**MINUTES**

**Coastal Waters Commission**

**Freeport Council Chambers**

**July 12, 2023**

**6 p.m.**

**Attending:** Chair Mark Morrissey, Dayton Benway, Scott Gleeson, Jeff Stenzel and Harbormaster Charlie Tetreau

**Excused:** Joe Frazer, Laurie Orlando and Tod Yankee

Chair Morrissey called the meeting to order at 6:03 p.m. and asked for the Harbormaster’s Report for the last few months.

Approval of Minutes from April’s Meeting - Chair Morrissey skipped this item.

2. Harbormaster’s Report

Charlie advised that he has additional summer help down at the dock. He mentioned that everyone will remember Frank Orr who went on to take the Kennebunk Harbormaster’s position full time and hired Greg Meyers, a retired Police Officer from Brunswick. Greg has quite a bit of water experience and came over and indicated he was interested in a position. Charlie has been getting him up and going the last few weeks here and making him familiar with everything. Everyone can expect to see him at the dock when he is off.

Charlie reminded folks that when we get a lot of rain, they should go out and check on their boat. He has bailed out as many as 15-20 boats over the last month. He didn’t have to bail much but enough to make sure they were not sitting as low as they were. He suggested owners putting binoculars on their boats. Hopefully, we will be in the clear as far as the rain goes. Mr. Stenzel asked if he has been able to get the Webcam going and Charlie indicated that it is not up and running yet. He mentioned it would be nice if folks could check on their boats using a Harbor Cam so they could put eyes on their boat right from their Smart Phone or house.

Charlie pointed out that we have all three dinghy racks down at the Town Dock so folks can come back to Town Hall and pick up their applications. There were no questions for the Harbormaster so Chair Morrissey moved on to New Business.

3. New Business:

0 Shore Drive

Michael Morris introduced himself and indicated he is here on behalf of Carter Becker, owner of 0 Shore Drive. They submitted an application to the Coastal Waters Commission in order to seek approval for a temporary boat launch. He provided some background information. Carter Becker owns the property at 0 Shore Drive here in Freeport which is located in the Town’s Shoreland District. The parcel is partially developed and at one point it was developed with a residential dwelling so there is a relic development on the property, a shed, a driveway, well, the remains of an old septic system and a footpath to access the shoreline. Mr. Becker’s project will construct a temporary boat launch which includes a temporary access road leading from Shore Drive down to the highest annual tide line. The temporary boat ramp in the application is before you this evening which begins at the highest annual tide line and extends up to the salt march. The total length of the temporary boat launch/ramp in the coastal wetland area is 110 feet so it is less than the 125-foot structure permitted in the Town Ordinance. The purpose of the launch is exclusively for a one-time launch of a particular vessel. The Commission may be familiar with the Island Rover which is a vessel currently being stored on a right-of-way or access way off of a road just down the street from the property. There is some litigation associated with this particular project but not with this project before you this evening. This litigation surrounding the whole Island Rover existence and it is currently in discussions between the two parties, the Town of Freeport and the Island Rover folks. There is a mutual agreement that there is a strong desire to see this vessel launched rather than being cut up into scrap. The Town at one point in time, fairly recently, indicated that they will support the launch to the extent possible including trying to support the permitting for the project. The timing for the proposed launch of the vessel is at a high tide in October. They are trying to not delay this but they are trying to keep the project moving so more than anything, this Island Rover vessel issue will be out of everybody’s hair. The launch is supposed to be temporary by not placing any fill or permanent structure in order to facilitate the launching of the vessel. They have engaged a professional engineer to design this temporary boat launch so it will be temporary and it can be removed without damaging the land or the coastal wetland in the process. Generally speaking, they feel they have outlined this fairly clearly in the application.

