

KITTERY PORT AUTHORITY

APPROVED
November 5, 2009
Council Chambers
7:00 P.M. – 8:15 P.M.

Members Present: Milton Hall, Chairman, William Bailey, Barry Bush, John Carson, Joan Castellano, Guy Petty and Russell White representing the Planning Board.

1. Approval of Minutes:

Mr. Petty made a motion to approve the Port Authority Minutes of October 1, 2009, as amended, seconded by Mr. Carson. 5-2-0 with Ms. Castellano and Mr. White abstained.

2. Budget Report:

Chairman Hall noted that relative to the insurance for the new and old H/M discussed at the prior meeting, the insurance company had sent back \$501.00 which was put back into the boat insurance column, 65551. Chairman Hall stated that the dumpsters at Frisbee's Market still had not been paid. Harbormaster Pike indicated that he had gotten a call from the bookkeeper at Frisbee's who told him that the three checks were ready but that they could not find the person who had the checks. Mr. Carson stated that they needed to take some action and asked if it was up to them to press for collection or if it was up to the town. Harbormaster Pike responded that the bill was in the Port Authority's name. Chairman Hall noted that their credit rating was not that great and Waste Management did not want to put it in their name and wanted to keep it in the Port Authority's name. Harbormaster Pike stated that the easiest thing to do would be to have the dumpster taken away. Mr. Carson noted who they should notify them and asked when the dumpster would normally be moved. Harbormaster Pike responded that it would normally be moved on November 1st. Mr. Carson moved that the Kittery Port Authority inform the Frisbee Market that the dumpster will be moved on November 15, 2009 unless the Kittery Port Authority receives payment, seconded by Mr. Bush. Harbormaster Pike asked if the dumpster was removed would they be allowed to put their own dumpster there. Mr. Carson responded that it was the KPA's property and they would not have permission to do it. Mr. Carson noted that the only other option was to have this same conversation at the next meeting and if they wanted to have Harbormaster Pike try to collect payment one more time it was fine with him but that this was the third meeting that this issue had come up. Chairman Hall stated that the guy that owned the market should be called. Mr. Carson stated that the Harbormaster should call him and inform him that this action was going to be taken. Chairman Hall noted that they owed \$610.00 at that time. Harbormaster Pike stated that since they had entered into the agreement they had only paid one bill. A roll call vote was taken with Mr. White abstained. Motion passes 6/1/0. Mr. Carson asked the Harbormaster to report back the result of his discussion with the person who owns the market.

3. Harbor Master Segment:

Harbormaster Pike wanted to thank the volunteers who helped take the floats out and noted that it went very smoothly.

Harbormaster Pike noted that relative to the cove study, it was moving along and the financial part of the study was pretty much done and the engineering department was really getting going.

Harbormaster Pike noted relative to the harbormaster boat that he intended to keep the new boat in service until the majority of the remaining recreational boats were out of the water. He continued that at that point he would take it to York Harbor Marine and have it serviced and then it would be stored inside the fire station. He asked relative to the old harbormaster boat if he should have it should be winterized Mr. Petty responded that he should. The Chair noted that the lower unit should be winterized to make sure that there is no water in there.

Harbormaster Pike noted that the fuel tanks at Pepperrell Cove were gone and that they had been removed a week prior. He continued that it had gone smoothly until the end when a trench was cut over to the main pier and they had cut all of the power to the main pier. He stated they were notified the next morning and he had called Colbath and they had come down and rerouted the power from the fisherman's pier and brought it back to the main pier and that all of the power now runs from the outside of the pier. Mr. Petty asked if the damaging party would be responsible for the costs associated with this. Harbormaster Pike responded that he had informed the town manager and had sent an email to the damaging party and received an email back asking if everything was ok. He continued that as Town Manager Carter had arranged for the project he would leave payment up to him.

Harbormaster Pike stated that the port o potty had been removed at Traip Academy for the season and that it was scheduled to be returned mid-April unless they thought that it was too early. He continued that the water was off at Pepperrell Cove and that it was shut off earlier than he had hoped. He stated that after the water was shut off he had received a call from the bookkeeper at Frisbee's who said that one of the pipes had burst and there was water inside the building that was damaging some items. He continued that he called Rhodes and they had gone back down and corrected it and directed the bookkeeper to speak directly with Rhodes about reimbursement.

