

- MINUTES OF WATERWAYS MANAGEMENT COMMISSION MEETING -  
JUNE 19, 2008

A meeting of the Waterways Management Commission was duly called and held on Thursday, June 19, 2008 at 7:00 p.m. at the Dartmouth Town Hall. The meeting was called to order by the Vice-Chairman, Chris Hemingway. The following people were present: Robert Metcalf, Roger Race, Warren Hathaway, and Norman Peloquin. Excused was Mr. Gerald Hickey. Also present was Mr. Steven Melo, Harbormaster.

Mr. Hemingway reviewed the agenda for the meeting. He explained that the agenda would be rearranged this week. First will be New Business with the meeting with the Army Corp of Engineers and any questions from the Public. Then Old Business and the Harbormasters Report. Mr. Peloquin moved to accept the agenda. Mr. Hathaway seconded. So Moved.

The minutes of the meeting of May 13, 2008 was discussed. Mr. Peloquin moved to accept the minutes. Mr. Race seconded. So Moved.

New Business.

US Army Corp of Engineers Regarding Concordia Application. Ms. Karen Adams and Mr. Brian Valiton of ACE were present. Ms. Adams thanked the WMC for having them. She explained that several months ago a public notice was issued regarding the Concordia Permit and a few requests were made for a public hearing. She said that she would like to hear from the public on any comments they have and also from the WMC and Harbormaster on anything they are concerned with. She said that they work with the applicant on any issues and since this is a large request a hearing is being held; explaining that there are a few ways to issue the permit they can deny it, issue it as is, issue it with modifications or issue it with special conditions. At this time she asked for public comment.

Dr. Joseph Volpe stated he has had a mooring with Concordia for several years. He has been around boats and moorings in several areas and feels that Concordia is an extraordinary company to rent from; they care about the renter and boat. He asked ACE about the deadline of September 15 set by the WMC for Concordia's approval and for the WMC would there be an extension of the deadline if approval is not received by that date. Mr. Hemingway said that the WMC would have to take it under advisement since the deadline has been extended in the past. Ms. Adams said that they hope to have some decision made by September. Ms. Carol Hill said that the 167 moorings that they applied for on the original application to ACE have been lowered to 155 moorings due to the channel change that was made by the Coast Guard.

Mr. Lewis Carter of Dartmouth also has a mooring with Concordia. He asked what the mooring process is and what are the issues involved. Ms. Adams said that Concordia has had moorings in the past and they were under the impression they were grandfathered but ACE did not agree and Concordia then applied for the mooring permits. She said even though Concordia has had the moorings for several years they want to be sure what moorings are authorized. They will be looking at conflicting demands of the water and navigational & environmental issues, also how they will affect eel grass.

Mr. Brian Valiton then explained what the role of ACE is and how they're involved. He said that the Federal Government has a role in the navigation of the nations waterways. In 1890 was the first Rivers and Harbors Act. In 1899 the federal government decided someone had to be in charge due to the increase in waterfront business and bridges blocking navigation so ACE was developed. In the 1960's when environmental issues were started a public interest review was implemented. This review looks into all the different environmental concerns. He said that moorings are considered structures in the water and requires a permit. He explained individual moorings are covered under the nationwide blanket approval but commercial moorings are not and require separate individual permits and public comment is part of the approval process. He said in New England they have now gone to general permits that are applicable state by state. He said they always give commercial permits an opportunity for comment from the public.

Mr. Rusty Aertsen of Boston has been a Concordia customer since 1995 and supports Concordia for this permit. He has been in other harbors and feel that this harbor is lucky to have a company like Concordia. He has seen an absence of problems due to Concordia's management.

Mr. Peter Gebhard asked how the number of moorings for a harbor is determined. Ms. Adams said that the local harbormaster determines the total number of moorings in the harbor. She explained that the harbormaster sees all

the applications for moorings, ACE doesn't see them. She said they use a formula to help determine the number of moorings in a harbor taking into consideration the depth of water, overall available area, demand, etc. Mr. Melo said there are 1,189 moorings currently, Concordia has 155. He said that he uses a database to determine the number of moorings existing in each area depicting the size of the boats; this database has all the information regarding the boats and area. He said that they have been looking into regridding the entire harbor, but that has been deferred by the Commission in favor of other pressing issues. Mr. Gebhard asked if that will change the total number of moorings. Mr. Melo said they are hoping to maximize the usage and increase the number of moorings that can safely fit in each area through the sensible grouping of similar vessels. Mr. Gifford then asked if a commercial license can be sold, if there is a time limit on it. Ms. Adams said they are issued for an indefinite time period but they can put a time limit on it. She said this is done frequently when there are other issues in the works such as the regrid of an harbor. These permits can be transferred to new owners but they have to notify ACE, the permit typically goes with the property. Mr. Melo said that Dartmouth mooring regulations do not allow the transfer of a commercial mooring permit, which is consistent with state law, and they must be renewed annually. Mr. Brian Valiton said that these permits can be revoked at any time by the Corps or the Harbormaster. He also noted that limits can be set on these permits.

