STATE OF MAINE
COUNTY OF YORK
CITY OF SACO

I. CALL TO ORDER – On Tuesday, November 13, 2018 at 6:30 p.m. a Special Council Meeting was held in the City Hall Auditorium.

II. RECOGNITION OF MEMBERS PRESENT – Mayor Marston Lovell recognized the members of the Council and determined that the Councilors present constituted a quorum. Councilors present: Marshall Archer, Roger Gay, Lynn Copeland, Alan Minthorn, Micah Smart and Nathan Johnston. City Administrator Kevin Sutherland and City Clerk Michele Hughes were also present this evening. Councilor Doyle was excused this evening. Sandra Guay was the Acting City Solicitor for this appeal.

III. PLEDGE OF ALLEGIANCE

IV. PUBLIC COMMENT

There were no comments.

V. AGENDA

A. COASTAL WATERS COMMISSION VS. GARON MAILMAN

Mayor Lovell stated that the Council will follow the protocol outlined in City Administrator Kevin Sutherland’s memo of October 12th.

MEMORANDUM

TO: Mayor Lovell and City Council

FROM: Kevin Sutherland, City Administrator

DATE: November 13, 2018

RE: Garon Mailman vs. Coastal Waters Commission

A Special Meeting is being held on November 13, 2018 to allow City Council to hear the case of Garon Mailman vs. The Coastal Waters Commission. Attached are exhibits previously provided to the Council and the Appellant, as well as Mr. Mailman’s opening brief.

1. Administrative and General Code for Coastal Waters Commission
2. 9/24/2018 – Garon Mailman appeals decision of the Coastal Waters Commission
3. 9/17/2018 – Coastal Waters Commission decision letter to Garon Mailman
4. 9/11/2018 – Meeting Agenda
5. 9/11/2018 – Minutes from the Coastal Water Commission Meeting
6. 9/11/2018 – Transcript of agenda item 3. Hear the appeal of the revocation of mooring privileges of Garon Mailman.
7. 9/11/2018 – Notes from the Harbor Master
   a. Letter from Clerk, application, and terms
   b. MOSES Sales Application (Mailman registered a boat on - 8-24-18)
   c. Phone records – highlighted line is Mr. Mailman (redacted for privacy)
8. Garon Mailman Opening Brief

The Council will refer to only the materials appended to that memo, and statements made by the parties and their representatives tonight. The deliberation will take place in public and the council will make their decision at the completion of deliberations. The Council will potentially answer 3 questions: 1. Did the Coastal Waters Commission correctly uphold the decision of the Harbor Master to revoke the mooring permit; or 2. Did the Coastal Waters
Commission err in upholding the Harbor Master’s decision; or 3. Did the Coastal Waters Commission err but make a procedural error and if so was the procedural error significant enough to reverse the Coastal Waters Commission’s decision?

Mayor Lovell noted that he was present at the hearing on this matter held by the Coastal Waters Commission, and I did not express an opinion during that hearing and I do not have an opinion now. I’m acquainted with members of the Coastal Waters Commission through their affiliation with city government. I don’t see attorney Mailman present, but I would like to note that she and my daughter were classmates.

Mayor Lovell asked if there were any Councilors who would like to disclose connections to either parties?

Councilor Copeland stated that she is the liaison to the Coastal Waters Commission, but she was not present during the hearing.

Councilor Johnston stated that that Mr. Mailman and he were in the same graduating class of 2002, but I don’t believe that would lead me to be impartial here.

Mayor Lovell asked if either Mr. Mailman or Mr. Katz have concerns arising from these disclosures? Mr. Katz and Mr. Mailman both replied that they did not have any concerns.

Mayor Lovell asked if any Councilors would like to make a motion of recusal based on these disclosures or the concerns expressed by the parties? He noted that there were no concerns expressed by the parties and the disclosures seem to be perfunctory, and he saw no motion of recusal.

Mr. Mailman will begin by presenting his case. At the end Councilors may ask clarifying questions. Then Mr. Katz will make his presentation and Councilors may ask questions of both Mr. Katz and Mr. Mailman. Mr. Mailman will then be allowed to rebut Mr. Katz’s remarks. The Council may then ask questions Mr. Katz, Mr. Mailman, and associated with process the Acting City Solicitor Ms. Guay or the City Administrator Mr. Sutherland pertaining to matters of city business or ordinances.

The council will make a motion and enter into discussion and deliberation until a motion is made to move the question and that motion is passed.

Parties may not disclose any new information or evidence that was not introduced during the Coastal Waters Commission hearing of September 11, 2018.

Mayor Lovell handed out the Outline for the Council Hearing prepared by Acting City Solicitor Ms. Guay.

Outline for Council Hearing Appeal of the Coastal Waters Commission Upholding of the Harbor Master’s Revocation of the Garon Mailman Mooring Permit

1. Upon agreement of the parties, this will be reviewed by the Council as an administrative appeal. This means that the Council will be relying on the record that was before the Coastal Waters Commission ("CWC") at the time of Mr. Mailman’s appeal. There should be no new testimony and no new evidence. It will be incumbent upon the Mayor to stop anyone who may be attempting to get new evidence into the record.

2. As outlined by Kevin, the procedure for the conducting the meeting should be:

   (a) Appellant reads his opening statement and states his case;

   (b) Chair of the CWC responds and states its position;

   (c) Council will ask any clarifying questions of the two parties. Only if necessary, Council may also ask clarifying questions of other witnesses that were present at the CWC meeting, but any questions must be limited to clarification of the evidence that was presented to the CWC – no new evidence should be permitted.

   (d) Appellant makes a closing argument.
Mr. Garon Mailman Stating his Case & Council Questions

Mr. Mailman – Good evening everyone. Thank you, Mayor Lovell, and thank you Council members for hearing me in this matter. I know that we are in unchartered waters with tonight’s meeting, but a smooth sea never made for a skilled sailor. I first would like to make sure everyone has had a chance to review the opening brief that I had submitted. Some of the issues involve legal analysis and I wanted to make sure that everyone had them in writing. Exhibit #8. This mooring permit is crucial to my livelihood. It would cripple my business if it is taken away from me.

If everyone read the brief, at this point I would encourage you all to ask me any questions or any issues raised in the brief. I truly believe that the more information and the more questions you ask the more inconceivable you will see that it was for the Harbor Master to conclude that my mooring has been abandoned.

Mayor Lovell asked Mr. Mailman if that was the closing of his case? Mr. Mailman replied “yes” and he strongly encouraged questions. Mayor Lovell asked the Councilors if they had questions.