The construction method in the coastal wetland will include placement of geotextile fabric within the project area itself. There will be the installation of temporary crane mats necessary to support the weight of the vessel. They are 4’x20’running left to right as you head out crossways and then there will be a second layer of these wooden crane mats running the length longitudally heading out on the launch in order to distribute the weight evenly. There have been some questions with the Army Corps of Engineers regarding potential compression or compaction of the coastal wetland area. The purpose for the crane mat design and the geotextile fabric being proposed is intended to avoid any potential compaction or compression of the coastal salt marsh. He offered to give the Commission an idea of the numbers they are running. The vessel will exert approximately 350 lbs. per square foot. More conservatively, the engineer used calculations that assumed 500 lbs. per square feet for compressional force onto the salt marsh in that area. That is usually the worse case scenario, soils, water saturation, no water, water again, vegetation, no vegetation, etc. They ran the numbers numerous ways but 500 lbs. per square foot is approximately almost 3 12/ lbs. per square inch. What does that mean? For most of us, it doesn’t mean anything so just as a reference point, the average adult human being standing is 16 lbs. per square inch so 16 lbs. per square inch here standing right now versus 3 ½ lbs. per square inch pressing a load onto the salt marsh. They feel confident that there will be no permanent damage or even a temporary impact other than the placement of the geotextile fabric on the salt marsh. The timing of the project will be done after the growing season for any salt marsh vegetation is concluded. They expect that the salt marsh vegetation will be starting to go dormant or has gone dormant and will simply get matted down to the ground but will regrow next year. To ensure there will not be any significant permanent coastal wetland impacts, they intend to visit the site next spring once the salt marsh vegetation is regrowing. If there is any damage to the salt marsh, they have a plan in place that addresses the restorative efforts they would undergo.

Section 404 of the Town’s Shoreland Ordinance contains certain standards that apply to the project. VIII of the Coastal Waters Ordinance contains other standards that are applicable to the project. In their application they addressed the standards very thoroughly and their determination is that the project should not create an unreasonable impact but should be approved. He offered to walk the Commission through what they have already provided. However, he offered to hold off in respect to the Commission’s time but wanted to reserve time to come up and address those standards if other questions or concerns are raised. He noted he is here to answer questions.

Chair Morrissey pointed out that the Commission is missing three members tonight and obviously, the Island Rover has been an issue. He advised that he has been on this Commission for ten years and the Commission has never done a temporary boat launch such as this. He would prefer to schedule a site walk prior to the next meeting. It will be advertised on the Town’s website for the public to know so we can walk through it and look it over. At that point, we might have more poignant questions. He knows he will have more poignant questions to ask.

Mr. Gleeson noted he would never consider this without a site walk. He would like the Town Attorney involved. Chair Morrissey advised that the Town Attorney will be here at next month’s meeting. She was not able to make tonight’s meeting and we were short three members but he is confident they will be here next month and will attend the site walk and we will go through this a little bit. Mr. Gleeson added that he has visited the site multiple times but has not been there for the past four or five years so he will visit it next month with the Commission. He suggested taking public input.

Chair Morrissey opened the meeting up for public comment. The comments will be entered into the record. He asked that speakers identify themselves and say where they live. Until we visit the site, he doesn’t have anything to share. Mr. Gleeson suggested that speakers limit their comments to three minutes.

Tim Forrester is here on behalf of many of the abutters to the project. He is happy that there will be a site visit because there really hasn’t been a lot of time to review this. There are some concerns about whether the application is complete. He asked if they are allowed, as interested parties and abutters to attend the site visit? Chair Morrissey added that they are absolutely able to attend the site walk. The Commission will establish a date and will give you seven days’ notice that it is on the Town’s website and will reach out to Mr. Morris personally. We will tour the site and have Mr. Morris go through his project in more detail. The Commission will welcome comments from the residents as well. He wants to make sure that Coastal Waters does its due diligence to ensure everyone has been heard and then we will go from there.

