

**Town of Cape Elizabeth
Ordinance Committee Minutes**

December 17, 2018

6:00 p.m.

Town Hall

Present: Penny Jordan, Chair
Caitlin Jordan
Valerie Randall

Staff: Maureen O'Meara, Town Planner

Councilor Penny Jordan called the meeting to order. The minutes of November 13, 2018 were approved 3-0.

Public Comment

Nate Perry, 10 Pine Ridge Rd - He is attending as liaison from the Cape Elizabeth Fishermen Alliance (CEFA).

Frank Kasilowski, 6 Boat House Ln - Regarding the Coastal Waters and Harbor Ordinance changes, he has a concern with an existing outhaul on Peabbles Cove. Former Harbormaster Ian Anderson recommended removal. It is a mooring without a buoy. If the outhaul is allowed, it should follow the mooring regulations of the Harbormaster and the equipment scrutinized. The floating rope should be replaced with a sinking rope. The rope should not be 5' above ground level as kids play on it and it is a safety hazard. Mr. Kasilowski shared a video of the outhaul.

The committee agreed to move item 4, Coastal Waters and Harbor Ordinance, ahead of item 3, Traffic Regulations.

The public comment period was closed.

Coastal Waters and Harbor Ordinance

The committee reviewed the list of ordinance changes recommended in the Harbor Committee Report 2018. They agreed to remove "black" from the buoy definition.

Councilor Randal obtained the Town of Yarmouth outhaul definition and the committee agreed to add that definition to the ordinance.

The committee agreed to remove the word "extreme" from emergency.

The committee discussed adding a definition of a houseboat and additional regulations as needed. Mr. Perry said that adding a definition was recommended by Harbormaster Anderson. The committee questioned if a houseboat would need a marina and if a sailboat would be considered a houseboat.

Transient Vessels

Mr. Perry mentioned transient vessels. Gary Cummings noted that a scow parked in South Portland near Hannaford and that could happen here. Mr. Kasilowski asked what would stop folks from having a houseboat here? Councilor Caitlin Jordan said they would need a mooring and nothing would stop that. Do we want to stop or allow it?

Councilor Penny Jordan said the proposal is for no houseboat unless located at a marina.

Mr. Perry explained that if you are anchored more than 24 hours, you need the permission of the harbormaster. That addresses transient vessels. Picking up a mooring needs harbormaster notification. He noted that houseboats need pump outs and compliance with state regulations.

Councilor Randall asked about the transient vessel. If we leave the ordinance open, it provides the harbormaster with leeway. Do we want to define it? We can say a vessel that is transient ...

Councilor Penny Jordan said that mooring of transient vessels happens all summer long. Mr. Perry elaborated that speed boats tie up to moorings. He supports a time limit of 24 hours to allow a boater to sleep overnight. For more than 24 hours, there should be harbormaster notification. The ordinance requires permission from the mooring owner in case the mooring won't hold the boat.

Councilor Penny Jordan asked if the definition will make more work for the harbormaster? Will there be a need to monitor for compliance with the time limit? Councilor Caitlin Jordan asked what is the ultimate outcome desired? Do you want to define to allow it or to regulate it?

Councilor Randall supports allowing an exception for transient boats separate from houseboats. Transient vessels should have a harbor of refuge opportunity. She would like the definition to be less specific. Councilor Caitlin Jordan supports defining what is added to the ordinance. Councilor Randall prefers relying on common understanding instead of a definition and leaving it open for the harbormaster to manage.

The committee agreed to define transient, for a time period of 72 hours, and exempt transient from the houseboat definition.

Outhauls

Mr. Perry said an outhaul requires placement of large equipment onshore. He recommends prohibiting float rope.

Mr. Kasilowski supports allowing outhauls at the discretion of the harbormaster, including determining the number of lines and if it is safe.

Councilor Penny Jordan asked if any outhauls should be permitted? Mr. Kasilowski said they are like a mooring. Mr. Perry suggested that the Army Corps of Engineers would also require permitting. Councilor Penny Jordan said the distance and apparatus used should be reviewed. It was suggested the Harbor Committee could provide a recommendation, but they were an ad hoc committee whose work is done.

Councilor Caitlin Jordan said the mooring regulations are not in the ordinance and the harbormaster should put those together. Mr. Perry offered that an outhaul is a mooring.

Councilor Caitlin Jordan suggested asking the harbormaster to draft outhaul regulations. It should not be a rusty pipe, no float rope, and a limit on how many in an area. Mr. Perry suggested looking at Portland regulations instead of Scarborough.

Staff was directed to ask the Harbormaster to provide recommendations on outhauls. CEFA will also make inquiries.

Traffic Regulations

The committee reviewed the ordinance and agreed to authorize the town council with general authority to manage parking. Staff will prepare a draft for committee review at the next meeting.

Next meeting

In order to provide adequate time for staff to provide requested information, the next meeting was moved to Wednesday, January 9, 2019, from 6-8 p.m. No additional public comment was offered. The meeting adjourned at 7:40 p.m.