Councilor Gay – Have you ever had your mooring permit revoked before? Mr. Mailman replied “no”.

Councilor Smart – In the transcript of the hearing in front of the Coastal Waters Commission you were asked whether or not you got a letter notifying you by Gary Marston, do you recall that. Page 20 of the packet, exhibit #6. Mr. Mailman - At the first meeting, he had not had any warnings or anything. Councilor Smart - Read the question: “So, you got the letter right? You got the letter notifying you?” and you responded “Yes. Well, now I do.” I’m wondering what that letter was that you were discussing with him. Mr. Mailman - That he was not sure what letter he was talking about here. Councilor Smart - Asked for the record for Mr. Mailman to describe the extent of the communications between you and Mr. Chadbourne around that period of time? Mr. Mailman - He commercial tuna fishes down in Camp Ellis and he is down there 2, 3, 4, days a week, 5 days a week. I see him in the parking lot 2 or 3 times a week. I see him often. I see him very often and we are in touch throughout the summer. We have had multiple conversations throughout the summer. But no, no, he never said anything about me being in any violation or any warnings about the mooring and it was never brought up. The first sign of trouble and the first time he told, mentioned that I was in any violations was August 2nd at 9:40 at night. That was the first sign of any wrong doing and the very next day, I think 2 days later I took immediate action and got a different dinghy and put it on there. Councilor Smart - Asked...
how that was communicated to you on August 2nd?  Mr. Mailman - On August 2nd he got a text message stating that his mooring had been revoked and that was the very first of anything that I had heard that I was in any violation and I see him all the time down there.  Councilor Smart - There is some discussion in here about you having another dinghy tied up to the mooring at one point in time in July.  Mr. Mailman replied “correct”.  Councilor Smart - Asked him to talk a little bit about that.  Mr. Mailman - Stated that a good friend of his has a mooring down there and he doesn’t have a boat, but he does the minimum requirements and he is a good friend of mine.  So, I take care of the dinghy and I have been taking care of it for the last 5 years.  This dinghy has sank a couple of times and we have been through a bunch of motors.  The motor I have on there now is more valuable than the dinghy itself. He would gladly tell you it is our dinghy and the total value of the dinghy is $300.  It is registered in my name.  So, for the past 5 years I put his dinghy on the mooring for him and this is the dinghy that I use daily.  So, when I would go out on a trip I would put it on his mooring 1 day a month and grab it on the way in and use it daily for mine.  I also did that for my mooring.  At the beginning of the summer I was told it was fine to just throw that dinghy on there because I have had it for 5 years and everything would be fine.  So, that is what I did.  I used that dinghy and I threw it on there for 1 night in 2 months in a row and that was, I thought everything was great.  I see everybody down there all the time in Camp Ellis and I see the Harbor Master all the time and I never thought there were any issues going on until August 2nd.  That was the first sign of trouble.  Councilor Smart - Would you say that you owned that dinghy?  Mr. Mailman - Replied that he owned it he guessed.  I mean I have been taking care of it for 5 years.  I pull it out every Spring and put it in every Winter and it is at my house all winter.  I take the time to paint the bottom of it, I fix the holes, and I mean the dinghy really doesn’t have any, the motor has some value, maybe $400 and the dinghy is probably worth $100.  It is a beater.  It doesn’t really have any value but Stephee my friend does register it, just so he can do the bare minimum once a month and keep his mooring.

Councilor Copeland – So, you were using your friends dinghy for 5 years and he registers it but you are claiming ownership of it.  Why would you need an additional mooring if you have that one?  Mr. Mailman - Responded that he has always had his own boat and mooring for the past 10 years.  This year when I ran into the motor issues I had to sell it in the spring.  I have another boat that my friend owns, and he has a mooring and that is the boat that I commercial tuna fish on.  That is the boat that I fished all summer.  My other good friend has a mooring, the dinghy that we are talking about.  He has his own mooring and I use that dinghy daily and he doesn’t have an actual boat on his mooring he just does the minimum along with a bunch of other people down there.  They just put a single mooring, I mean a single dinghy, the bare minimum once a month for 3 months and they do that just to hang onto their mooring because they don’t want to lose it.  Councilor Copeland - If you didn’t have this mooring you could get other moorings in the river?  Mr. Mailman - It was not that simple.  I have kept the boat upriver on other moorings and I have kept the boat downriver on other mooring.  With the size boat that I intend to get and I’m use to running, you have to deal with current and the time of running up the river an extra hour and most of the time I run at night and if you have ever tried to navigate the Saco River at night when it is foggy, and I have done this, it is extremely dangerous especially going through the twin islands.  Camp Ellis has been my home for the past 10 years and it is the best place to keep a boat.  That mooring that I have is the best location in the river.  It is extremely expensive to get another mooring.  Councilor Copeland - When you received the permit, it came with a packet of terms and conditions, did you read any of that?  Mr. Mailman - Stated that he did.  Councilor Copeland - It talks about what your responsibilities were.  Mr. Mailman - Stated “correct”.  Councilor Copeland - Then why do you think that you are not in compliance with the rules that are set out?  Mr. Mailman - Stated that he did comply with them and the rules down in Camp Ellis have always been the Harbor Masters way or the highway.  It has been Dan’s show.  If you keep Dan happy then you are happy down in Camp Ellis.  Rules down there are bent daily down there, and in this case, he told.  Councilor Copeland - Asked if he brought any of these things up to the commission because there are procedures.  Mr. Mailman - Stated that he was told when he saw Dan daily, multiple times a week down in Camp Ellis he told me that dinghy that I put on there was fine and everything was fine.  It wasn’t like.  Councilor Copeland - The rules call for you having a boat that is registered to yourself.  Mr. Mailman - Stated that was correct and as soon as, so Dan said this was fine, and as soon as Dan said if there is any type of problem, I went out the very next day and grabbed a skiff, another dinghy and put it on there and took immediate action.  Councilor Copeland – But, it wasn’t registered, and it wasn’t yours.  Mr. Mailman - It was registered.  The one I put on thee as soon as I was aware of any trouble was registered in my name and was my boat and was on there for over 3 months.  Just, I missed the “cut-off special month” by 2 days.  Had I been sent any warning, I could have put my dingy on there 2 days earlier and we wouldn’t be here right now.  It was also on there the month of August, September, and October.  October is not one of the “magic months” but it was on there.  Councilor Copeland - When you completed the application you said that you
had a boat. Mr. Mailman replied “yes”. Councilor Copeland - You posted on Facebook the prior November that your boat was for sale. So, you knew this was going to happen and you put that information on the application? Mr. Mailman - Every fisherman will sell their boat for the right price. My plan when filed out that mooring permit, I had no intentions, I mean I had intentions that I would sell that boat if I got top dollar. So, I was planning on buying a motor but when I ran into a little bit of financial trouble and when someone made me an offer for a boat with a broken motor that I couldn’t refuse I sold it. That was when I made that decision, but I had already filled out the application, so my application was not fraudulent. Councilor Copeland – Did you make any attempts to change the information and update it with the information that you didn’t have a boat? Mr. Mailman - Stated that he was unaware that if he had filled out some paperwork that this whole matter would not have been here, and I wouldn’t have even had to put a dinghy. I wasn’t aware of that, that all I had to do was to fill out some simple paperwork. Also, I feel like I have been down there for 10 years and the Harbor master could have given me common courtesy and told me to “hey fill out this paperwork”. He knew. He is the one who submitted that post on Facebook that the boat was for sale. So, he was aware this whole time that I was trying to sell my boat and he could of said that I have to fill out some paperwork or just given me a heads up after being down there for 10 years and never having any issues. I have never been disrespectful of anybody down there and it has been my home for 10 years. I love Camp Ellis, it is a great place. Councilor Copeland - Agreed that it is a great place. Mr. Mailman - They like to say that he says that he was unaware of my boat being sold. It is Camp Ellis, it is tiny, and everybody knows everything about everybody. Councilor Copeland - One of the things about having these rules is that people who are, you know 14-15 people on a wait list, so if you guys all have dinghy’s out there just skirting it that seems to go against the intent of the rules. Mr. Mailman - Stated “correct it does”. Councilor Copeland - It seems like you are trying to save your primo spot and it looks like a really good spot. Mr. Mailman - Noted that in this case it says that it may be deemed abandoned and in this case, it was not abandoned. I took care of it all summer and every 2 years you have to have the mooring inspected, the chains up to code. I paid my permit and I paid to have it removed for the dredge that is starting. This mooring is not, these rules are in place where it may be deemed abandoned in case it really is abandoned. But, it is not. Councilor Copeland replied that it is up to us to decide. Councilor Copeland asked Mr. Mailman if he received any letters. Mr. Mailman replied no letters. He said he received a letter in the mail after we had the Saco River Commission meeting. After that meeting in September, after that first meeting then I got a letter in the mail. The September 11th meeting. Councilor Copeland – So, you didn’t register when did you register the dinghy? Mr. Mailman – I put the dinghy on there I think 2 days I put my own dinghy on that mooring and I believe the fishing was really good, so I didn’t have a chance to get down to City Hall and get the sticker. It was brought up that I was able to get my hunting license, but I was able to do that online when I was sitting on my boat tuna fishing offshore. Councilor Copeland – So, you couldn’t do that online. Mr. Mailman – I always understood that you have to go down to City Hall and get the sticker and they have to see the bill of sale because it was a different boat, so I had to go get the sticker. That is why I didn’t get to do it immediately. But, I did put that dinghy on there 2 days later as soon as I found out there were any issues going on.

