

Rivers and Coastal Waters Commission

MINUTES

June 23, 2021 6 p.m.

Members Present: Marko Melendy (Chair; Marine Resources), Bill Good (Citizen Rep.), Helene Harrower (Commercial Rep.), Doug Niven (Citizen Alt.), Sue Stableford (Citizen Rep.), Corey Theberge (Vice Chair; Citizen Alt.), Will Wilkoff (Rec Commission)

Town Councilor Present: Steve Walker (District 2)

Staff Present: Dan Devereaux (Coastal Resources Manager), Dan Sylvain (Harbormaster), Fran Smith (Town Clerk)

Attorney for the Commission: Jim Katsiaficas

1. Elections (2:28)

Annual elections for leadership positions were held. Melendy nominated Theberge to continue as Vice Chair; Stableford seconded the nomination. All members present voted in support of the motion. Theberge then nominated Melendy for Chair; Stableford seconded. The motion passed unanimously.

2. Harbormaster report (5:55)

Officer Sylvain gave the Harbormaster report. He has been out checking to make sure that mooring stickers are placed on mooring balls. Twenty-one people have not yet checked on their re-inspection. He will be sending another reminder email to these folks.

In the past month, Sylvain has had at least a half dozen requests to put in docks. Those requests have been sent to the Planning Board.

Yesterday the town received the jet ski that was supposed to arrive a year and a half ago. Through the K38 program grant, the town receives a free jet ski from April through October. The town is responsible for purchasing a trailer, tie-downs, insurance and service on the vessel. The jet ski is useful because it can get into small, tighter, shallow waters and is good in mooring fields. It helps with complaints about harvesters or illegal activity because Officer Sylvain can arrive unexpectedly on the jet ski.

The air show has been approved. Sylvain has taken on four officers from BPD who have gone through harbormaster school and taken basic water safety and boating courses. He will have officers on the water with him during the air show. Sylvain will also take officers out on July 4th weekend.

Wilkoff asked if the big floating log from last month's meeting had been removed. Sylvain answered that it has not. They will have to figure out how to remove it with a barge or possibly hire someone. The log is in Maquoit Bay, between the moorings and the MPOC area, closer to the southern end of the MPOC lease area, and is marked with a buoy.

3. Review RCWC Witten Legal Denial Decision (12:28)

Attorney Katsiaficas introduced the “Findings of Fact and Conclusions of Law/Notice of Decision” which lays out the Commission’s ruling last month on the Coyne appeal of the decision to deny their mooring application. There was discussion about several minor corrections to be included in the final document.

Stableford asked what happens next. Katsiaficas answered that the Coynes have 30 days to appeal to the Maine Superior Court. Reasonable people can disagree as to when the 30 days begins and the Coynes and their lawyers will figure that out. The commission voted on a decision last month and is making the written notice of decision now. If the RCWC approves the document, Katsiaficas will email the document to Melendy to be signed and then the town clerk will send it to the Coynes.

Melendy made a motion to adopt the Finding of Fact and Conclusions of Law/Notice of Decision regarding the Coynes appeal as ammended. Stableford seconded. A roll call vote was held and all members present voted to pass the motion (Wilkoff, Stableford, Harrower, Good, Theberge, Melendy, Niven).

The Commission thanked the Town Manager for providing the support of the lawyer.

4. Mare Brook Technical Advisory Committee Update (25:00)

The first meeting takes place July 1st so there’s no update at this time.

Councilor Walker spoke about another meeting last week to talk about the legacy chemicals on the former base south of Picnic Pond and to inform those present about water sampling. The Navy is about to take a CERCLA approach to the property which could bring in a lot of money for the cleanup. There was discussion about focusing next on the western area near Baribeau Drive and the junior high. American Recovery Act Fund money (\$57 million) will be going to Cumberland County; this money can be spent on watershed protection, non-point source pollution, upsizing culverts, and other items. If RCWC could push the agenda to invest in water quality, it would help our tidal waters and Harpswell Cove. There was a public hearing and the public can comment on the county website. Money also can be used to rebuild, and extend sewer systems, and other aspects of water infrastructure. Melendy commented that many streets in prime town areas do not have coverage and some are on Mare Brook. This could be an opportunity to finish delivering utilities to the town core. Walker responded that the town manager met recently with department heads to discuss how to use this money.

