**MINUTES**

**Coastal Waters Commission**

**September 14, 2022**

**6 p.m.**

**Freeport Council Chambers**

**Attending:** Dayton Benway, Joe Frazer, Scott Gleeson, Chair Mark Morrissey, Laurie Orlando, Peter Polovchik, Jeff Stenzel, Tod Yankee and Harbormaster, Charlie Tetreau

Chair Morrissey called the meeting to order at 6:02 p.m.

1. Approval of Minutes from August’s meeting

**MOVED AND SECONDED:** To approve the Minutes as submitted. (Orlando & Polovchik) **VOTE:** (8 Ayes) (0 Nays)

1. Harbormaster’s Report

Charlie advised that the Airboat Stakeholders Group met a couple of times in the last two months. There is a new number for folks to call to file a complaint giving their location and name. It will be more specific than sending him an e-mail or calling different numbers. This new number of 657-3030 is to the State Police Barracks in Gray. Last month there were 77 complaints statewide. Of the 77, 74 were from Freeport, 2 from West Bath and 1 from Brunswick. Of the 77 complaints, 21 different individuals made up the 77 complaints and 9 individuals made up 84% of the 77 complaints. We discussed this at a former meeting. They are still in their year of education trying to improve these boats and quieting them down. This is one-third of the complaints we were seeing last year so something is working whether it is the operators being more gentle when they are coming into the river. He knows some of them have improved the exhaust systems on their boats. The complaints are down. The State’s standpoint is that this is kind of a Freeport-isolated problem. They have never really created a State statute for essentially 9 or 10 individuals. We will continue to collect data and if anyone has issues, they can call that State Police Barracks number and they will continue to keep doing what they are doing.

We have five airboats now and out of all the testing they did, there was only one time in the last month that an airboat was over the decibels the State permits now. That one time was prior to 7 a.m. where they would have to be below 75 decibels when they were getting off the ramp at Winslow Park. Now, pretty much everyone is sticking within the parameters they need to be. He explained that all five airboats are not all operating on the same day. There may be two out one tide or three out one tide. If the price is really high, there may be all five out but typically they are sporadic. One of the operators is winterizing his airboat because the price has dropped. Charlie has not seen any worm harvesters in Freeport. He will continue to keep the commission posted. He advised that the wait list for a mooring is up to 154. 115 of those folks are residents so on average it is a 7-8 year wait for a mooring in the river. He has seen two limited purpose aquaculture lease requests this last month and a half. Those requests were on the northwest side of Bustin’s Ledge so he will be reviewing those in the next couple of weeks here. Conservation moorings are something we talked about a couple of months ago. They are eel grass moorings. Brunswick will be installing a number of those in the spring. He will keep the commission posted on those if they work out for them. No one has already tried the setup they will be trying in the spring. He will let them be the guinea pigs for Casco Bay.

If anyone sees any seals on their boat or on shore that have perished, they don’t need to call him. He is getting probably 10 voice mails on his phone every other day. They should call the Marine Mammals of Maine hotline. They will come and look to see if it was a shark bite or whatever. If some have washed up on someone’s property and they would like to have it removed, that is not a service he provides. He has called the Marine Mammals of Maine a few times and they have come right down and took a look and went from there.

Joyce Veilleux asked how big the two new aquaculture requests are and what percentage of water will be covered by aquaculture permits? Charlie advised that they are a year license so they are up to 400 square feet each. They are a year-to-year lease because they are experimental to see if the specific site will work. He did not know the exact number of current permits.

1. New Business

None

1. Old Business

Moorings outside the Harraseeket River

Chair Morrissey noted the only thing on the agenda is the potential fees outside the Harraseeket River. While it was not on the agenda last month, we did discuss it a bit. He wanted to bring it back up for the commission to continue our conversations on that. In July there was discussion about lowering the fees to $50 for everybody and also consider if we should keep the per foot inside the harbor? He asked for thoughts from the commission.

