

MINUTES OF WATERWAYS MANAGEMENT COMMITTEE MEETING / PUBLIC HEARING

JUNE 22, 2006

A Meeting of the Waterways Committee was duly called and held on Thursday, June 22, 2006 at 7:06 p.m. at Dartmouth Town Hall. The meeting was called to order by the Vice-Chairman, Roger Race. The following people were present: Mr. Race, Robert Metcalf, Warren Hathaway, Gerry Hickey, and Chris Hemingway. Excused were Mr. Norman Peloquin and Ira Perry. Also present was Mr. Steven Melo, Harbormaster.

Mr. Race reviewed the agenda for the evening. Mr. Hickey moved to accept the agenda. Mr. Metcalf seconded. So Moved.

At 7:10 p.m. Mr. Metcalf moved to adjourn the regular meeting and open the public hearing. Mr. Hathaway seconded. So Moved.

Public Hearing held at 7:10 p.m.

The Public Hearing was posted and advertised as required.

Mr. Melo read into the record a letter from Mr. Jack Shepard regarding the proposed rate increases. They have been approved by Mr. Jack Shepard, Director of Office of Fishing and Boating Access. Mr. Metcalf noted that Dartmouth has the lowest ramp fees. Mr. Melo noted that some Landing Town by-laws are outdated, and some need to be amended through this posted public hearing.

Mr. Hickey asked if someone is just parking the car, do they pay. Mr. Melo answered if the car is occupied they do not bother them. He stated the rule is any unattended car is "parked" and needs a parking permit. Mr. Hathaway asked about Tuesday nights. Mr. Melo said that Tuesday Community Band Concerts have not been a problem, but on many Wednesday night concerts, the overflow from the Park uses the landing. Mr. Melo said that they do not block the launch ramps, but too many people try to use the launch parking spaces to avoid paying for the concert. He said that the Park Dept. sometimes uses half the parking lot for larger shows. Boaters are allowed to park vehicles only, no trailers on the beach parking lot, when the landing is full. Mr. Hemingway asked how the commercial people would be notified. Mr. Melo will be sending a letter explaining the fees. A resident asked about the commercial vehicles. Mr. Race informed them that larger vehicles are authorized by the State and the Town cannot stop them from using the landing, they pay a larger fee to use the landing due to the fact that the bigger vehicles cause more damage to the landing and roads, and take up a significant portion of the parking lot for rigging. Mr. Hickey said that in cases of emergencies, the rules could be changed by the Harbormaster to expedite evacuation in advance of storms.

Mr. Race asked to put the new fee schedule to a vote. Mr. Melo said that it should be a roll call vote. He said that the proposed fees are for Residents \$5.00 Daily and \$35.00 Seasonal; for Commercial Transport it is \$50.00 Daily and \$300.00 Seasonal. These rates have been approved by the Public Access Board, Director J. Sheppard. Mr. Hickey moved to accept the new fees. Mr. Hemingway seconded. It was unanimously passed by roll vote as read by Mr. Melo.

Mr. Melo will get an attested copy filed with the Town Clerk within 10 days as required for changes to regulations and rates as set by the Town By-Law establishing the Commission. A copy will then be sent to Town Counsel for review.

Next, Mr. Melo reviewed the regulations. He said that there are some changes needed. He is adding language similar to the Mass. General Laws whereas anyone delinquent in paying any vessel excise taxes will not be issued a launching or mooring permit, and the vessel cannot remain in Dartmouth waters. The next change is that penalties for violations of the by-laws cannot exceed the fine amount

allowed under Mass. General Law. A change in the enforcement section allows the Landing by-laws to be enforced by a broader range of enforcing authorities. The entire set of regulations to govern the Town landing is read aloud by Mr. Melo. Mr. Melo said that there were specific parking violations already in place for the entire Town. Rather than restate those penalties for the landing, the regulations have been changed to incorporate the Town-wide penalties as set by Town meeting. Comment period is allowed, with none made. Mr. Metcalf moved to accept the regulations as read by Mr. Melo. Mr. Hemingway seconded. It was unanimously passed by roll-call vote of the quorum of Commission members present. Mr. Melo will send also copy to Town Counsel for review.

Public Comment. None on these issues.

At 7:30 p.m. it was moved and seconded to adjourn the Public Hearing and resume the regular meeting. So moved.