Harbormaster Pike indicated that one item that had been brought up on a couple occasions was the issue of no life rings or fire extinguisher on the town piers and he wanted to bring the issue up for discussion. He continued that you would commonly see those items on other piers and that a fire extinguisher would have helped on a couple of occasions with boat fires. He noted that there would a lot of tourists on the piers in the summertime and life rings should be strongly considered.

Harbormaster Pike noted relative to the two floats systems that come into the Port Authority's radar, the first being on Spruce Creek belonging to Pam Parsons and her husband. He continued that he spoke with Pam and they had removed it and would start to the process of application for the float system. He noted that the other issue was with

Mr. Saxby and noted that he had spoken with him and Mr. Saxby had dropped off some documentation to answer the question of his two new floats.

Harbormaster Pike indicated that he had started the railing replacement at Pepperrell Cove on the right side of the parking lot. He continued that those railings had been rotted through and had been patched with fiberglass years ago. Harbormaster Pike stated that he had cut down stantions and filled the holes and would be putting on bases and stantions in the immediate future.

Harbormaster Pike noted that he had provide Port Authority members with a revised storm preparedness plan and that he had some people look at it and it was really just a matter of making it easier to read and that none of the text had changed.

Harbormaster Pike stated that he had put together a harbormaster code of ethics and asked the members to review it and get back to him with any comments.

Harbormaster Pike indicated that he had two work study students from Traip shadowing him three days a week which would continue until the end of the month and that they helped out with some of the light work.

Harbormaster Pike stated that the mooring GPS project should be back from the Southern Maine Regional Planning that week and that it would be put up on the town website. Mr. Petty stated that they should get a paper copy as they had a plotter printer. Harbormaster Pike noted that the benefit of the study would be if someone wanted to know where their mooring was, he could put in their personal information and it would come up on a map or he could click on a specific mooring if it was questionable and get the information of whoever's mooring it was.

Harbormaster Pike noted that the final tally for the transient fees was \$1254.00, launch fees were \$2005.72 and mooring fees were \$43,810.80. He continued that the total with excise tax was \$76,000.00 this year for waterfront related revenue.

Mr. Carson asked relative to the safety equipment that Harbormaster Pike had mentioned earlier if there was any procedure in place as to how they could protect the equipment from the weather and other reasons. Harbormaster Pike indicated that was the risk but the fire extinguishers do not seem to disappear as people realize that they are there for the safety but the life rings might get taken but that did not take away the necessity for having those items. He continued that the extinguishers and the life rings can both be purchased in a glass box that would need to be broken to access them and that might be a deterrent. Mr. Carson asked if Harbormaster Pike knew what other harbors were doing in this regard. Harbormaster Pike answered that Rockland, Belfast and others had safety equipment. Chairman Hall stated that he thought that the life rings were a good idea but that every boat should have a fire extinguisher. He continued that Harbormaster Pike had put up a mooring by gate 2 and it was right on the rocks and at low tide the boat would be sitting on the ledge of the rocks and that it should be moved. Mr. Carson asked about the electric bill that was at issue at the last meeting. Harbormaster Pike indicated that the electric bill had been on the high end but that he did have the lightbulbs replaced which had been on every night but that he was going to be shutting off the big lights that shine into the harbor. Chairman Hall asked about the security system that was going to be put in. Harbormaster Pike responded that it was still in discussion and that Chuck Denault

from the police department was going to work through the PD's security system company but that nothing had happened with it yet. He continued that there were a number of missing dinghies this fall and that there were some issues especially later in the season.

Mr. Petty stated that the launch fees collection went very well. Harbormaster Pike indicated that a lot of that success was directly related to Assistant Harbormaster Walsh who committed his Saturday and Sunday mornings to going down and collected. He continued that he got a lot of praise from the boaters and that there was very little complaint from the people that use the facility.

4. Marinas, Piers and Floats:

A. Saxby's New Float.

Chairman Hall noted that the application was regarding his original float but that the new float was not on the application. Chairman Hall asked Harbormaster Pike to inform Mr. Saxby to come to the next meeting.

B. Floats at Ox Point

The Chair noted that this issue has been taken care of.

C. Application for Raymond T. Adams, 17 Folcutt Road, Kittery (Map 25, Lot 24) to construct a Residential Pier 6' x 20', 3' x 30' Ramp and 8' x 25' Float.