Mr. Gleeson explained that he has come around and is good with the base fee for everybody and especially what Charlie has said about the river, feels we have to keep the per foot in the river. There was some concern from some people that this is a money grab for the Town so he did not know if the commission wanted to go through the calculations of what we would add from the outside to reduce the inside so it is net neutral on the base fee and go through that or come up with the random $50. This is more process on his part than money. If the commission wants to go through that exercise, it is great. If not, he is happy with $50 for everybody and then the per foot in the river. He does not feel we should raise the per foot in the river to try to offset the cost because that goes with the theory we are just looking to grab money when for him, it is a process. He has been there since Day One.

Mr. Yankee clarified that Mr. Gleeson is suggesting to leave in the harbor the same as what it is today and Mr. Gleeson agreed that it is everybody paying the same exact base rate whatever that is but $50 was thrown out here and we deem it can be acceptable for people inside the river. The more he thought about it, and how congested it is, he thinks it is fair. The river is an interesting place and there is a limited amount of room. If you have a 55-foot boat in the river, you are theoretically taking up two or three Boston Whaler spots and you should pay for that. He is actually good with that solution. At this point, he is not going to change his opinion. We are just recommending and folks can show up at the Council and yell at them. This is process and the only process he could come up with is that we should not be the only town that does not have a basic way of logging, documenting, having standards and a base fee for moorings. That is where he is at. Ms. Orlando seconded that. She has thought about it and listened to what was said. Nobody likes to pay for something they did not pay for before but for Charlie to have a uniform system, this is something that is necessary especially with our growing community and the more boats you will see outside the harbor. It will allow him to track everyone that is out there and who has a mooring and it may possibly protect homeowners from having moorings pop up that they don’t want in front of their homes. The small fee is something that should be uniform. The people that make the argument about well, if you are in the harbor, it is protected, it is a pristine area, you have more services, they are paying for it by the size of their boat.

Chair Morrissey asked if Charlie has had many reasons to go down there recently? Charlie advised that he has gotten a number of complaints from island owners, and a couple of folks that complained they have seen additional moorings in front of their islands. One gentleman has had a mooring outside of the river for sometime and recently there is a boat next to it and he is worried they will hit. There are 3 or 4 every month. Mr. Yankee pointed out that what we are talking about is not going to solve that. Charlie agreed but added that it will allow him to see what new boat is being placed on a mooring and that they can’t expect to throw it there.

Ms. Orlando pointed out that the community is growing and right now the neighbors are happy that there is one mooring here and there is another there, but people come and go and you might have a neighbor that decides to put three moorings out and let people park on their lot and go to their boat. She feels this is something we should be able to keep track of and be able to navigate where those moorings go based on GPS and the size of their boat to make sure everyone is safe and there are not boats swinging into each other. To put it on paper in an ordinance we will at least have a plan in place.

Joyce Veilleux apologized for her behavior last time. She explained that everything that has just been discussed as far as where the moorings are being placed, if they are too close, what their location is will all be resolved because everybody will have to register their moorings. Her question is whether to call this a tax or a fee? She quoted those terms in a dictionary. She doesn’t see where she is going to get any services on Flying Point for the $50 except for the placement of her mooring that she has had for many years. She listed all the things she would not be getting from what she considers to be a tax. She strongly thinks that instead of this charge the commission needs to come up with a system like the Coast Guard and others use and charge a fee for a service provided by the Harbormaster. If the Harbormaster has to go out and rescue a dinghy, charge a fee. That would be a true fee charge for a service. This is a tax and she feels she is already paying quite a bit in taxes to the Town of Freeport. More discussion followed. Mr. Gleeson advised that the river is paying far more than outside the river. When he looks at fairness, when he used to represent the Downtown District, except for Bartol Island, they don’t have the luxury of having waterfront property. They are forced to wait for a mooring in the river which they cannot get and they also do not use the Town Float. It is used by commercial fishermen. Everybody goes to Brewer’s. They probably have their dinghy somewhere else. He could easily argue that he wants his fee waived because he is not going to use the Town Dock. This is a cascading problem to put on the Harbormaster over uniform fees. Taxes were discussed next. Ms. Orlando feels the values of our homes have gone up and our taxes have also gone up but that is a separate issue.