Councilor Minthorn – During the 3 out of 5 months was there during those 3 out of 5 months a boat registered in your name attached to the mooring or not? Mr. Mailman – It was on there for 2, for August and September. So, I missed one of the golden months by a couple of days. It was on there for an extra month after the golden months. Councilor Minthorn – It gets back to the point of in those 3 months was there a boat registered in your name attached to the mooring anytime during those 93-day period and did you make attempts in my mind to notify the Harbor Master of any changes in registration? Yeah, you assume he knew the boat was sold. But, assuming someone knows the boat is sold because the boat is now missing. If I pulled up there and looked, are you out tuna fishing or did you take the boat out. I understand tuna fishing and all that, but there is allot of gray area of assumptions here as to who knew what when. Mr. Mailman – I agree with you and I know there is allot of gray areas going on but if you say you are looking at the mooring and whatever. I mean if you are going to sit there and print off in the spring that I was trying to sell my boat way ahead of time because once I sold the boat it wasn’t on there. So, are you planning this the whole time? You printed it off this spring, I mean something is going on. Councilor Minthorn – The point I’m making is if you intended to sell the boat, you at some point sold the boat. You knew under the rules and regulations of obtaining the mooring that you had to have a boat registered in your name on there in that window, you missed it by 2 days. You missed it in 1 sense and it is as good as a mile. I understand the predicament you were in and I read all the background materials and all that and I emphasize with your situation. But, if there wasn’t a boat registered in your name in that window in that is required, then you violate the agreement. Mr. Mailman – I do believe the key word here is may. It still says may. Councilor Minthorn – But, if I have a waiting list of 15 people that want that, and you
are sitting here and saying well yes, you may do that. He chose to do that and readily you missed it by 2 days. That seems to me that it was his option than to exercise and may became did or should or shall or whatever you want to say that way. At the same time, if we have others down there doing the same thing with dinghy’s to keep their mooring, I would much rather see that we have a rule change and deal with this in another way. But, that are other issues for another meeting.

Councilor Smart – Did you have a vessel of equal or lesser tonnage than what your boat was before you sold it? Owned by you on that mooring at any point and time between May and August? I don’t care about registered, but did you own a boat that was tied up to that mooring? Mr. Mailman – This year? Councilor Smart - Clarified between May and August. Mr. Mailman – August 4th I put a boat, my boat on there and I didn’t have time to get it registered until I think it was later in the month. So yeah, I had a boat that was registered in my name that I owned August and September. Councilor Smart – I’m not concerned about if you registered it, I’m concerned about whether or not you owned it. Mr. Mailman – Yes, I owned it. Councilor Smart – A boat. Any boat. Mr. Mailman – Yes. Councilor Smart – The language between the application and the codes section are not the same. The codes section says, “or a vessel of equal or lesser gross tonnage owned by the mooring permit holder”. The application says “a vessel or float registered to the owner or business named above for at least one day in each of the three out of five months”. I’m looking at the code section and when there is a disagreement between the two, I’m going with the code section. The code section requires a boat that is registered to you or a vessel of equal or lesser gross tonnage owned by the mooring permit holder. You told me earlier that you thought you would sit here and say you thought you owned the dinghy that was tied up there you say sometime in July. Is that true? Mr. Mailman – I would consider it my dinghy. If we had to sell it right now I would get the money for it. Councilor Smart – That was tied to your mooring at some point prior to August and after May. Mr. Mailman – Yes, correct. Councilor Smart - Thank you.