Melendy also noted that the town website has information about the previous activities concerning Mare Brook but nothing about current efforts. Walker sits on that technical advisory committee and will follow up on updating the website links.

Stableford asked if the commission should take a position that some of this money should be used to ensure the quality and safety of our waters. Walker suggested sending letters to the town council. Stableford proposed the commission draft a letter to the council urging them to consider the needs for water and watershed protection in Brunswick, including extending public sewers. Walker will forward information about what’s eligible for these funds to the committee. Stableford will follow up.

5. Eel Grass Mitigation (33:39)

Devereaux introduced this item to the commission. The town was approached by Stantec about mitigating moorings inside eel grass beds in Brunswick. Grant money from the Natural Resources Council has become available to replace traditional style anchoring systems with helical ones in these areas. A letter of intent to apply is being formulated. Devereaux showed slides of eel grass coverage on the western side of Mere Point in 2018 (the beds have expanded since then).

Melendy asked what makes the helical moorings easier on the eel grass. Devereaux answered that traditional anchors are usually a mushroom or a block; the boats move around the anchor and scour the bottom. The helical is a screw-in anchor that is rated by holding capacity and does not damage the eel grass in the same manner.

Devereaux stated that they have targeted the moorings that are in the area to the west of Mere Point and at Paul's Marina and they are trying to identify owners who would be willing to switch, and what would need to be done to maintain the new style moorings. The last time the state did helical moorings was when the Mere Point boat launch was built. At that time, it was difficult to find people to participate and to convince them that helical moorings held enough weight. Now we have local experience with eleven such moorings. New technology and more providers to install them using engineered plans may give people more confidence.

Walker asked if this is the Maine Natural Resource Conservation Program. They've been looking at subtidal restoration opportunities for years, and one of the issues is to have legal protections on what you restore. This is one of the only opportunities for long term protection since you get five years free if you use one of the new moorings.

Sylvain stated that once we get the research on these new moorings, he hopes to work with RCWC and the town council so that whenever there's a new application it'll be put in as a helical only.

Harrower asked about the moorings: they will have to look at price differences between them, and the last time she knew, there weren't many people to set the moorings. Devereaux answered that there is a significant price difference in the equipment and in setting it; there are a couple of people who now install them locally. Additional questions will be considered as they get further along in the process. Under the grant, the funder would offset the cost of the mooring so you could go from a traditional to a helical mooring free of charge.

Devereaux will have to get town council permission to apply for the grant; there will be further discussion with the RCWC prior to that happening.

6. Simpson's Point Advisory Committee (54:25)

Devereaux reported that the town council has appointed members to the committee; three are residents of Simpsons Point Road. Councilor Walker plans to meet with the town manager to discuss getting the committee up and running.

7. Intern Activities (57:11)

Devereaux introduced Maddie Bailey, the intern from the University of Maine Aquaculture Research Institute who will be working with the town for 12 weeks this summer. Bailey then explained that she will be monitoring the green crab traps twice a week. They are finding about

300 crabs per week of which about 1/3 are female. She is also working with Doug Niven at MPOC. She helped Devereaux and Sylvain plant quahogs in Harpswell Cove and will help nurture them along. For her required project, Bailey plans to make a "shellfish handbook" and a poster that will be a shortened version of the handbook. These items can go on the town website.