Mr. Mike Robinson said that he would like to echo the positive comments on Concordia where he has been a customer for several years and asked ACE what conditions have been placed on permits previously and if they are considering any for Dartmouth. Ms. Adams said they are not presently considering any for Dartmouth, they are still gathering information but in the past they have placed conditions on things such as the future development of a harbor and eel grass issues. Mr. Valiton said that they monitor the permits for a number of years.

Mr. Jeff Lefebvre of Hazelett moorings said he protested the mooring renewal permits only on conservation issues such as eel grass in the area; he feels Concordia is a good company for the area. He would like to see the area switch to conservation moorings. He said that he is concerned with the shellfish in the area and doesn't want to destroy what is under the water. He would like to see a conservation mooring management plan in Dartmouth.

Ms. Ann Chapin said she has been a Concordia customer since 1980, and her parents since the 1960's before her, and they have never had any problems and she feels that Concordia brings alot to the area; the moorings are great and the service outstanding.

Mr. Francis James said he is a longtime customer and he is very satisfied with Concordia.

Mr. Valiton again stated that when ACE started to review the permits they were only allowed to look at any navigational issues but since the 1960's environmental issues have come into play; such as the impact the activities would have the fish habitat. They are now required by law to look at the environmental issues as well as public needs.

Mr. Jeff Makholm of Boston thanked the WMC for having them, he is a Concordia customer. He would like to comment on Concordia's sense of tradition for their mooring field. He said they carry on a long-standing tradition of service to all customers in the bay; this history drives Concordia and allows customers to trust their boats under Concordia's care.

Mr. John Wylde of Dartmouth has been a satisfied customer of Concordia for years and strongly urges ACE to consider the quality of people that run Concordia.

Ms. Adams thanked the people for coming and commenting on this and asked the WMC if they have any comments on this issue.

Mr. Jeff Lefebvre said that he was on a tour of the Bay area with Coastal Zone Management and NOA Fisheries and the comments made feel that people should be going with conservation moorings. He said that legislation is coming that require towns looking for grants for harbors be required to have conservation moorings.

Ms. Valiton asked the WMC how they deal with transient moorings. Mr. Melo said they refer the people to the New Bedford Yacht Club, he said they place visiting boaters on moorings that their members are not using at the time. Mr. Melo said that the Town has recently acquired four sites but have not put moorings in yet. Mr. Valiton said that if the Town charges for using the transient moorings they will need a permit from ACE, but if it is for free then ACE isn't sure if a permit is needed for those sites. Mr. Valiton said that every structure in the waterway needs a permit, but it isn't clear if free-access transient municipal sites fall under the general nationwide permit.

Mr. Hemingway asked if the September 15<sup>th</sup> deadline is achievable for the application. Ms. Adams said that they hope to have a decision by September. Mr. Valiton asked about the September 15<sup>th</sup> date. Mr. Hemingway said that this date is to allow Concordia customers time to find alternative accommodations for next season if Concordia is no longer renting. Mr. Peloquin said that September 15<sup>th</sup> is a "date certain" set by the WMC to not renew Concordia's permit for the following year unless an ACE permit is in-hand. Ms. Adams said they will have an answer by that date.

Mr. Melo asked to clarify that if an ACE permit to Concordia's sets the number of moorings at 154, this is the top amount allowed under that permit, but the WMC still retains local control to decrease that number. For instance, if Concordia no longer has customers for that many sites, and the moorings are vacant, the number could be decreased by the Commission or Harbormaster. Ms. Adams affirmed that the permits don't supercede local approval. Mr. Valiton said they have to access the area before permitting moorings in that location. He said that they allow a certain number of moorings but the local and state authority can always lower that number. Their ACE permits, like Harbormaster granted individual permits, do not create a property right or interest. Mooring permits granted in this state are only for one year in duration. Mr. Melo asked about moving the moorings during the regrid. Mr. Valiton said it will require their approval by amendment to any ACE permit granted, but it is a minor issue. Mr. Valiton asked if the WMC has anything in their regulations regarding eel grass. Mr. Melo said that the regulations do not specify eel grass but the final determination as to any location is made solely by the Harbormaster. Ms. Adams said that the Town of Marion applied for a field permit for all the moorings in Town, the moorings were permitted to the Town and the Town has complete management and responsibility for all of the mooring uses. Mr. Melo said he considered that for Dartmouth, but only after the harbor re-grid was done.

Mr. Jeff Lefebvre said that they helped Shelter Island regrid their harbor. Mr. Peloquin said that this doesn't apply to the present discussion.