Councilor Copeland – Just for clarification. You were talking about your friend’s dinghy on his mooring. Was that on his mooring or on your mooring? Help me understand that. Mr. Mailman – Okay. My friend who we are talking about is here today. I asked him to join us just in case you had any questions for him as well. So, I put his, the dinghy and I do the minimal requirements for him. I take care of his mooring as well. But, he is not around he is a real estate agent and has a daughter and is a busy man. So, I use that dinghy daily. He probably wouldn’t even recognize it right now. But, it is registered in his name, so I meet the minimal requirements for him. I do him a favor for doing that and I use the dinghy daily for the last 5 years. Councilor Copeland - So, that is one dinghy on somebody else’s mooring. Mr. Mailman – Yes. Councilor Copeland – Is that the same dinghy that you own and put on your mooring or is a separate one? Mr. Mailman – No, I went out and bought …. When this first, at the first sign of trouble I went and bought another dinghy. Councilor Copeland – And this is the dinghy that you spoke of. Mr. Mailman – Yes., correct.

Testimony: Mr. James Katz Stating the Coastal Waters Commission Case & Council Questions

Mr. Katz – In so far as the testimony that Mr. Mailman gave when he sold the 25’ Parker boat on or about March 15th, there was no boat listed in the Maine Moses System where all the things of that sort are registered until August 24th. So, during May, June, July and 24 days of August MR. Mailman did not have a boat registered to him. So, that was one of the main reasons why he failed to meet the requirements. It was absolutely imperative that he put a boat on the mooring in July. Because July would then give him the first month of August and September the second and third month to meet the requirements. Two witnesses that he brought with him to the Coastal Waters Commission hearing could not corroborate that he had a boat on that mooring in the month of July. I specifically asked them in the testimony and they could not corroborate that there was a dinghy on that mooring that belonged to Mr. Mailman in July. That was the critical month. Because if he had had a boat on the mooring in July, after he got the e-mail from Dan he could have easily put the boat on the mooring on August 24th, and he could have put it on the mooring on September 24th and he would have been good and fine. The problem here is that he received a notification with the mooring permit from Michele Hughes, City Clerk which quotes “book, chapter and verse how you have to occupy that mooring and Mr. Mailman did not do that we determined in the Coastal Waters Commission hearing. We further determined that he did not own a vessel at all. There was no listing of a vessel registered to him in the Maine System of Registration. He failed to avail himself of a paragraph in the current regulation which at the time that it was made and written was very important to the councilors and that was to have an opportunity for a person who fell on hard times, whatever they may be: physical injury, illness of a close family member, bilge of a boat blowing up, to contact
the Harbormaster and make arrangements so that that would not create a double hardship of not only losing their boat or illness in the family but losing their mooring which may be a way of making a living for them. Garon Mailman did not do that. He did not inform the Harbormaster that he had even sold his boat 4 months earlier and made no attempt to communicate with the Harbormaster. I have been on this commission as a volunteer for 10 years. There are 100 moorings in the river. Ten years times 100 moorings is 1,000 mooring years and in 1,000 mooring years on that river this is only the second time that our Harbormaster has taken an action like this. This is no something that Dan Chadbourne the Harbormaster wants to do every day and every week and harass people that have moorings there. He more than many others understands the importance in the resource that we have here in the Saco River for people to enjoy it. Everyone who used the pier last summer so that mooring fallow floating in the water right opposite the pier. Mr. Mailman claims that that is how he makes his livelihood but there is nothing on that mooring now and there has been nothing on that mooring all summer long. So, I don’t know what kind of a mooring ah livelihood he would be making off the mooring. That was another reason that we found that a reasonable person would say that. He got the letter from Michele. He didn’t abide by it and didn’t do the terms and conditions according to the regulation. He was given a means and an opportunity to contact the Harbormaster and to tell him what his situation was. The Harbormaster has 100 moorings that he has to worry about and as stated, 99% of them have a boat on it and it is never issued. So, this whole issue is just something that was brought about by carelessness on the part of Mr. Mailman who had a mooring for 9 other years and never ran into difficulty this year he did. It is important for all of us in our walks of life that we have relationships with people and we have to know what is required like registrations on our cars, motor homes, and whatever else we have. Two days, 4 days, 6 days, 8 days, it doesn’t matter, 1 day is enough to get a citation for a situation like that. This was 24 days. So secondly, with regard to how Mr. Mailman was notified, he was sent a text message which was cc’d to some of the members of the Coastal Waters Commission. Was he notified properly? This gave us allot of concern in the dialog you hear that was transcribed. He was notified. What is the purpose of notification? To make sure a person is notified. How do you know a person has been notified? The feedback loop. Well my phone ran off the hook-on August 10th. Garon Mailman’s attorney Randy Mailman was on the phone with me indicating that she was aware that his mooring had been revoked. The feedback loop was closed. He understood, and they understood that his mooring had been revoked by the Harbormaster. The Harbormaster is under no obligation to tell you in July that you are not going to make it. He has 100 moorings. He can’t go around and tap everyone on the shoulder every time a mooring is empty. He had no further obligation as far as the Coastal Waters Commission was concerned because we got that feedback. Then on August 28th I was contacted by Randy Mailman by e-mail and she. Mayor Lovell - Noted this information was not in the packet and only information that was in the packet was allowable. Mr. Katz - Noted he was out of order on that. We feel the issue of the question of the notification was overridden by the fact that the utilization was a far overweening matter to be dealt with and that we were willing to say that this mooring permit was revoked for that reason and that notification was adequate for the purpose and intent which is to notify.

Councilor Archer – There is a phone call that appears to be at 444 p.m. originating from Old Orchard, is that our Harbormaster phone number, it is hard to tell? July 9th at 4:44 p.m. 207-229— originating out of Old Orchard. Mayor Lovell - Asked if that was one of the three highlighted numbers. Councilor Archer – That is correct. Councilor Archer – Referring to page 46, July 9th. Mr. Katz – At Coastal Waters we were given that list, but we don’t know. It says incoming and outgoing and that is all we know. But, we don’t know what the content of those phone calls were. We didn’t base anything we did on that. There was contact between them. Councilor Archer – There was also other contact on it looks like July 17th from that same phone number. Mr. Katz – The last phone call we have on there is August 1st, so that is the last contact and then it drops off and I don’t know why, but it is all we had.