Carter Beckett mentioned the access for any mooring outside the river. We don’t have public access outside the river and how are these people going to get to these moorings? He thinks we are fixing something we don’t have a problem with because we don’t have access. We don’t have a launch service that goes from Brunswick to Yarmouth accessing moorings. If we did, we might have a problem that needs to be fixed. Right now, we don’t have a problem so let’s not spend all of Charlie’s time spreading him too thin. Putting this much paperwork on him, something else will have to give in order for him to do the job. He does a good job now. He is trying to protect Charlie by not spreading him too thin.

Ethan Parker mentioned he can see a time sometime in the future when the idea that placing a mooring outside of the harbor is available to a lot more people than we realize. When that happens, it will potentially be a real problem for Charlie if there aren’t standards in the ordinances or at the State level that give him support on how far moorings need to be away from each other. He has seen moorings starting to pop up on the end of Wolfe’s Neck. He asked what is going to happen when someone puts a mooring in with a group of other moorings that is too close and that person likes a good argument. He will say, what are the standards? Is it just your opinion? It seems like it would be a lot easier to come up with some standards on how to set moorings for at least locations outside the river. He could imagine if we tried to have standards apply to inside the river as well as outside the river.

Chair Morrissey advised that he sees this as a fee and not a tax. In July we provided a fee comparison and discussed Cumberland that has a $50 fee and they don’t have services. We have discussed thoroughly the fact that no other area has no fees for moorings. He sees Charlie’s job getting busier and busier. As Mr. Gleeson has said, people inside the river should not have to carry the burden while people outside the river get a free mooring. He does not see this as fair. By lowering the fee down to $50 for everybody, he thinks it is a reasonable accommodation to make for everyone. He does not see that $50 is that much of a lift. It just comes down to you never had to do it and you don’t want to do it and that is where the line is in the sand. He just cannot see how $50 is a problem.

Mr. Yankee returned to Mr. Gleeson’s suggestion of a base in the harbor and a square foot on top of it. if we are bringing in $100,000 right now for mooring fees inside the harbor, would the goal be to keep it at that? Mr. Gleeson advised that he is prepared to take a net loss to the town because there is not a set budget. We already have a two-tier system so why fix it?

He is willing to do a uniform fee and let the numbers fall where they fall. Mr. Yankee clarified that Mr. Gleeson is suggesting to drop the $96 fee down to $50 and keep the per foot fee the same. Mr. Gleeson agreed. Mr. Yankee feels before sending that suggestion to the Town Council, the commission should find out what the impact of that would be and perhaps we could do that before the next meeting.

Mr. Fraser had a somewhat contrary view which is that people inside the river are at a designated anchorage and have access to fuel docks, Town pier, and there are a lot of eyes on things going on in there so he is more in favor of keeping the fee structure inside the anchorage where it is regulated but outside the river, other than neighbors watching they really don’t have anything like an amenity so if it was just the registration fee for online moorings of $6 or whatever it is, he would be okay with that. The other opinion he has is he doesn’t think the commission should really get in the weeds of the Town budget. That is the Council’s job and he thinks we could go on and on and on with this and maybe the best statement we can make to the Council is that there was a range of opinions on the fee structure and here is the range. Mr. Gleeson added that he has not heard anyone with another range other than $50.

Chair Morrissey advised that he doesn’t think it matters what the impact is on the Town. This got kicked back to him in June or July and he reached out to Dan Piltch and asked him what they are looking for from us? He said they wanted the commission to take a cut at it first and come up with a recommendation. It would be a starting point for the Council but doesn’t mean whatever we recommended would come to pass or if we recommended doing it, it would come to fruition. Mr. Gleeson suggested saying a universal base fee for all mooring holders and let the Council come up with it.