Mac Lloyd of 62 Byram Avenue advised that he has watched this project for the last 10 years. He watched them move the boat 50 feet and it took them 8-10 hours to move it. His main concern is safety for the neighborhood down there. It is a fairly large neighborhood with a lot of residents. Ambulances for some of the neighbors have been coming in quite frequently so his big concern is road closure and having this structure on the road for 10, 12 or 15 hours is going to create a lot of headaches for a lot of the neighborhood. One of his big concerns is safety and if there is a fire down there, and there is a boat in the middle of the road, there will be big problems. Another thing that no one has considered is that Harold Arndt owns land to Brickyard Cove and they could easily do all of this that they are doing now and put the boat in at Brickyard Cove. As a neighbor, it is a no brainer. They would be cutting down their own trees and building their temporary boat launch, this boat has been temporary in their neighborhood for the last 25 years. He asked why are they going in that direction, going out on public access and public way? What is going to happen to the Town’s roads? Will there be bonding to fix the Town’s roads when they are already in pretty bad shape? They can be launching this boat off Harold Arndt’s property that abuts Brickyard Cove. The tide is higher in Brickyard Cove and there is not as much mud in Brickyard Cove. They could float the boat much sooner than they could doing it at 0 Shore Drive and they would not be bothering anybody. They could be building this temporary boat launch down there and putting it into the ocean down there. That is what the Town wants. They could be launching it on their own owner’s property. He is a 10% or 25% owner of the boat. Why are we going through all of these hoops to get this ramp open on 0 Shore Drive. He doesn’t feel it makes any sense. He suggested that the Commission look at that as a possibility. It is moving one big pile of steel from A to B with no plan after B.

Heidi Bishop noted she is an abutter to wherever the launch site is supposed to be on 0 Shore Drive. Her family has been on Flying Point since 1960. Her mother still lives there and has had a stroke. She has no one close and if that boat is blocking the road should an emergency arise, it will not be pretty. Her sister and daughter live in the neighborhood and none of them are in favor of this boat being launched over there and destroying the area. She asked if the area the ramp is going in, will it be returned to the conditions it was in? Once the trees and shrubs are removed, it will be years to ever recreate the stabilization they provided to the embankment. What guarantee do we have that Carter will in fact, remove all damage created in making this temporary ramp? The elephant in the room is Carter has been seeking a place to operate Falls Point out of. Who is going to stop him from not removing the ramp? Do we spend more legal fees to try and enforce the removal? That has not been very successful in other enforcements the Town has tried to apply to this boat problem.

So, when Carter starts running his business out of the location of his new ramp, those of us closest to the location will have our property values drop. She does not believe the Town will be lowering her tax bill because of this loss they will incur. The town that is so pleased to see this launched is not the people that are being affected by this. She has lived with Harold’s ideas for years. Marcraft failed for faulty materials and shady payment of employees. Her brother was one. The Seaweed mess he set up on her mother’s land because he did not yet have all of the other lot. He was willing to abandon the mess on her land if she had not taken him to task. These are just a few of the many “ideas” that Harold has had. He is charming to talk to. She will not allow the boat to cross over even one inch of her land. She believes the neighbor on the other corner feels the same way. She asked the Commission to not vote to destroy their quiet neighborhood. As the property owner, she has the right to say that no one can come on her land. What will they do if the boat falls over? She gave her notes to the Commission Secretary to include in the record.

Tim Forrester added that he has a question for Mr. Morris. In his introduction he said that the Town supports the launching of the boat or something to that effect. He is curious who at the town made that statement? Mr. Morris advised that as part of this litigation process with the Town over the Island Rover but not this project and not this property, there was a mediation process that involved the former Town Manager, Peter Joseph, the Town Attorney and the Chairman of the Town Council. The former Town Manager and the Town Council Chair both through their attorney, acknowledged that the Town was willing to support this and work through permitting and issue permits that meet the standards. In other words, not be the road block.

Mr. Morris wanted to be sure that there are emotional comments here and emotional concerns about what is going on. He wanted to refocus the Commission’s attention to the project at hand which is under your review. The application tonight is for the construction of a temporary boat launch/ramp below the highest annual tide line. We have heard testimony about concerns with road closures, health concerns with folks with ambulances. Some of what else has gone on with the boat project at one point in time but that is not under review tonight. They are simply applying for a temporary boat launch/ramp in the coastal wetland at 0 Shore Drive. The intent is that it will facilitate the launch of the Island Rover so that it is finally out of everybody’s hair. They are not asking for the Coastal Water Commission’s review on whether the road will support the weight. They already have the Town Engineer that has signed off on that. They are not asking for the timing of it and how long it will take. They are not asking for the Coastal Waters Commission to bless the CMP movement of the power lines. They are simply asking for approval of the temporary boat launch/ramp.