Councilor Copeland – Just to the phone calls. A phone record doesn’t say what the call is about, so I think I agree with you that they have no merit in this case what so ever. We don’t have any testimony from either side and we actually have battling testimony, but we can’t ask questions about that. So, I see that as a non-issue. What I’m curious about is that e-mail from Mr. Mailman’s sister, his attorney Randy. Mayor Lovell stated that he did not believe that was in evidence. Mr. Katz said she (Randy) put it into her appellants brief. The following e-mail from Dan Chadbourne on August 29th which again reiterates that Mr. Mailman was on notice that he is revoking his mooring. Mayor Lovell stated that was exhibit #2, page #8. Councilor Copeland – The date of the first e-mail was August 27th. Mr. Katz – August 27th to me. Councilor Copeland – Right. Councilor Copeland – No, August 27th was from the Harbormaster to Mr. Mailman. Mr. Katz – Oh yes. Councilor Copeland – If we can accept and it is reasonable to me that we can accept that he was on notice, but it wasn’t until that point. At that point, it was already revoked. So, I have a problem with the notice. Mr. Katz – It certainly has been more than 30 days. The point of it
is to give him 30-day’s notice. He has been on notice since August 2nd. We have a transcript of that text message that he received. It is not in the materials that we reviewed at the Coastal Waters Commission because that was an e-mail that some of the commission did receive from the Harbormaster as cc’s. But, it wasn’t printed out at that time because the Harbormaster had no idea how to print out an e-mail, I mean a text message. An e-mail is pretty easy, but a text message is a little more tech savvy with the phone. We took his word for it. A reasonable person would do it and if this went any further we would produce it as evidence. I mean if we had to we would take the phone apart, but we now have it in my possession but it is not admissible. Councilor Copeland – I don’t know which text messages you are talking about. In here are appellants exhibit #6 and they are dated June 20th. Mr. Katz – That is the same one. Councilor Copeland – The string goes on and it goes on Mr. Katz – August 2nd was the last one I believe. Councilor Copeland – July 30th unless I’m messing with pages here. Mr. Katz – August 2nd would be the last one that I have. Wherein he clearly states that he is being revoked. Councilor Copeland – It does clearly state it is being revoked. It says on Monday, July 30th “Your skiff must have got loose. Somebody put it on Bart Wellborn’s mooring. He won’t care. It’ll be fine until you get in” Does that have any relevance here? Mr. Katz – I don’t know what that means. Councilor Copeland – It don’t know what that means either. Clear as mud. But, what is clear is that we didn’t send a certified letter correct? Mr. Katz – We did not send a certified letter. My personal feeling on it was that that requirement get out of non-compliance jail card for anybody who wants to violate the regulations and find some way to get off with a slap on the hand rather than what is deserved here which is revocation of the mooring. I mean, I don’t think anybody ever envisioned that 4 years ago or 6 years ago when that regulation was created that it was going to come down to this. He was notified. He responded. He closed the communication loophole. There was no doubt that he was being served. Councilor Copeland – Am I allowed to ask Mr. Mailman anything? Mayor Lovell – He is going to have his rebuttal and then you can ask both of the questions. Councilor Copeland – I appreciate that, and we have some work to do to clean up the ordinance. Mr. Katz – I understand. I’m truly sorry that that is a point here. It should not be. Mayor Lovell asked to clarify something with Councilor Copeland and that is. Councilor Copeland – Appellant exhibit #6 is the text messages. Mr. Katz – If I might add just one thing, some of those items in the appellant brief were no presented at the September 11th hearing. For example, that e-mail you just read from. Councilor Copeland – Oh, okay. Mayor Lovell – The appellants brief was not a part of the October 12th memorandum it is a separate document. Mr. Sutherland do you remember distributing the appellants brief? Mr. Sutherland – It was forwarded to council. Mayor Lovell – It was not forwarded with the October 12th material, is that true? Mr. Sutherland – No. It was sent separate. Mayor Lovell – That got an even distribution? To all members of the council and to Mr. Katz and Mr. Sutherland – Yes. Councilor Minthorn– On November 6th. Mayor Lovell – Okay, so everyone has received a copy of that.

Councilor Smart – Good evening Mr. Katz. I would like to go back to the text message that Councilor Copeland was just talking about. It reads “Your skiff must have got loose. Somebody put it on Bart Wellborn’s mooring. He won’t care. It’ll be fine until you get in.” Do you interpret that as Mr. Chadbourne believing that the skiff belongs to Mr. Mailman? Mr. Katz – I would interpret it as that. I would think Mr. Chadbourne tries to get along with everybody. So, they try to get over him and get around him and do something like that. I mean his assumption is he is trying to work with people. Who wants to go through this? You would have to be out of your mind. I mean, we don’t want to do this. I don’t want to be here. I’m a volunteer. But, the regulations are the regulations. The commission members work very hard to put this together and we want to try to help him and all he had to do was to make a phone call and say what the situation was. Councilor Smart – I’m glad you brought that up and I’ll try to be brief. Is it your opinion that a failure to abide by Chapter 118, section 5, subsection 4 which is the abandonment section, is a violation of Chapter 118? Mr. Katz – Section 4, your referring specifically to the occupancy of the mooring? Councilor Smart – Yes. Mr. Katz – Absolutely. That is a hard and fast violation of Chapter 118. Councilor Smart – So, Is it then your opinion that Section 118, chapter 28 applies to the failure to abide by 118, section 5, subsection 4? Mr. Katz – Section 28? Councilor Smart – That is the notice and violation statute, section. Mr. Katz – It says that they should be sent a certified letter. Yes. Councilor Smart – It says “shall”. Does it leave any room in there for any alternative types of service in the off chance that the person actually did receive notice? Mr. Katz – None. Mayor Lovell – Any other questions from the left side of council or the right? Thank you, Mr. Katz.

Mayor Lovell - Mr. Mailman, your rebuttal.