Carter Becker mentioned he is hearing we have a $6 online mooring fee so everybody pays a $6 online mooring fee and then a $6 Town fee and then you play with the per foot fee but leave the registration fee at a small number and everyone outside the river doesn’t complain. You just play with the per foot fee, not a small registration fee. He feels the commission will mitigate a lot of the complaints from outside the river. They might be able to register a small fee if the fee goes to online moorings and a small fee goes to the town and you make money per foot inside the river. It’s the same budget but you reduce it drastically. You went from $96 down to $50. Why not go down to $12 and then change the per foot number? That way it is a two-tier system but everybody is the same on a registration. There is a small fee to Charlie and a small fee to the online mooring and you pay per foot. If he has a 90-foot boat, he should be paying. If he has a 13-foot Whaler in the harbor, he doesn’t have to pay. It is pay for square footage in the river with a small registration fee. That is really a pay for services inside the river. If you are big, you pay big. Mr. Gleeson added that he is not for changing the per linear foot. Mr. Yankee suggested that we kick it one more month and look at different ways to slice this one. He feels it would be worthwhile to run some numbers and see what it looks like. He would be happy to work with Charlie to do that and come up with a $6 fee, a $50 fee, a $96 fee in the harbor, a $50 fee outside and what does that do if you adjust the per foot rates? This is just to try to put our arms around this with a little more work. We are talking fees and concepts but at some point, somebody is going to have to quantify what is the difference.

Chair Morrissey noted that if we are going to kick this down the road for another month, he thinks we should have a couple of specific ways to do it as opposed to a generic 15 difference way. He does not feel it is necessary but if the commission wants to do it, he will support it. Mr. Fraser doesn’t think we should be getting into the total money this has to generate. Let the Council do that. More discussion followed. Mr. Gleeson feels we should move this on today.

Ken Mann noted that no matter what you do, somebody is going to say it is not fair. He noted that he feels the waterfront owners are paying their fees through their taxes and the people that have moorings in the harbor probably don’t own property in the Harraseeket River Estuary so they are paying for the right to have their moorings there. He feels the property owners are already paying more than their share. He provided some historical info that he has viewed over the years. He is proud of the fact that Freeport is one of the few towns that has no fee and hates to see us leave that mode. He plans to make his arguments in front of the Town Council.

He requested that the commission reduce the fee.

Mr. Gleeson feels the whole discussion is whether we should put in a base fee or not. Since the base fee is the one in question, we might as well put a number on it since $50 was thrown around. The Council can throw it out or modify it. Mr. Yankee added that this is one of the few commissions that has the ability to suggest changes to its ordinances rather than going through the Ordinance Committee. He thinks we should craft that and it would be good to have that in advance of the next meeting. We can stay away from the fees or we can have a general consensus among the commission. He advised Mr. Fraser that we will probably not see head-to-head on all of this but if we can get a general consensus, we can come up with the language for the ordinance. Charlie advised that the Town Attorney is looking at what we proposed and we actually do not put fees in our ordinance. We only need to make a recommendation to the Council. Chair Morrissey advised that the commission will recommend to the Town Council based upon this issue a $50 for all moorings in the Town of Freeport and that would be it. If we are not going to change the per foot rule, that is a non-issue because it will stay the same. That is what everybody wants to do. Ms. Orlando noted that we wanted the $50 or whatever that number is to be a universal fee and that is the point we want known to the Council.

**MOVED & SECONDED:** To set the base mooring rate of $50 for all moorings in Freeport waters with the existing per foot charge for all mooring holders within the Harraseeket River to remain the same. (Gleeson & Orlando) **VOTE:** (5 Ayes) (2 Nays-Fraser & Polovchik).

Since Mr. Polovchik was a nay Mr. Gleeson felt he did it wrong and offered to revise his motion.

Mr. Polovchik explained that he is looking at this issue as an excise tax on his car. He has something and he pays for it. Everybody that has a mooring should be paying something for it. Maybe as it goes down as a car goes down over the years. You could also look at it as school taxes. Does everybody have a child? Everybody gets taxed on schools so it is difficult.

**MOVED & SECONDED:** To recommend to the Town Council a base mooring rate of $50 for all moorings in Freeport waters. (Gleeson & Orlando) **VOTE:** (8 Ayes) (0 Nay)

Mr. Yankee clarified that the attorney will get another draft and will bring it back to us. We will look at it and make a recommendation one way or the other to push it up to the Town Council. Chair Morrissey explained that as soon as he gets it back from the Town Attorney, he will get it out and put it on the agenda. He does not know when the Council will put it on their agenda. Mr. Yankee advised that the public hearing will be with the Town Council and not us.

1. Adjournment

**MOVED AND SECONDED**: To adjourn at 7:07 p.m. (Yankee & Orlando) **VOTE**: (8 Ayes) (0 Nay)

Recorded by Sharon Coffin