Regular Meeting of the WMC resumed at 7:30 p.m.

The minutes of the meeting of May 25, 2006 were reviewed. Mr. Metcalf moved to accept the minutes. Mr. Hathaway seconded. So Moved.

Harbormaster Report.

Dingy Racks. Mr. Melo reported that the dingy racks have been completed and only need to be anchored down; but are completely useable as they are now. They will be anchored as a safety precaution in cases of storms. Mr. Melo reported that 30 of the 60 spots have been paid for to date. Mr. Melo said that the builder would be helping to secure them to the ground. Mr. Melo reported he has notified all interested people that the racks are available. Mr. Hathaway said that the area looks good.

Boats Progress – Amber and Pumpout. Mr. Melo said that Amber still has to be painted and will be done in the near future. Weather has delayed painting. The Pumpout will be in service soon, parts of the old pumpout boat were used as much as possible. He said that the Clean Vessel Act would reimburse 75% of the value of the completed vessel dedicated to pump-out service.

Training Seminar. Mr. Melo said that the seminar was very informative and well worth the time.

Park Department Update. Mr. Melo stated that the Park Department will not be able to cut the grass, but they supplied a mower for our staff to use.

Unpaid Mooring Status. Mr. Melo distributed a list of people that have not paid the mooring fee. They have all been notified that they will lose the mooring if they don't pay.

Winter Sticks. They will be removing the remainder of the sticks that are still in the water. They should have been removed by June 1st.

Jet Ski. Mr. Melo reported that the Jet Ski will be available for our use for the second year. It will be stored at the Police Dept. garage. He will like to look at purchasing an 'Easy Port' dry dock for the Jet Ski, this will store the Jet Ski for easy access, and it can be set-up at Davis & Tripp. Mr. Melo stated that they sell for about \$1,700. and is warranted for 8 years. Assistant Howland has done extensive research into these. Mr. Hickey moved to purchase one. Mr. Hemingway seconded. So Moved.

Sea Eagle Theft. Mr. Melo reported the theft of the Sea Eagle, a 48' sailboat. Mr. Ed Siegel is owner and the vessel has been in the harbor for at least 5 years on a Concordia rental mooring. He has searched for the vessel with no results. All harbormasters locally and the Coast Guard has been notified. Mr. Ira Perry's small dinghy is also missing. Mr. Melo reported that this is a very unusual situation. Mr. Melo

said that the data base at the Harbormasters office enabled him to immediately give out information on the vessel to potential ports worldwide.

USCG Channel and Bridge Problems. Mr. Melo said that he was notified by the Woods Hole navigation team regarding buoys in the channel. He said he asked them to notify him where the channel is and how wide it is supposed to be so that moorings can be adjusted properly. He hasn't received any reply yet, but will try to fix the problem when the Coast Guard does define the channel. He said that no vessels should be in a federally-designated channel; any vessels interfering with the channel must be moved. Mr. Melo said that some vessels might have to be moved. He said that depending on the width of the channel, mooring sites could be lost. He stated that the Code of Federal Regulations and US Coast Guard has superior jurisdiction regarding Padanaram Channel markers over all other agencies. He also said that the Bridge is also indicated to be in non-compliance with Federal Regulations. The Coast Guard has sent a letter to the DPW to get the bridge into compliance. Mr. Metcalf asked about removing the mid-channel sandbar. Mr. Melo said he has asked around about much-needed dredging, and was told that it is unlikely to be done by the Federal Government.

Mr. Melo said that he would like to let the Coast Guard notify the owners of any moorings or boats that have to be moved. Mr. Melo said that he is waiting to get a response in writing from the Coast Guard before deciding how best to handle this new situation.

MMA Internship/Co-op. Mr. Melo said that they advertised for an Assistant in order to start an internship program with Mass. Maritime Academy. He would like to start an internship program to help out with staffing and budget shortages and at the same time to offer students the opportunity to gain practical experience.

New Business.

Mr. Michael Riccardi Appeal. The appeal was filed on May 10, 2006. Mr. Riccardi claims that when he purchased the mooring there were no rules. He has increased the size of the boat to a 42' boat with a waterline of 38'. He uses the mooring has a vacation site when the weather is nice. The mooring is in the Bay View area. Mr. Melo stated that in 2003 the mooring was rented for a 30' boat. 2004 was registered for a 36' boat. In 2005 the vessel information wasn't complete. In 2006 the site was attempted to be registered for 'Big Canoli' listed as a 38' boat, but in reality it is a 42' boat. The mooring gear is at maximum for a 30' vessel and cannot hold a 41' vessel.