Mr. Forrester pointed out that the Commission’s jurisdiction falls under two sections of the Ordinance – 404 and 306 and they sort of link the plot back and forth and he encouraged the Board to review them.

Chair Morrissey asked if anyone else has any comments? He appreciated the comments and noted the Commission will go and take a look at this and come back next month and have very poignant questions about the project. They are aware of where their scope of responsibilities is and plan to follow it to the letter.

Lucy Lloyd of 62 Maquoit Drive asked if the Commission will visit the Island Rover? Chair Morrissey advised that he plans to ask the Commission if they want to see the boat first. They can make that part of the scope. He doesn’t necessarily know if they need to visit the boat. They have photos of the boat but their primary scope of the site walk is the actual site of the launching and obviously driving in, you will get a picture of the whole thing. When Mr. Morris presented the project, he said it was specifically to the launching of the Island Rover.

Chair Morrissey added that he is a Freeport resident and he has seen the boat before. He had to go down and take a look at it years ago but the Commission will go down and take a look at what we are considering and we will have a better idea of what we are looking at if we have a site walk. Right now, he wants to refrain from any questions or comments until they have a full picture.

Mr. Stenzel mentioned that Mr. Morris has asked that the Commission confine its review to the launch site at 0 Shore Drive. When we figure out where we want to go for the site walk, it is a public meeting and he would like some clarity if it is going to include or go on to the boat site or the other neighborhood stop, that sort of thing. He has presented a launch site construction at 0 Shore Drive. Chair Morrissey added that he does not know where the boat is in relation to 0 Shore Drive. Mrs. Lloyd pointed out that it is around the corner. Chair Morrissey added that he was going to construct some questions for the Commission afterwards and ask what they want to see and shape that for a site walk. He does not have that information right now and does not have other members here that might have questions and comments they want to make who will be involved in this decision. He will say that when the time comes to let everybody know, they will have a week’s notice and they will know what we plan to do. That is the best he can give right now.

Mr. Morse advised that Mr. Becker has indicated if the Commission members would like to visit the Island Rover at any point in time, feel free to do so. For various reasons, they would appreciate not holding a public meeting at the Island Rover site. In part, it’s because there are a lot of emotions involved with what has happened up there for the past number of years and they respectfully request that the site visit be specifically oriented to the project application which is 0 Shore Drive.

Chair Morrissey noted that obviously this is a heated issue and he can’t answer some of these questions. He will have to refer them to the Town Attorney because we are dealing with private property issues he is assuming. He does not have an answer for you but he will get that answer and will get it out to everybody in due time so we have a plan that we will follow.

Ms. Bishop pointed out that the boat is sitting on land that everybody in the Swan Development on Plan One and Plan Two have rights to. Mr. Becker doesn’t want them to go on their land which this boat is blocking their use of. It is in their deeds that they have access to this road that the boat is sitting on. The idea of don’t bring everybody up there, well, they own part of that land and they should be able to go up there if they want to. Chair Morrissey added that the Commission could very well have a private walk through and then come back and have questions. He does not know what that scope is going to look like right now. We all have jobs and he does not want to make this into a 4-hour site walk but he wants to make it a thorough site walk. When this is out there, he will make sure that the ground rules will be for lack of a better word. This is the forum for it but he doesn’t know if the site walk at 0 Shore Drive or at the boat is a forum to have a dialogue. That is kind of where his mind is. Ms. Bishop clarified that the comment that was made sounded like we own the property but we are not supposed to go there. Chair Morrissey appreciated her saying that but he does not know that. He will refer to the Town Attorney to make sure we are doing it the right way.

Nancy Meagher from 284 Lower Flying Point Road advised she is a neighbor to the property. She posed a question to the Town. She is not sure the Town’s objective really aligns with Carter’s. The Town wants to finally get the boat moved. Carter wants a ramp. She asked why would the Town not go the path of least resistance for just the property to put his boat on? She noted she is presenting this to the Commission as a thought to consider. Chair Morrissey appreciated that.

