

**TOWN OF CUMBERLAND, MAINE**  
Coastal Waters Commission  
Meeting Minutes  
August 25, 2005

**Present:** Chairman, Lewis Incze, John Williams, and Jim Millinger.

**Absent:** Ken Hamilton, Hartley Brewer and Town Councilor, Donna Damon.

**Staff:** Town Manager, William Shane, Harbor Master, Tom Burgess and Town Attorney, Natalie Burns.

**I. WELCOME & INTRODUCTIONS**

The meeting was called to order at 6:55 pm.

**II. APPROVE MINUTES OF PRIOR MEETING**

There was a motion by Jim Millinger that was seconded by Lewis Incze to approve the minutes of the meeting of August 18, 2005.

The vote was unanimous in favor.

**III. DISCUSSION OF DRAFT 3 OF THE REVISED ORDINANCE- LEGAL ISSUES**

The Commission members discussed the language of the draft with Town Attorney, Natalie Burns.

Ms. Burns said that she did not find any major flags in the proposed language. She suggested that the Commission use the same terms as the State Statute to avoid misinterpretation of the ordinance. She informed the Commission that the Department of Environmental Protection (DEP) is working on amendments to the Shoreland Zoning model ordinance. She said that most of the changes relate to timber cutting, but that it did say that wharves that are not temporary needed to go through DEP review and that an Army Corp permit may be needed if they are located in navigable waters. The Town would be expected to adopt the minimum provisions of the model of the ordinance.

Ms. Burns clarified the definition of and procedure for issuing a Wharfing-Out permit for the Commission. An application has to be filed with the municipal officers indicating the location of a wharf or fish weir and notification has to be given to anyone directly affected by the proposed construction. Then the Town has to give three days public notice of the application in the newspaper and hold a public hearing somewhere on or near the premises of the proposed project. The municipal officers need to determine if it is an obstruction to navigation or causes injury to the rights of others. The interpretation

of the term 'injury' says that it has to be tangible, which means obstructed navigation or fishing. It cannot apply to views or the sightly prospects of the harbor.

Ms. Burns stated that the public easement (Colonial Easement?) is for Fishing, Fowling and Navigation not for walking along the beach.

The Commission discussed the addition of lighting standards to the ordinance. Ms. Burns liked that the Commission added standards regarding lighting. She suggested some language that could be incorporated into that section of the ordinance as follows:

- Light spill over beyond the property line
- That causes glare or negative impacts
- That is distracting or could cause a problem for navigation on the water
- Causing confusion to people in the harbor

She felt that the State would not have a problem with the additional standards because it would be more restrictive. She stated that all amendments to Shoreland zoning would need to be reviewed by DEP for approval.

John Williams suggested that the words "*and installed*" be added after **designed**.

Jim Millinger suggested the phrase "*Safe navigation at night*" for the standards and that the lighting standards follow .6 of the ordinance.

Ms. Burns suggested that two standards be developed regarding commercial and non-commercial uses of lighting.

The Commission discussed the order of the points in the ordinance and whether .10 and .11 could be combined into one point. The role of the Coastal Waters Commission would also be added into the language in the procedures section of the ordinance.

Ms. Burns suggested that the word "*abutting*" should be deleted from .12.

Jim Millinger said that the words "*shall be obtained*" should be deleted at the end of .11.

Lewis Incze asked for a suggestion regarding the wording of .3. He felt that it was a zero tolerance statement as it currently read.

Ms. Burns agreed that the statement could say, "*not to unduly interfere*".

The Commission discussed a provision for community structures and whether requirements should be included to ensure access and maintenance rights.

Town Manager, Bill Shane said that he would incorporate all of the suggested changes into a new draft for the next meeting.

**IV. OTHER BUSINESS & FUTURE MEETINGS**

- a. Manager Shane informed the Commission regarding some activity on Hope Island.
- b. The next meeting will be held on Thursday, September 8, 2005 @7:00 pm on Chebeague Island.

**.V ADJOURNMENT**

The meeting adjourned at 8:30 pm.

Respectfully Submitted By

Nancy Stroud  
Board/Committee Secretary