Mr. Riccardi said that 20 years ago there were no regulations when he purchased the mooring. He doesn't use it on a permanent basis. He said that he has no problem if he could use a transit mooring to tie up for the day, but he feels the harbor isn't friendly to use for a day. Mr. Riccardi said he is willing to put more weight down on his mooring to hold his vessel. Mr. Riccardi said he had a problem last year with people using his mooring and he had to use the gas dock for an afternoon stay. Mr. Hickey said that this is a mooring with a larger boat on it than should be; he asked what the swing is and what can be done to help this situation. Mr. Melo said that there was never a request by Mr. Riccardi to put a larger boat on his mooring. Mr. Hathaway said that there are safety issues with larger boats, he suggested getting a spot close to where he is and get the mooring specs up to date and relocate him; this will make his old spot available to the waiting list. Mr. Melo said that they finally received a request to change the vessel of record on March 31, 2006. Mr. Riccardi said that he has never rented his mooring out to anyone. Mr. Melo said that when someone gets a new boat they should check ahead regarding their mooring.

Mr. Hathaway agreed that Mr. Riccardi did not follow procedure. Mr. Hickey asked where the boat could now go. Mr. Melo said that Mr. Riccardi should put his name on a mooring list for a larger mooring. Mr. Riccardi is afraid he will not get a mooring again if he gives this one up. Mr. Hickey said that only the Harbormaster has the final say on the mooring permits and assignments. Mr. Riccardi wants a guarantee he will have a mooring; he would like to keep this mooring until he receives another. Mr. Hickey said that there can not be any guarantees, especially where Mr. Riccardi has not followed the established

regulations in place since 2003. Mr. Melo will try to re-assign him to a mooring site to use for this year, but only if a Bay View/Birchfield mooring permit application is submitted timely. Mr. Melo said that he has to file a new application for a suitable mooring for this larger vessel. Mr. Riccardi said that he would do what has to be done.

Dale Whiting Appeal. Mr. Melo said the mooring is west of South Wharf. Mr. Melo said that a late fee has been paid each year that such records have been kept. Mr. Whiting notified him this year that he had a new boat, a 36' boat. The mooring has most recently been approved for a J-24 sailboat. A request was made, after the close of the mooring permit renewal period in 2006, to update the vessel of record to 36'. Mr. Melo said that the problem in this area is wind against the tide. The gear is a 1000-lb. mooring with only 5/8" top and bottom chain. It was last inspected in September, 2003. Mr. Whiting said that he had a 38' boat on it in years past, there was never an incident with the swing and feels there is enough room for the swing. Another resident present said that this is a problem in the area, especially with wind against tide. Mr. Melo said that he wasn't told of this new vessel until May. Mr. Whiting said that Pioneer would be able to inspect, service the mooring, and correct the chain problem pending the WMC decision. Mr. Hemingway asked if the mooring could be moved North of the Bridge. Mr. Melo said that the applicant must request that type of move. Mr. Whiting said that he sails a lot and North of the bridge would be harder for him to do that. Mr. Hathaway suggested that after making the appropriate changes in the chain, try the larger boat and revisit this in a year. Mr. Melo said that there is a need to rezone the harbor and put similar boats side by side to maximize the harbor space. Mr. Whiting agrees that gridding might help with the problem. Mr. Metcalf recommended going with shorter scope and Mr. Whiting getting on the waiting list for a better spot for his vessel. Mr. Melo said that maybe someone could switch spots with him. Mr. Melo said that he is willing to help people find suitable sites to switch in the winter, but the summer is too busy for this extra task. He suggested that the boaters should take some initiative to do the necessary leg work, and then ask for the required permission needed to approve such changes. Mr. Hickey suggested that boaters need to plan ahead and work with the Harbormaster for such changes. Mr. Hickey recommended going with the change that the Harbormaster thinks is best. Mr. Melo said that he cannot recommend a big boat in this area. Mr. Whiting said he doesn't want to damage any boats and feels that there is sufficient room for his boat. Mr. Whiting said that he would go along with whatever the WMC recommends. The recommendation of the Commission is that Mr. Whiting first must have the mooring brought up to specifications of the current mooring regulations. He may attach the 36' vessel after paying the necessary waterways fee. He must notify the Harbormaster in advance of attaching the vessel. The Harbormaster and staff will monitor the situation. If the larger vessel is found to make contact with any surrounding vessels, the permit will be revoked without further appeal or hearings. Mr. Melo said that the mooring will have to be removed from the water if there is any problem. Mr. Whiting was instructed to pay his \$70.00 mooring fee and late fee, along with whatever waterways fees are due.