Joe Bohan of 8 Cunningham Road noted he has a question for the Commission. Mr. Morris presented this application and now specific he opened up in this forum what the intent was. The intent is broader and is open up to the Town so he doesn’t understand the Commission’s jurisdiction compared to all the boats that have happened where he lost 7-0 in the last things. He requested that the Commission help him understand what the scope is that the Commission is going to vote on, what the scope is of the Town and what the overlap is because the introduction now has been made that they are co-mingled. It is no longer a specific application to the Commission’s coastal route anymore. They opened it up. We did not and they showed it. He is not a lawyer but he would love to hear what the lawyer’s interpretation of all of this is now.

Chair Morrissey thanked him. Mr. Gleeson asked if he should table this. Chair Morrissey advised that it would not be necessary and the Commission should just move on.

3 Slack Tide Lane

John Shanholtz advised that he owns 2.8 acres and 340 feet of frontage on the Cousins River. He is kindly asking the Commission to consider his application for a residential dock.

Chair Morrissey apologized for dropping the ball on his e-mail request. He didn’t know that he got mail and was going on vacation. Charlie is usually his guy but he was having some stuff going on so they dropped the ball on that. He knows he has held Carter’s feet to the fire on some of these projects. He wants to make sure it is clear that we dropped the ball on this. When he opened it up, he discovered he had missed the window for the last meeting. He wanted to apologize to Carter. He asked Mr. Shanholtz to walk the Commission through the project.

Mr. Shanholtz explained that in this section of the river, the HAT line measured across the river and part of the project, we are looking at approximately 246 feet bank-to-bank. His proposal is to remain under 60 feet of dock length so he believes he meets the standards there. Chair Morrissey asked him to give the Commission a brief overview and the Commission will have an opportunity to look at it over the next month. We will then come back and we will have a few poignant questions for him.

Mr. Shanholtz explained that he explained the HAT line distance bank to bank and also explained the distance to the shore where he likes to go. If the Commission looks through the application, you will find drawings showing the dock system he would like to construct there. It is pretty clear and he would be able to answer questions if needed. There is a cliff along the whole water’s edge of the property. The site for this dock system was chosen as a result of a few things. The height of the ledge is about 16 feet there from the base of the pier and it can be navigated without cutting trees and vegetation and things like that. There is a total of three trees that he has to cut for this. He did a tree survey of the area and he thinks he has three to four times the number of points needed in that 25 x 50 area of land that he needs after removing those three trees. It is heavily wooded with mature trees. He hopes that doesn’t cause any pause for concern. There are pictures in the application that will show the Commission what he is talking about.

The other reason Mr. Shanholtz chose that site is because at low tide there are substantial mud- flats at the northern end of the property and he understands there is quite an array of shellfish harvesters that frequent the river. By keeping further south on the river, he does not want to impact their access to the mudflats. In fact, he is right on the property line and the measurements are in the application. He received written support from the neighboring abutter and can provide it here. He did not have it at the time he submitted his application. He walked the project with those folks and there were no objections provided. He has a signed letter to provide as well.

There is a stair system that will start at the top of the cliff and will work its way down to the fixed wharf that is 5 feet wide and 20 feet long. The stair system will not exceed 4 feet in width. There are a couple of platforms that will be limited to 4 feet wide except for the bottom platform which will be 4’ x 8’. It is needed because it changes the direction of the stair system. Again, this is all in the application and the intent should be pretty clear as well.

Charlie advised that Mr. Shanholtz has been in touch with him and he found it helpful to cite the whole thing on a Google Earth overlay so you can see the HAT on each bank and the lengths. He actually provided that to him. Mr. Shanholtz noted he has black and white copies and handed them out to Commission members.