Mr. Mailman – Thank you Mr. Mayor. Um, I would just like to touch on those phone calls. If you read the brief you can see that those phone calls had nothing to do with. Mayor Lovell – You are not speaking of the text messages, you are talking about the 3 phone calls. Mr. Mailman – The actual phone calls. If you look in the brief you can see
every one of those phone calls explained and they had nothing to do with the mooring situation. The text messages as well. I was in contact with the Harbormaster all summer long and there was never anything about the mooring situation. The first sign of any trouble was on August 2nd. Also, they are making it sound like it is extremely hard to get a mooring and there is a waiting list. But, there are. I’m sorry, I lost my place. I’m going to skip that and come back I guess. Also, other people, in the transcript on our first meeting if you read it you can see that the Harbormaster admits that he has given other people warnings in these situations. Also, um there is I can clear up that other mooring situation. There are so many empty moorings when I went to put the skiff on my friends mooring, I put it on the wrong mooring cause all the moorings are right there and I accidently put it on the wrong mooring. Also, if you read in the transcript, once we left that room and the lady was typing everything you can see all the hostility towards me and all the lies that were flying. There was some testimonial as well that my friends had signed that were blatant lies. Mayor Lovell – Would you say that other people were saying other things? Mr. Mailman – I would just like to say this as well. Camp Ellis has been my home my whole life. I grew up there. My parents use to drop me off there at night and pick me up the next morning and I would fish all day. I have made a living down here for the past 10 years. This year I did not make my living off of that mooring. I was concentrating on my friend’s boat and working all summer long fishing. So, for the past 10 years I have been down there with zero incidents, zero warnings and I was never disrespectful to anybody. This is how I make my living. Tuna fishing is very unique, and it is a dying industry. Commercial fishing is hard enough and with the commercial tuna fishing there is allot of jealousy involved with that because some people catch more than others and every time I come into Camp Ellis with fish there is always 20-30, sometimes a 100 people that are so excited to run and see us and take pictures with these 400-500 lb. fish. Could you imagine working all day long and coming in and seeing someone come in with $10,000 worth of tuna and 100 people all so excited to take pictures. This is how I make my living. This mooring matters to me, and my business and my livelihood and taking it away is essentially taking money out of my pocket. I will leave it at that. Mayor Lovell – Okay. Mr. Mailman – This is my livelihood, this is not. At the end of the day this mooring is not abandoned. It has been taken care of and it’s been paid for the last, you know I have had a mooring down there for 10 years. This mooring at the end of the day is not abandoned. It is my livelihood and next year there will be a boat on there and I will be making my living off of that mooring. I just wish we could forget about all of this and everybody move forward going into the next season.

Mayor Lovell – Does the council have any questions of Mr. Mailman, Mr. Katz, Attorney Guay, or Mr. Sutherland?

Councilor Archer – Is a skiff or any of those terms related to the actual thing that gets you to your boat. Is that considered a boat, vessel, or more like a kayak? Attorney Guay – I’m not sure. That is more a question for the commissioner to answer. Mr. Katz – A skiff’s basically a boat registered to the mooring holder. You can only register a boat that has a motor on it. So, it could be a dinghy with a 2 hp motor that has a number registration on the side and that qualifies as a boat of equal or lesser tonnage to occupy the mooring and make it meet the requirement. So, that would be fine. A Kayak, you will see on moorings because people bring them on their cars and then row out to their boat that is moored. So, they go off to sea and there is a kayak sitting there.

Mayor Lovell – Any other questions to my right? Any questions to my left?

Councilor Copeland – I’m looking at the February 7, 2018 letter from the city clerk and it says “Dear Applicant, and in the first bulleted paragraph. right in the middle it says 30 days advanced written notice to his/her last known address certified mail return receipt”. Did the Coastal Waters Commission consider that? Mr. Katz – We knew about that. But, we also knew when we did the hearing for Mr. Mailman that that had not been done by the Harbormaster. Know, there is some wording there which I don’t know if it applies in this case. But, basically if he reassigned the mooring and continue on that paragraph. If says “the location may be reassigned by the Harbormaster after the Harbormaster has given the registrant 30 days advance notice. Councilor Copeland – Where is that? Mr. Katz – In the middle of paragraph 4. “The location may be reassigned by the Harbormaster after the Harbormaster has first given the registrant 30 days advance written notice at his/her last known address”. That mooring has not be reassigned to anybody. Technically speaking that did not trigger this sentence in the regulation. However, the sentence that you just showed me on the paper that I wasn’t referring to does appear to say that it has to be done regardless. But, this specifically in regard to this infraction says that if a person is down in Florida and they are not using their mooring and the Harbormaster reassigns it and somebody puts a boat on it then they come back from Florida 3 months later they have no place to put their boat because there is a boat already on it. So, I believe that is the intent of that particular paragraph. Not to make it possible for people not to adhere to the regulations which is what the commission
came up with. That it was more important to stick with an administer the regulations than regard to how he was notified. Which he obviously was notified. Something that Councilor Minthorn alluded to. That Parker 25 that Mr. Mailman owned, if he kept that boat at Marston’s Marina that would cost $450 a year. That cost him to keep a 25ft. boat at Camp Ellis Pier, 50 ft. from the pier with all the amenities available to him that are available at Marston’s Marina, toilets, pump out, whatever $137. Now, you can say what you want about having a professional Harbormaster that types out 30-day demand letters. On a moment’s notice he has got a pc in his car and a printer in his truck bed he prints them out and takes them down to the mail and mails them to people. You want a professional Harbormaster. Well, if you want one you have to pay for that. You have to have a professional Harbormaster and right know we have a Harbormaster that is doing a damn good job for very little pay which he recently got a raise on which is terrific. But, the point is $137 at Camp Ellis, primo spot, 5 minutes into the ocean $1450 a year at Marston’s Marina half an hour into the ocean. Mayor Lovell – Thank you. You are off from the submitted brief. Mr. Katz – I’m sorry.

Mayor Lovell – Any other questions to my left?

Councilor Copeland – I did have just one quick questions. That dinghy that you said you owned, did you have a purchase and sale for that? Mr. Mailman – I did. I don’t have it on me, but they had to see proof on it at City Hall. Mayor Lovell – That is not part of the current record.

Mayor Lovell – Any other questions to my left, my right? Seeing non, gentleman would you stand by because the next step on this is a motion to put this into deliberation and so I would like to have. Councilor Copeland – So, moved. Councilor Smart second. Mayor Lovell – I would like to have a motion that states one of the 3 points to be made. That is a motion that the Coastal Waters Commission correctly upheld the decision of the Harbormaster to revoke the mooring permit; or a motion that the Coastal Waters Commission erred in upholding the Harbormaster’s decision; or did the Coastal Waters Commission make a procedural error and if so was the procedural error significant enough to reverse that decision?

Councilor Minthorn - When we come out of deliberation we will have that. I don’t think we can go into deliberation in picking one now. Mayor Lovell – To put it on the floor we have to have a motion. So, that would be to pick one of those and then if it fails, then go to a second motion. We will discuss it once the motion is on the floor. Attorney Guay – Mr. Mayor if I could suggest. I think it would be helpful to go through the findings which might help lead toward what motion that council wishes to make based on the findings they make on those issues. Mayor Lovell – You received the sheet with the findings listed in section 3, a through f. So, the comment period is closed, and we are looking to make a finding on the issue. So, these 6 questions should be answered. I guess we can just close it and deliberate on these 6 questions and at the end of that come up with a motion.