Chairman Hall indicated that this was Steven Dines place and that they had held public hearings twice and the only difference now was that they were applying for an 8' x 25' float as opposed to 10' x 20'. Ken Anderson from Pickering Marine came to the podium. Mr. Anderson stated that the Chair had pretty much covered the issue and asked for any questions. The Chair indicated that they needed to note that it was complete and put it out for public hearing. The Chair noted that he was dividing the land up differently and that it should go to public hearing as there were different abutters. Mr. Petty asked how many moorings were going to be there and Mr. Anderson replied that there were four. Chairman Hall stated that he was worried about the navigation safety and said they should be kept parallel to the outside edge if possible. Mr. Anderson that was another option that they could look at if there was a concern and that they could look at eliminating two of the moorings and just have the two moorings and hard mounting the ramp.

Mr. Petty moved that the application of Raymond T. Adams, 17 Folcutt Road, Kittery (Map 25, Lot 24) to construct a 20' x 6' pier, 3' x 30' ramp going to an 8' x 25' float which will be held in place by two moorings and have the ramp attached which has been substantially completed with changes, be scheduled for a public hearing at the next Port Authority meeting on December 3, 2009, seconded by Mr. Bush. A roll call vote was taken with all in favor. Motion passes 7/0. Chairman Hall noted the issue was that a site review was needed. Mr. Petty noted that they could go as individuals and a consensus was taken with all in favor.

The Chair asked if Mr. Varney was in attendance. Harbormaster Pike responded that he had tried to reach him but could not and had left a message. Chairman Hall stated that

they could rule on it themselves but that he did not know what floats he was going to use. Harbormaster Pike indicated that he could speak relative to the floats. He continued that originally one of the old floats that ran underneath the pier were falling apart and that Mr. Varney had asked about the other float that was sitting on the mooring, which he had rigged up to use for a mooring barge, if it was available. Harbormaster Pike stated that it was the one that used to sit in the wintertime where the side ramp was on the pier and it was the old navy yard float. Chairman Hall asked what the dimensions were. Harbormaster Pike replied that he was going to go out and measure it but that he had not gotten to it. Chairman Hall asked what he was going to do with the one that was sitting on the float now and Harbormaster Pike responded that he did not know. Harbormaster Pike continued that he was going to move the one on the other side of the creek over and it would 4.5 more and he had already spoken with Emile Bussiere, Sea Cabins and Charlie Wu. Mr. Carson asked he had any letters from them. Harbormaster Pike responded that he believed that he had and that they were fine with it and had no problem. Mr. Carson noted that Mr. Varney should come and present his package and Harbormaster Pike stated that he would let him know.

5. Public Comments and Issues:

None.

6. Correspondence to/from Chairman:

Chairman Hall noted that the members all had a copy of the legal opinion obtained from the town attorney. He continued that the policy since 1991 was that anytime anyone got off the board, even after the term had expired, they had to write a letter of resignation to the town and that was the only way that they could get off. Chairman Hall noted that after reading Attorney McEachern's legal opinion, no letter of resignation was required and no reason by Council was required for not reappointing a member. He continued that Attorney McEachern was saying that Council did not have to have any reason to not reappoint a member. Chairman Hall stated that Attorney McEachern noted that they needed evidence that the procedural process or controlling statute had been violated and that when he looked at the minutes of the Town Council of September 14th Council had him on the agenda for reappointment and they had postponed it until the next meeting. He continued that at the next meeting on September 28th, Mr. Bush was on the agenda before him and that the issue tabled should have come first which was his reappointment and that he was interviewed three days before Mr. Bush. Chairman Hall noted that they never brought the agenda back up on the floor and that the agenda item had the wrong date in it so they should have brought it up and changed the date. Chairman Hall noted that if they had put him first on the agenda they would have also had to eliminate Mr. Bush and by switching it they could get rid of him but okay Mr. Bush. Ms. Castellano stated that she did not see that as being an issue because it says that they can at-will determine that they do not want any specific person on the board and that it did not matter who came first on the agenda because they had that right. Chairman Hall stated they were tipped off that this was going to happen and that he looked at it from a different angle knowing that. The Chair asked if the Port Authority wanted to write a letter to the Council saying that the items should be put in the proper order. Mr. White indicated that if that was Council's normal procedure they could be notified and it could be corrected if they wanted. Chairman Hall stated that he would leave the issue up to the Board. Mr. Petty stated that they could make sure that it was included in the minutes and request that

the Board would appreciate a procedure being established and followed so that reappointments could be done in an orderly and logical method and as long as the minutes reflected that, it would leave the door open for them to do whatever they needed to do.