Mr. Stenzel pointed out that on one page Mr. Shanholtz called it a Tier Two and on another he called it a Tier Three. Mr. Shanholtz noted it was an oversight on his part and he would get back to the application and will confirm which page it is. Mr. Stenzel asked what is Mr. Shanholtz’s winter float plans? He is not sure it is really clear in the ordinance but because of people storing their floats on the marsh, we have been asking people to specify their winter storage float plans.

Mr. Shanholtz advised that he has not nailed this down yet but his intention is to use Sea Meadow Marine down on the Yarmouth side of the Cousins River. They store a number of docks that are on that river and have the crane set up. He has not approached them but they are doing it for everybody else and that is his intention. Chair Morrissey asked him to finalize that and give the Commission an e-mail saying this is my plan for the float storage. He doesn’t need it tonight but by the next meeting in August so we will have something in writing. Sadly to say, we have an enforcement piece and we have learned the hard way. Mr. Shanholtz made a notation that it will be stored in an upland location but he does not have the details sorted out tonight.

Chair Morrissey asked what his time frame is? Mr. Shanholtz advised that he would love to have it started this year. He would love to get the wharf in this year or as soon as possible. Ideally, he would love to have his boat on it for next season. That is his real goal.

Mr. Benway had a curiosity question for Charlie. Maybe a year or two ago, Charlie worked with the Town of Yarmouth for us because we put in a float just down the river. He asked how far upriver? Charlie advised that this one is slightly north and this one sits closer to the shore. The other one was pretty much half in the water at all tides. This one completely muds out and there are no navigational issues as far as he sees with it. Since it is such a heavily shellfish area, he is moving it to one side rather than taking up a large area in the middle. Mr. Shanholtz noted he tried to submit an application that was in good spirit with the Town standards and the neighborhood and with everybody that uses that river. He does not want to be a bad neighbor to anybody and he thinks his application reflects that. Mr. Stenzel appreciates that and noted that his looks pretty good. Mr. Shanholtz noted he assumes this will be tabled until next month and Chair Morrissey agreed. Chair Morrissey asked if anyone feels a site walk is necessary for this application? If anyone does, he would like to get it done before the next meeting. Mr. Benway does not feel he needs a site walk. Charlie added that this one is completely high and dry, 60 feet out. There was no request for a site walk by the Commission. Mr. Shanholtz mentioned he wanted to prepare for next month and asked what he needs to provide. Chair Morrissey added that since this is the first time we are seeing this, we will need an opportunity to digest this stuff. If anyone has a question, they will e-mail him and he will e-mail Charlie and Charlie will reach out to you. He requested that Mr. Shanholtz have the float plan for the Commission in writing.

Election of Officers

Chair Morrissey mentioned that this was due a month ago. He is willing to serve as Chair for one more year if the Commission is happy with his work. Jeff will be Co-chair. We need a Secretary but now that is honorary because we have Sharon. He asked that somebody volunteer to be Secretary and we can close this out tonight. Mr. Gleeson offered to serve as Secretary.

**MOVED AND SECONDED:** That the Election of Officers for one year should include:

Chair, Mark Morrissey

Vice Chair, Jeff Stenzel

Secretary, Scott Gleeson (Gleeson & Stenzel)

**VOTE:** (4 Ayes) (3 Excused: Joe Frazer, Laurie Orlando and Tod Yankee

4. Old Business:

Mr. Benway asked if Chair Morrissey would reach out to Commission members to inquire about what we are interested in for the site walk for 0 Shore Drive and get any questions we want the Town Attorney to opine on separately. We will then go and do the site walk. Chair Morrissey advised that he will e-mail the other members. He will have to come up with a date and will work with Charlie to get a couple of options to make it all work after you have looked at this and if there are any questions on what you would like to see. If he misses anything in that e-mail, he will back up but he wants to get that out there tomorrow to give everybody plenty of time so they will have at least seven days. He will try to get feedback from Amy. He doesn’t know if she will want to do the site walk but tomorrow the e-mail will go out.

Adjournment

**MOVED AND SECONDED:** To adjourn at 7:05 p.m. (Stenzel & Gleeson)

**VOTE:** (4 Ayes) (3 Excused: Joe Frazer, Laurie Orlando and Tod Yankee

Recorded by Sharon Coffin