James LeFleur Appeal. Mr. Melo said this is for non-payment. It is the first mooring off the launch ramps - Mr. LeFleur has outstanding excise tax issues, also has unpaid waterways violations, and the mooring permit was not renewed due to non-payment. Mr. LeFleur said that he had financial troubles and he could not renew the permit because of other financial troubles. Mr. Hemingway moved to have the mooring gear removed. Mr. Metcalf seconded. So Moved.

Mr. Robert Bernert, Jr. Appeal. Mr. Melo said that this mooring hasn't officially been in existence since 2002. The appeal letter was received this day without time to set up a hearing. Mr. Hickey moved to table this until the next meeting. Mr. Metcalf seconded. So Moved.

Wolstenholm-Reppert "Permitted Mooring Use" Situation. Mr. Melo explained that he received a waterways vessel application from Mr. Reppert indicating that he is renting a mooring for \$475. from Mr. Wolstenholm. Mr. Melo called Mr. Reppert to confirm this, which he did. He suggested getting the two people in for a hearing before the WMC to avoid the expected appeal to follow. Mr. Melo stated that Mr. Wolstenholm was sitting before the Commission in 2004 when the policy for "permitted use" was developed and explained to him. He was told, as those meeting minutes show, that any exchange of consideration would cause mooring permit revocation. Mr. Hickey said that the WMC should not have to

hear this, the arrangement is against the established regulations and the permit should be revoked. Mr. Race feels it is a clear violation, and suggests sending the revocation letter.

Rate Comparison with Surrounding Areas. Mr. Melo gave the WMC a copy of comparisons of Dartmouth fees with the surrounding areas. Assistant HM Charles Howland did excellent work in compiling this data on short notice and putting together the sheet presented. Mr. Race said that it is a good job.

Dr. Burke Mooring. Mr. Melo said that there is also a vessel using one of Dr. Burke's two moorings. He has received no paperwork required for this permitted use. Mr. Hickey said that the Harbormaster has to give written approval for mooring use. The written request for permitted use was one of the requirements adopted at the same meeting with Mr. Wolstenholm, and that Dr. Burke was one of the Commission members that voted for that permitted use policy. Mr. Hickey said that Dr. Burke will have to apply for such use of this mooring. Dr. Kuphal, owner of the boat upon that mooring of Dr. Burke indicated that he would explain this situation to Dr. Burke, but that no money had been exchanged for his use. He explained that he bought a boat over the winter that was too large for the mooring he had been assigned last summer after a long wait on the mooring list.

Public Comment.

Mr. Don White said that the WMC is doing a good job and feels that the public is finally starting to follow the rules. He feels that maybe the WMC should try to get some publicity on what is being done. Mr. Hathaway suggested having someone give a report to the newspaper to run. Mr. Hickey suggested having a journalist student from the High School work with the Commission.

Mr. Hathaway said that the appeals process before the WMC and Harbormaster is a co-operative venture and working well. He said that there is a limited time set by the WMC before enforcing the rules while people adjust to the new rules. Mr. Hickey said that the eventual re-gridding of the harbor will help the mooring situation. Mr. Melo claims that he is trying to start the re-grid as he goes along. An entire re-grid is really needed, and will be a huge undertaking for his Department. He hopes to focus more on this, maybe during the off season, if there really is such a thing.

Mr. Melo said that there will be a Planning Board Meeting regarding South Wharf July 26, 2006. Mr. Gagne has suggested that he and members of the WMC attend this meeting.

The next meeting is scheduled for Tuesday, August 22, 2006 at 12 Rogers Street

It was moved and seconded to adjourn the meeting at 9:45 p.m.

Respectfully submitted,

Diane L. Vieira