The WMC thanked Mr. Valiton and Ms. Adams for coming down and speaking with them.

At 7:55 p.m. a break was announced so that other meeting agenda items could be addressed after a brief recess.

#### Old Business.

Rogers Street. Mr. Race said that he spoke with Steve Gioisa from SITEC, who said we may have to go before the Planning Board for final approval of the parking lot. He also said that the LSP is working and we may need final monies to close out the account. Mr. Melo said that after August 1<sup>st</sup> we will owe an additional \$2,000.00 EPA compliance fee if the review is not closed. Mr. Race said that CPC fund can be used to pay this since it is part of the cost to close out the site. He said we will get a signed document from the EPA and LPS that the site is closed. Mr. Race said that Mr. Michael O'Reilly is trying to keep the cost down by doing some paperwork.

Mr. Melo said that he has a contract to cut the grass at Rogers Street for \$40.00 every two weeks. This was the lowest of several bids. Mr. Melo said the lowest bidder is licensed and insured. Mr. Hathaway feels that it is important to keep up the Rogers Street home since this will represent how we take care of the whole property.

#### Harbormaster Report.

Jet-Ski Purchase. Mr. Melo said that he has a purchase order to purchase last years loaned Jet Ski for \$6,400.00. He feels this is the best one to purchase, we have a history with it and it has a one-year warranty. For an additional \$600.00 we can get an additional 4-year warranty for it, he feels this would be a good investment. Mr. Gagne has signed the purchase order and he would like it as soon as possible. He has checked other prices and this was the lowest one, plus we know how it works since the only miles on it is what we used last year. Mr. Metcalf moved to purchase the Jet-Ski. Mr. Metcalf seconded. Mr. Peloquin opposed on principal. So moved 4-1 to purchase the Jet-Ski. Mr. Melo said that he spoke with Mr. Hickey and he was also in favor of the purchase.

Building Acquisition. Mr. Melo said that he went to Georgia and saw the two buildings. He said they are now in storage at the Department of Public Works, one is 100 x 150 and the other smaller. He said that he gave his travel expense and the shipping invoices to Mr. Gagne. He said Mr. Gagne has asked if Waterways would pay part of the shipping costs. He said Mr. Hickey will talk to Mr. Gagne about the request. He said that the location and assembly of the buildings is the Town's decision. He said there is talk to putting them at the DPW and Police Stations lots. Mr. Melo needs to be sure that the buildings are high and dry for storage during hurricanes and bad weather. Mr. Race said the Rogers Street parking lot shouldn't be used since it cannot be penetrated after the

pavement is laid. Mr. Hathaway said that somewhere it should be acknowledged that one building is the property of the Waterways Enterprise. Mr. Peloquin suggested getting containers to store it in. Mr. Melo also said that a third building is available for sale.

Department Vehicles. Mr. Melo said that the pick-up truck now has a hitch to trail the boats. The white patrol boat is in the water. The orange and pumpout boats are in the water. The Whaler will be going in during the next week. He said the second pumpout boat will be going in after a battery is purchased. There are not many pumpouts at this time of the year.

Personnel Update. Mr. Melo said he is trying to hire a replacement for Mr. Keith Manchester. He said Lori Resapelski would be a good replacement, she is a computer systems teacher and knows boats, she will be able to spend time in the water and in the office. Mr. Melo said he has recommended two reappointments, Charles Howland and Rob Miller as Assistant Harbormasters and Ms. Resapelski to replace Mr. Manchester.

Mr. Metcalf asked about Mr. Ira Perry's replacement. The Select Board appoints the person. Mr. Melo thinks that Mr. Michael Gill has sent in a letter for this appointment.

New Business.

Mr. Peloquin said that he has the application from the insurance company. He said that the policy renews on July 1<sup>st</sup>. Mr. Hemingway asked if Mr. Gagne approved the change. Mr. Peloquin said that Mr. Gagne did approve this.

Public Comment.

Ms. Carol Hill of Concordia thanked the WMC for their help getting the ACE scheduled to attend. She feels that the meeting was a big help and she will continue to stay in contact with Mr. Brian Valiton to get the final answer.

Mr. Don White asked about the parking permits at the Town Landing. He feels it is confusing. His sister-in-law received a \$45.00 parking ticket for parking there. Mr. Melo said that if a car is left unattended at that facility without a season or daily pass, they receive a parking ticket. Occupied vehicles properly parked are not tagged. A permit is required both for launching and parking at the landing, as described on several posted signs. He also said that management of the parking fines is the bane of his duties, but it is his responsibility nonetheless.

The next meeting is scheduled for Tuesday, July 22, 2008 at 7:00 p.m. at 12 Rogers Street.

Mr. Peloquin moved to adjourn the meeting at 8:30 p.m. Mr. Race seconded. So Moved.

Respectfully submitted,

Diane L. Vieira