

KITTERY PORT AUTHORITY

APPROVED  
October 1, 2009  
Council Chambers  
7:00 P.M. – 7:35 P.M.

Members Present: Milton Hall, Chairman, William Bailey, Barry Bush, John Carson, and Guy Petty

Members Absent: Joan Castellano and Scott Mangiafico

The Chair noted that Delbret Emery had passed away and asked for a moment in his silence in his honor

1. Approval of Minutes:

Mr. Petty made a motion to approve the Port Authority Minutes of September 3, 2009, as amended, seconded by Mr. Carson. 6-0 all in favor.

2. Budget Report:

Chairman Hall noted that the Frisbees still had not paid for the dumpster bill May and June and owed \$154.46. He continued that they had paid the July bill but still owed for \$230.70 for August. The Chair indicated that the Harbormaster had been trying to collect the money.

Chairman Hall stated that he had asked the Harbormaster about the Central Maine Power bill for \$110.82 for Kittery Point and that it was about 200 kilowatts over last year for some reason and noted that the Harbormaster was looking into the issue.

Chairman Hall stated that he had contacted Arcadia Insurance, who insures the boat, and they said that the insurance for the old boat was \$633.00 a year and they had sent a bill back for \$588.00 which was paid and now Town Manager Carter had received another bill and told the KPA that they owe \$88.00. Chairman Hall noted that as far as he was concerned, they had paid the \$588.00 and they should get \$501.00 back. Chairman Hall noted that Cole Harrison was the agent and they were sending their bills to the town manager. He continued that the insurance company was sending the bills to Chairman Hall directly so they were getting fouled up.

The Chair indicated that Maine Employers Mutual Insurance had done an audit and they had found out that the KPA was not paying the Harbormaster's worker's compensation insurance premiums for the past two years and they sent an additional bill for \$501.00. He continued that the town manager had gotten the bill from Cole Harrison which claimed the additional premium was \$433.00 and they had already paid \$501.00.

The Chair stated that the worker's compensation only allowed \$645.00 and that it had to be paid before the end of the fiscal year and needed to be paid. He noted that this was raised and they

had already taken \$501.00 out already which left them with \$144.00 and that the bill was going to be around \$1000.00 and that much money would have to be held back because it came in before the fiscal year. The Chair noted that someone should contact Cole Harrison and ask them to send the bills directly to the KPA.

### 3. Harbor Master Segment:

Mr. Petty read the Harbormaster's report as follows:

Mr. Petty stated that Mr. Saxby will be providing paperwork but it had not been received.

Mr. Petty noted that the next item was relative to the illegal dock on Spruce Creek. The Chair noted that this applied to a float across from Shepard's Cove and that the Harbormaster was checking into the matter.

Mr. Petty indicated that the Navy had conducted a spill recovery exercise the day prior and that Dave Chapman was supposed to attend.

Mr. Petty said that a date had been picked to pull the floats and that was going to be on October 14<sup>th</sup> at 8:00 A.M.

Mr. Petty noted that the pier study was proceeding and questions should be directed to Mr. Carson. Mr. Carson stated while he had received numerous emails he was not in the position to provide any personal input as he had not had any personal contact that month. He continued that they did have a meeting with a representative of Sen. Collins office who had put the Town Manager in contact with the Army Corps of Engineers and he had an email with a bunch of attachments that he was sorting out and would report back at the next meeting. Mr. Carson noted that contact had been made but there was a long waiting period for the Corps of Engineers to do anything.

Mr. Petty stated that they had in front of them a draft for the storm preparedness plan for Kittery and that it had a series of goals and priorities and various alert levels. Mr. Carson noted that the members should read the plan and have comments at the next meeting. The Chair noted that he had given the old plan from 1989 and he had used that to make up his own.

Chairman Hall noted that the gas tanks at Pepperrell Cove were supposed to come out on October 27<sup>th</sup> and 28<sup>th</sup>.

The Chair stated that relative to the NH moorings at the Shoals in Maine waters, that the Harbormaster knew about this and that it was the one that was out there last year and that the Harbormaster had contacted the person who owned it.