Devereaux reported that they have planted roughly 500,000 quahogs in 23 acres in Harpswell Cove. They were 1 millimeter when staff took them in and 10 millimeters when they were planted. They plan to do a second planting. They will be monitoring them periodically this summer and over the course of next two years. In the past, monitoring has been bit by bit. This year, Bailey will systematically record the traps which have been placed in key locations. Devereaux would like to see this continue year to year. Theberge, a scientist, stated that he is thrilled that they are collecting this data. There was additional discussion of the sex ratio of the crabs.

New/Old business (1:06:46)

In response to a question from Melendy, Devereaux gave a brief update on the new park ranger, Ben. Sylvain then described the training that Ben has gone through with the police department and reported that Ben is helping to keep an eye out on harvesters. He will also be helping at the Mere Point boat launch during busy times. This past weekend was one of the busiest weekends ever at MPBL and with no more overnight parking, there are a lot of unhappy people. There had been overnight parking for the past month but this is no longer permitted due to the large number of vehicles parked at the launch. IF&W wants to make sure there is parking available for daytime use.

Devereaux stated that the town council recently took up language for expanded parking across the street from the launch on property owned by IF&W. There was significant abutter testimony about the boat launch not being busy and not needing extended parking. It is important that the RCWC inform the town council of how busy the boat launch is. He suggested that the RCWC could have a meeting for abutters to talk about a proposed plan. Ben, the ranger, is keeping a log of capacity data at the MPBL. Sylvain will see if BPD has a traffic counter to keep track of how many vehicles use the parking lot. Harrower offered to record how many people call her to ask about overnight parking, and will attend a meeting to make a statement. She had to go to parking passes this year in order to keep track of who is using her lot.

Councilor Walker introduced a proposal he has written for a moratorium on permanent structures in shellfish growing areas/tidal flats. He put together the document in response to the Miller Point pier and other proposals to build permanent structures over mudflats to extend usable water for the owners. Walker thought the zoning ordinance language was clear about these proposals, but at the planning board meeting, staff said the language was too subjective to be upheld.

Walker asked for feedback from the RCWC about his proposal. He discussed why he believes this issue is important at this time, citing the increasing trend toward large structures and the possibility for more privatization of mudflats and shellfish resources. The purpose of the moratorium is to put a hold on projects until we can put together zoning ordinance language that is clearer about protecting our resources while providing landowners with adequate water access. Walker will sponsor this item at the town council and charge the planning department with clarifying the language.

Melendy expressed concern about coming up with language based on expertise that addresses a broad range of projects while also clarifying issues for a board that doesn't have such expertise. Devereaux liked the clear language in the moratorium and suggested that the ordinance could read the same way. Stableford thought the moratorium was a great idea. She observed that many on the planning board appeared conflicted about the decision but felt they didn't have the legal ground to prevent it. The planning board was also concerned that putting out and hauling in two temporary floats would cause more damage than a single permanent structure. Devereaux stated that seasonal floats are not an issue; the real concern is permanent structures in the intertidal zone may fragment the zone and change the dynamics of the area around the pier. Various other issues brought up at the planning board meeting were discussed.

Walker recognized that the planning board is great at many aspects of development; he then suggested that a commission like the RCWC could take over marine review. Other towns do this. Walker would like to get the moratorium on the July town council agenda.

Wilkoff moved that the committee support the draft moratorium proposal; Theberge seconded. The motion passed unanimously.

Devereaux asked if language can be added to direct a task force that knows marine resources to work with the planning board to amend the language in the zoning ordinance. Marine activities were described as a commercial activity at the planning board; Devereaux considers that all activities on or around the water are marine activities. Experts need to work with the planning department to dive into the details. Devereaux offered to write up two or three sentences to address this.

Melendy would like to look at the areas where the RCWC can best focus its energy, including reviewing the wording of the commission's charge.

Stableford thanked Bill Good for the suggestion to put out boxes for their brochure. They seem to be very popular. There was discussion about way to continue to distribute them.

Niven moved to adjourn the meeting; Theberge seconded. All supported the motion.

The meeting adjourned at 7:49 pm.