is much wider at that point and the channel is fairly wide at that point as well. As you proceed north, the channel moves over to the west side of the river. Chair Morrissey asked if there are any habitat considerations there and Mr. Spencer noted there are not.

There were no further questions for Mr. Spencer. Chair Morrissey asked if Mr. Spencer could have the channel marked from both sides? Mr. Spencer clarified that he is talking about what is in front of the pier? Chair Morrissey agreed and explained that the Commission needs to get an idea and the question is where the channel is specifically and there is also the question of 25% of HAT but he will go back to the ordinance. He believes the commission needs to do a site walk on this to look at it and get an idea if they can mark the channel at the end of the pier where that will lay. He asked Charlie to go up and take a measurement for us and then next month we can reconvene and take a look at this and by that time we will have some more answers and have time to digest this and have more pointed questions. Since it is a spring project, we are not having to answer it tonight. Mr. Spencer felt it seemed reasonable but did not want to have maps coming out of Google Earth providing relevance to this because he feels they can’t take measurements that are accurate from Google Earth on this kind of thing. The Commission has a 2006 photograph in there and they can check the channel and see where it actually is. Mr. Stenzel explained that he moved the slider back to 2006 because it was the lowest tide that they were showing. We have current pictures from a few months ago. Mr. Spencer advised that they can check the channel and where it actually is. Chair Morrissey mentioned starting with that. We will check with Charlie and see what we have. There are a couple of other questions we have and when we reconvene next month, we hopefully will be able to have a pointed discussion and have some of these questions answered. Since we are not holding up the application, he feels this is the best way to go forward. Mr. Spencer feels this is fair.

4. Old Business:

                  None

5. Adjournment

**MOVED AND SECONDED:** To adjourn at 6:25 p.m. (Orlando & Polovchik) **VOTE:** (5 Ayes) (3 Excused-Benway, Gleeson & Yankee)

Recorded by Sharon Coffin