Chairman Hall noted that the Harbormaster did not know what to do with the old H/M boat. The Chair noted that the Harbormaster had said that the Town might auction it off and wanted to know what people thought that it might be worth. The Chair noted that it still had the trailer and the motor and the Harbormaster last indicated that he did not think that it should go for less than

\$5000.00. Mr. Carson indicated that they could establish \$5000.00 as an objective but that people could make offers and they would be considered. He continued that he had understood that Town Manager Carter was going to take the initiative to sell the boat and that maybe the KPA should inform him that they thought that a minimum of \$5000.00 was a good objective price. Mr. Petty asked how old the boat was and the Chair responded 9 years old. The Chair noted that they could also bring the boat to the Route 1 Bypass and let them try to sell it. Mr. Petty indicated however they wanted to dispose of the boat was fine with him. Mr. Bailey thought that it might appeal to people that it was a previous Harbormaster boat. The Chair noted that he would inform Town Manager Carter to dispose of it any way that he wanted to.

#### 4. Marinas, Piers and Floats:

##### A. Saxby's New Float.

Chairman Hall noted that Mr. Saxby did not show up.

##### B. Floats at Ox Point

Chairman Hall noted that the floats at Ox Point were out by Shepard's Cove. He continued that there was a whole line of floats out from a launching ramp. The Chair indicated that they would let the Harbormaster deal with this issue.

#### 5. Public Comments and Issues:

None.

#### 6. Correspondence to/from Chairman:

Chairman Hall stated that he had turned in the Executive Session form to the Town Manager as every time an executive session was held a form had to be filled out and turned in.

Chairman Hall indicated that Town Council had turned down his reappointment. He continued that the reason that they claimed was because he had been on there for too long of a time and they wanted change. The Chair indicated that in 2005 they had okayed Frank Frisbee after 37 years on the Board, they had renewed Joan Castellano for another 5 years and she had been on the Board for 19 years and Barry Bush had just been renewed for another five years and he had been on the Board for 15 years. The Chair noted that he has been on for 19 \_ years. He continued that when Larry Dow moved out of Kittery to Eliot, the state statute states that three people needed to be residents of the town. He noted that this was then sent to the town attorney who indicated that the Town Charter stated that it had to be residents of the town so Mr. Dow stepped down. The Chair noted that the statute indicates that members serve for a period of 5 years but does not indicate the number of term limits and states that members shall serve until their successors are appointed and qualified. Chairman Hall indicated that he would like to see the town attorney give a legal opinion on this issue so that they know where they stand in the future. Mr. Carson stated that he read the law and amendments and as far as he could see the law stated that only three members needed to be residents of the town. He continued that it seemed

appropriate if the town wanted to have term limits on appointees they should request that the state consider modifications to the law. Mr. Carson remarked that he thought that they should try to get this issue figured out so that there was clarification in the future. The Chair stated that either the state could do it or the town could do it with an ordinance in which they could state that Port Authority members could only serve two terms. Mr. Carson asked if the town can have an ordinance which counters the state law and that it seemed to him that there was a conflict between the town ordinance and state law and that such a conflict was inappropriate to let exist as it confused things. Mr. Carson suggested that if the Chair speaks to the town attorney that some effort be initiated to clarify for the future and that the law and the ordinance should be compatible. Mr. Bailey noted that in his experience, the town was able to tighten a state statute but it could not be loosened or expanded. Mr. Bush noted that Maine had the Home Rule Provision which probably stated that a town could govern itself as it wished.

Mr. Petty moved that the Kittery Port Authority ask that the town attorney conduct a review of the process and appointment used to appoint the Port Authority members. This review should include a review of the current process of denial of Member Hall for reappointment, seconded by Mr. Bush. 6/0 motion passes.

Chairman Hall noted that the new file cabinet was up to date as of that date.

#### 7. Board Members New and Old Business:

Chairman Hall stated that relative to the rules, the only change that was made was that he had talked to the Harbormaster and he thought that it would be better off to have the boat launch fees from Memorial Day through Labor Day. He continued that they do not have anyone there before Memorial Day and after Labor Day. Chairman Hall noted that this would go into the rules. He continued that the other rule that they had decided about the riparian moorings would be put in as well.

Mr. Bush asked if there was a way of identifying a mooring holder. Mr. Carson noted that the mooring number was supposed to be on the smaller vessel. Mr. Bush indicated that the Harbormaster would not know other than if he knew the person's vehicle or trailer. The Chair noted that they had to trust people. Mr. Bailey stated relative to the riparian moorings, if they tied this to a three year rule and it got changed to a four year rule, would they lose the rule. The Chair noted that everything would have to be changed at that time and that it was in compliance now.

#### 8. Adjournment:

Motion made by Mr. Carson to adjourn, seconded by Mr. Petty. 6/0, all in favor. 7:45 P.M.