Chairman Hall stated that he had a letter of resignation from Mr. Petty which requested that he is resigned from the Port Authority. Mr. Petty indicated that he had previously spoken to the Board that he was going to be out of town for six months and that the Board had stated that they would keep his position for him, but that in light of the change in turnover that was going on it seemed to him that it was a much more substantial seat that would be vacant. He continued that he wanted to relinquish his seat so that they could have a full board and get going without having a missing position. Mr. Petty stated that for the good of the board it was a good time for a new person to come in and make the team strong. Mr. Carson noted that he was sorry to see Mr. Petty resign and hoped that he would be available for the Port Authority to consult with him on matters that he was very knowledgeable about and that he personally requested that Mr. Petty put himself back on the list for possible appointments in the future. Mr. Petty responded that he was glad to help and that he was very interested in the cove expansion.

Chairman Hall noted that relative to the appointments, they had not been able to get anyone yet and the next two on the list were Kelly Philbrick and Tom Smith.

Chairman Hall indicated that there was a stakeholder's meeting for the chairman of the Port Authority relative to the two bridges between Portsmouth and Kittery which would be held from 1-4 p.m. the next day and that he would be attending until he was replaced.

7. Election of Officers:

Mr. Petty asked Chairman Hall if he was willing to serve until he was replaced and thought that while they still had Chairman Hall's expertise that there be a transition time where they would overlap. He continued that it seemed probable to him that they elect a co-chairman while Chairman Hall was replaced so that person can get up to date on the paperwork and get up to speed. Chairman Hall noted that they would not be able to get anyone to replace him and Mr. Petty until December and if they wanted to hold off on the election of officers until then it was fine with him. Mr. Petty stated that whoever the new people might be might not be familiar with the depth of the topics or areas that they cover and that it would seem that a transition would be the best way to do this. Mr. Bush stated that the vice chairman should be the next in line and that the rest of the members were going to have to step up to the plate because Chairman Hall does so much.

Mr. Bush nominated Mr. Carson for Chairman, seconded by Mr. Petty. A roll call vote was taken. Chairman Hall asked Mr. Carson if he was willing to accept. Mr. Carson responded that in order to provide some stability he would accept but that he would appreciate if Chairman Hall would help him with the transition. A roll call vote was taken with Mr. Carson and Chairman Hall abstained. Motion passes 5/2/0.

Mr. Carson nominated Mr. Bush for Vice Chairmen, seconded by Mr. Petty. A roll call vote was taken with Mr. Bush and Mr. Hall abstained. Motion passes 5/2/0.

Mr. Carson nominated Ms. Castellano for treasurer/secretary, seconded by Mr. Petty. A roll call vote was taken with Ms. Castellano and Mr. Hall abstained. Motion passes 5/2/0.

8. Board Members New and Old Business.

Mr. Petty wanted to introduce Ben Potter to the board members and that Mr. Potter was on the list for vacancies. Mr. Carson asked who was on the list for vacancies. Mr. Hall noted that Kelly Phibrick, Thomas Smith, Vern Gardner and Mr. Potter were next on the list.

Mr. Petty stated that he had spoken to Harbormaster Pike about some of the chafing and wearing and that there was a lot of money invested in the dolphins and pilings and that it seemed to him that there should be some effort to make sure that those are secure. Harbormaster Pike noted that the main float should be coming out in about a week and a half and he was hoping to get some substantial chafing gear.

Mr. Hall stated that the chairman of the board would need to notify the replacements. Mr. Carson asked who would notify him and Mr. Hall replied that the representative from the Town Council would notify him.

Mr. Carson stated to Mr. Hall that he had been around a long time and had carried a big load on his shoulders and had made it easy for everyone else on the board and that he would personally like to thank him for what he has done for the town and for the Port Authority.

9. Adjournment:

Motion made by Mr. Carson to adjourn, seconded by Mr. Petty. 7/0, all in favor. 8:15 P.M.