Mayor Lovell – Does anyone wish to discuss #3A – Was the Coastal Waters Commission decision rendered in accordance with the ordinance? Councilor Smart – Can I ask a clarifying question? Are we talking was the substance of the decision in accordance with the ordinance or was the procedure of the decision in accordance with the ordinance? Attorney Guay – The first issue is did they follow the procedure they were supposed to follow. You do have that in your packet. The procedure the Commission is supposed to follow in a hearing and appeal. Councilor Smart – Procedurally, I didn’t notice any issues there. My issues are more substantive. Mayor Lovell – So, do you believe that is a “yes” then that they followed the procedures? Councilor Smart – Yes, I guess. Councilor Johnston – I would agree. Councilor Copeland – What about the 30-day notice? Councilor Smart – That is what I’m trying to get at. I see that as more of a substantive issue. Was the decision made correctly in accordance with the ordinance? Not whether the hearing itself was conducted in accordance with the ordinance. Mayor Lovell – Do you want to ask that question of Attorney Guay that was the letter a requirement associated with the procedure. Councilor Smart – To clarify my question a little more. We are talking about the Coastal Waters Commission decision not the Harbormasters original decision. Attorney Guay – What was your question specifically? Councilor Smart – I just want to make sure we are talking about the procedure of the commission holdings the hearing and coming to its decision as opposed to the substance of the decision itself. I think that the council is going to have to look at both of those issues. The list of suggested topics for the council to deliberate on are here and they can be done in any order and they can be expounded on however the council feels they need to be. Councilor Smart – Personally, I didn’t see and issues with the way the commission held the hearing. I think as far as I could tell the procedure was followed. They heard from both sides and there were some choice words in there. I have some concerns with one member’s actions. But, the commission itself I don’t have a problem with the way it was conducted. My problem is I think as
I made abundantly clear. We have a section of our code here that requires and says “shall in all cases certified mail will be sent when there is a violation and the violator is a permit holder”. I’m not privy to the legislative history behind that. I don’t know what the specific intent of that section was. All I can do is read the words in that section that says to me that there is not any wiggle room. That procedure was not followed and so I can’t take away somebody’s mooring when proper procedure was not followed. Now, I have serious concerns about the way this ordinance is written. There is different language between what is given to mooring applicants and what is in the code. I think that is a huge issue and that is a huge ambiguity. Whenever there is a ambiguity like that I’m going to resolve it against us because we wrote it. So, in my mind there is a question about whether or not you did abide by the actual code section that requires you to have a boat there 3 of the 5 months. There is a question in my mind. I’m not clear what happened in July. I think that is another reason for me to say well, I don’t know. The Harbormaster has allot of discretion in that code section. I think he exercised that discretion in determining that based on what he saw and based on what he knew that the mooring has been abandoned. I have no problem with that. Nothing I’m saying is impugning the Harbormaster’s actions or conduct or candor and I can say the same for Mr. Mailman. But, the fact of the matter is we are looking at a code section that makes abundantly clear assuming this code section applies, which is another question in my mind. But, at least the representative from the commission has said he believes this applies, so I’m going to go with his word. Shall in all cases be sent by certified mail. That did not happen. Mayor Lovell – Any other comments to my left associated with the 6 questions? Any comments to my right associated with the 6 questions? Councilor Archer was the Coastal Waters Commission decision rendered in accordance with the Ordinance? Councilor Archer – Can you read the first motion. Mayor Lovell – So, for the motion it would be did the Coastal Waters Commission correctly uphold the decision of the Harbormaster to revoke the mooring permit or the Coastal Waters Commission erred in upholding the Harbormaster’s decision, in which case the revocation of the permit will be reversed or the Coastal Waters Commission made a procedural error and the procedural error was not significant enough to reverse the decision. The motion would be one of those 3 statements. Councilor Archer – I believe that they did err, but I believe it is more of the 3rd motion. Mayor Lovell – So, let me go back and state “Did you think the Coastal Waters Commission decision was rendered in accordance with the ordinance? Councilor Archer – No, it was #3 that they erred. Mayor Lovell – I understand. Our Acting City Administrator has identified 6 points to be covered so that the opinion letter would reflect these 6 points associated with these 6 questions. So, do you think that the Coastal Waters Commission decision was rendered in accordance with the ordinance? Councilor Archer – No. Councilor Gay – No. Mayor Lovell – Councilor Copeland, do you think the Coastal Waters Commission was rendered in accordance with the ordinance? Councilor Copeland – Which ordinance? It doesn’t say, because there are 2. Mayor Lovell – Chapter 118. Councilor Copeland – Just the whole 118? Mayor Lovell – Chapter 118, and also 4-35. Because one ordinance forms the Coastal Water Commission and the other ordinance is associated with enforcement. Am I correct with that Attorney Guay? Attorney Guay – I think that the discussion as it has been moving forward combining the first 2 A and B might clarify and simplify that question. Mayor Lovell – A and B together. So, #b is “was the process as identified in the ordinance followed; specifically, was warning and/or notice properly given pursuant to §118-28 and §118-5.B(4) of the City Code? The issue of when verbal or written notice is required, and when written notice is required will require the Council to interpret these sections of the Code. Attorney Guay says options A and B together represents what the answer was. Mayor Lovell - So, let me go back and make sure that Councilor Archer and Councilor Gay agree that the answer to both questions was is how you currently feel. Councilor Archer – No. Councilor Gay – No. Mayor Lovell – Councilor Copeland, the 2 questions a and b together? Councilor Copeland – So, I do not think that notice was properly given. So, no. Councilor Minthorn – No. Councilor Smart – No. Councilor Johnston – No. Mayor Lovell – So, the answer to questions a and b are six (6) no’s.

Mayor Lovell – #c - If the process was not followed was the error(s) significant enough to reverse or to modify the decision? Councilor Johnston – I don’t know if we are necessarily qualified to determine that. I look at the ordinances all being on the same levels and in this case, it being “no”. I would say yes it was significant enough to reverse. Councilor Smart – I would say yes. Councilor Minthorn – Yes. Councilor Copeland – Yes, and we seriously need to look at our ordinance. Mayor Lovell – Absolutely. Councilor Gay – Yes. Councilor Archer – Yes. Mayor Lovell – The process was not followed, and the error was significant enough and that is unanimous.

