

**Town of Cape Elizabeth
Ordinance Committee Minutes**

January 9, 2019

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 the December 17, 2018 meeting were approved 3-0.

Coastal Waters and Harbor Ordinance (Chapter 10) amendments

The committee began review of the ordinance amendments, noting a definition of out haul originating from the Town of Yarmouth. Councilor Penny Jordan asked if the existing out haul [located at Peabbles Cove] was located on a property not owned by a commercial fisherman?

Frank Kasilowski, 6 Boat House Ln - He confirmed that is true.

Councilor Penny Jordan asked if out hauls are necessary for commercial fishing?

Angelo Mazzone, Harbor Master - He noted that Scarborough doesn't use out hauls. He watched the videos. He is concerned that out hauls (1) do not impede navigation and (2) are properly constructed, similar to the drawing he sent. The video did not show the line tangling or seaweed on the line of the out haul. He understands the out haul was there a long time, was not used and now is back.

Frank Kazilowski - The out haul hasn't been used in 10-15 years, then ropes were put out on the posts and caught the neighborhood's attention. We want it removed. The former Harbor Master needed an ordinance amendment to remove it. It does impede getting across the cove. People swim there and the out haul is not needed.

Councilor Randall asked what ordinance amendments would be best so that an out haul is not prohibited, but properly installed? Councilor Penny Jordan said that if we allow it, then we need to establish standards. Councilor Caitlin Jordan suggested something similar to the mooring regulations. Councilor Penny Jordan questioned if we want to allow it?

Nate Perry, Cape Elizabeth Fishermen Association (CEFA), 10 Pine Ridge Rd - He does not want out hauls prohibited even though they are not currently used. He said Charlie Webber's grandfather, who lived at Peabbles Cove, used an out haul.

Councilor Penny Jordan asked if they could be limited to commercial fishermen.

Nate Perry - He recommends providing guidance on how to properly install them. There should be no navigational interference, no safety issue, and should be maintained. The committee needs to develop language for the ordinance.

Councilor Penny Jordan asked if an out haul should be allowed for recreational purposes?

Nate Perry - At Peabbles Cove, the alternative to an out haul is a regular mooring and hand carry a dinghy, which is not an option for some.

Councilor Caitlin Jordan said that it will hinder access if we prohibit it, so we need to regulate it. Councilor Randall suggested adding a section that existing out hauls must be permitted, and inspected.

Mr. Mazzone prefers permitting like moorings, which is the way he is notified and can perform inspections. Regulation of out hauls would include no float lines and minimum gear weight standards.

Frank Kasilowski - He wants to limit to dinghys. He questions how restrictions on out hauls limits access?

Councilor Caitlin Jordan said prohibiting out hauls limits options. Councilor Penny Jordan noted we need to establish criteria and the current out haul may not meet the standards. Mr. Mazzone noted there are 2 posts at Peabbles Cove, so originally 2 out hauls.

Frank Kasilowski - If allowed, the apparatus should be at ground level.

The committee agreed Mr. Mazzone would need to prepare standards for review.

Councilor Penny Jordan asked if a person with an out haul must own the location where it is placed?

Frank Kasilowski - He asked if anyone can drop a mooring in front of his property? It was explained that the Harbor Master regulates moorings in waters off the town shoreline.

Councilor Penny Jordan asked if you can restrict out hauls on land if you don't live there? Mr. Mazzone has authority to the high water line. Councilor Caitlin Jordan clarified that as long as you can obtain access to the beach, you can use the out haul. Councilor Randall noted that if a landowner does not want an outhaul on his/her property, the landowner can assert property rights.

Nate Perry - He said this question will keep coming up and the Harbor Master needs guidance, similar to guidance on moorings.

Mr. Mazzone wants regulations that require out hauls to be safe and useful.

Councilor Penny Jordan asked about the status of an out haul that has not been used in 13 years?

Nate Perry - He suggested that whomever installs an out haul should remove it. Perhaps bonding requirements similar to aquaculture farming should be required.

Frank Kasilowski - Peabbles Cove neighbors are upset with the out haul. Is there a different apparatus for pulleys? Can we use Army Corps of Engineers permitting?

Councilor Penny Jordan clarified that the Harbor Master will create regulations and apply them. There would be no grandfathering of existing out hauls.

Frank Kasilowski - The posts have not been used for 10 years and should be removed.

Councilor Randall proposed that Sec. 10-5-7 be expanded to also apply to out hauls. Councilor Caitlin Jordan supports that all mooring regulations also apply to out hauls.

Frank Kasilowski - The mooring regulations reference a mooring ball and the Peabbles Cove out haul has a wooden frame.

Councilor Caitlin Jordan expanded that the Harbor Master would write separate regulations for out hauls similar to what currently exists for moorings.

Frank Kasilowski - How do you determine how many moorings are allowed in an area?

Mr. Mazzone explained calculating the surface area at low tide, allowing for boat swing in current and wind, depth of water, etc. He understands the issue and doesn't think there will be a large demand for out hauls. The committee will expect to see regulations prepared by Mr. Mazzone to align with the ordinance amendments.

Frank Kasilowski - To get an out haul permit, what will I have to show?

Mr. Mazzone explained that information on the location would be needed, and a commitment to install and inspect equipment consistent with the regulations. The website lists the mooring requirements and approved contractors. He explained how he performs inspections. No plans or diagrams will be required for submission because the Harbor Master will provide a standard diagram. It was agreed that the Harbor Master would bring draft regulations to the next meeting.

The committee moved on to review the remainder of the ordinance.

Nate Perry - He noted a possible conflict in the draft amendments with relating transient to 72 hours.

Mr. Mazzone noted that in an emergency, he will not be notified and has no idea if a mooring will hold a boat in that circumstance.

The committee agreed someone can anchor outside a town mooring area, however, notification to the Harbor Master is always good practice. The ordinance was amended to state that vessels anchoring outside the mooring areas shall notify the Harbor Master if staying more than 72 hours. The transient vessel definition, which is different from a houseboat, was changed to define a temporary period of mooring not to exceed 14 days.

The committee agreed to table amendments to chapter 10 until the February 7th meeting, when it will review draft out haul regulations prepared by the harbor master. Mr. Mazzone will get his draft to Ms. O'Meara by January 31st, and it will then be included in the next Ordinance Committee meeting package.

Traffic Regulations, Chapter 13

The committee reviewed revisions to Article IV, Traffic and Parking, that broadened Town Council authority to regulate parking and circulation in Fort Williams Park. The draft was revised to retain town manager authority to

designate reserved spaces, without limiting who could benefit from reserved spaces. The committee agreed the amendments provide flexibility for the town to better manage the park.

The committee voted 3-0 to recommend the amendments to the Town Council.

Next meeting

The next Ordinance Committee meeting is February 7th, beginning at 6:00 p.m. The meeting adjourned at 7:17 p.m.