Mayor Lovell - #d – Was the burden properly placed on Mr. Mailman to prove his case at the Coastal Waters Commission hearing? Attorney Guay – Mr. Mayor if I could, these last 3 questions are actually issues that were raised by the appellant on the appeal and since he raised them as appealable issues the council should respond to that as a clear record. Mayor Lovell – Thank you for the guidance. So, basically the decision on what the motion is going
to be has been found and these are questions that Mr. Mailman raised in his brief and what we are trying to do here is to clarify what the statements will be in the council’s response letter. So, was the burden properly placed on Mr. Mailman to prove his case at the Coastal Waters Commission hearing? Councilor Archer – Yes. Councilor Gay – No. Councilor Copeland – I would ask for clarification from our attorney. What burden? Help me with this. What is the burden that we are talking about? Attorney Guay – So, this is something that I know the council doesn’t deal with regularly. But, when a party brings an appeal and is appealing a decision generally the burden would be on the person bringing the appeal to say why the decision was wrong. Mr. Mailman had an issue that he brought up in his appeal that he thought that the burden was improperly placed on him. As a general rule of thumb, the person bringing the appeal has the burden of proof to prove that the something was incorrectly done. Mayor Lovell – Also, the appeal to the Coastal Waters Commission was actually a hearing in the first instance de novo and testimony was taken opposed to this which is a appeal hearing. The burden on Mr. Mailman was essentially that of proof of innocence in this de novo hearing held by the Coastal Waters Commission as opposed to proof of guilt on the part of the Harbormaster. Is that correct? Attorney Guay – Really the difference between the de novo hearing and what you are hearing tonight, a de novo hearing the parties get to present all new evidence. So, the commission didn’t just look at just what the Harbormaster had in front of him. The commission was able to take all brand-new evidence and come to their own independent decision. Tonight, you are doing an administrative appeal. So, you are relying on just what was in front of the commission. The commission made their decision. So, that review standard is slightly different. However, anytime somebody is appealing or makes a decision, and somebody wants to appeal that and say it was incorrect it is logical that the burden is on that person to show that decision was incorrect below. Councilor Copeland – The answer to the question is yes. Councilor Minthorn – Yes. Councilor Smart – Yes. Councilor Johnston – Yes.

Mayor Lovell - #f – Was Mr. Mailman denied access to the record of his mooring revocation for purposes of making copies of that record?

Councilor Archer – What about item #e? Mayor Lovell – Oh yes. #e - Did the Coastal Commission or the Harbormaster abuse its/his discretion under the regulations in revoking Mr. Mailman’s mooring permit? Councilor Johnston – No. But, as others have stated I think that this ordinance needs some reworking. Mayor Lovell – Yes, correct. Councilor Smart – For that reason I think the discretion used was proper and the failing was in the procedure so therefore, I’ll say no. Councilor Minthorn – No as well. Councilor Copeland – No. Councilor Gay – No. Councilor Archer – No. Mayor Lovell – Thank you.

Mayor Lovell #f – Was Mr. Mailman denied access to the record of his mooring revocation for purposes of making copies of that record?

Councilor Archer – Can I ask a clarifying question. This was an issue that was brought up on appeal and therefore again it was Mr. Mailman’s burden to prove that. So, if we determine that we don’t have enough information to agree with that finding then I believe the answer should be no. Is that correct? Attorney Guay – I think that is fair to say that there wasn’t enough information provided to you by the applicant. Councilor Smart – Thank you. Councilor Johnston – No. Councilor Smart – No. Councilor Minthorn – No. Councilor Copeland – No. Councilor Gay – No. Councilor Archer – No. Mayor Lovell No’s are six (6).

Mayor Lovell – Can I have a motion based on one of the three motion s that are: The Coastal Waters Commission correctly upheld the decision of the Harbormaster to revoke the mooring permit; or The Coastal Waters Commission erred in upholding the Harbormaster decision; or The Coastal Waters Commission made a procedural error but the procedural error is not significant enough to reverse the decision. Do I have someone to make a motion. Councilor Copeland – We don’t have that 3rd motion. Mayor Lovell – No, the 3rd motion is one that came up in conversation just as you were walking into the room this evening. Councilor Copeland – Okay. Mayor Lovell – The 3rd motion is actually a derivative of the 2nd motion. That is that they made an error. But, the council doesn’t feel that the error was significant enough to overturn the Coastal Waters Commission decision. Councilor Copeland – But, we do. Mayor Lovell – That’s right, so you would make the 2nd motion instead of the 3rd motion. Councilor Smart moved, Councilor Minthorn seconded “The Coastal Waters Commission erred in upholding the Harbormaster’s decision in which case the revocation of the permit will be reversed”. Mayor Lovell – Ms. Hughes, do you have the motion correct or would you like me to restate that? Ms. Hughes – Please restate the motion. Mayor Lovell – the motion was the Coastal Waters Commission erred in upholding the Harbormaster’s decision therefore the decision is revoked. Any additional comments or questions? Councilor Smart – I just want to make clear once again that any decision in my vote is not based on any of the discussion or information about anybody’s character or anybody’s actions or inactions save the question of notice. That didn’t factor in in any way in my decision. I don’t feel qualified to
comment on those issues, so I won’t. Mayor Lovell – Any additional comments to my left, to my right? Mayor Lovell called for a vote on the motion. Councilor Archer – Yes. Councilor Gay – Yes. Councilor Copeland – Yes. Councilor Minthorn – Yes. Councilor Smart – Yes. Councilor Johnston – Yes. Mayor Lovell – The motion passes six (6) – zero (0). The motion is that the Coastal Waters Commission decision upholding the Harbormaster’s decision is reversed. Mr. Mailman will receive a letter from the City Administrator before December. Mr. Mailman – Thank you all very much. Mayor Lovell – Thank you gentleman both very much for your presentations, it was enlightening for me and perhaps the other councilors.

Mayor Lovell – Before we go into Workshop, is there a consensus that the City Administrator needs to rework the ordinance so that it matches the forms and the forms match the ordinance and that the ordinance is plain and clear and easy to follow for a part-time volunteer Harbormaster? The council agreed. Mayor Lovell stated that this ordinance would be in the workshop for December 10th.

VI. COUNCIL DISCUSSION AND COMMENT

➢ Councilor Copeland – Our Harbormaster and Coastal Waters Commission do a great job. The fact that they came here and went through this whole procedure and they lost because of a technicality. I want to applaud their efforts. This is a really important part of our community that we need to work hard on getting regulations that allow access to the water for everyone. Not just people who float a boat to hold onto it. Mayor Lovell – I believe that is the general consensus of the council that we applaud our Harbormaster and our Coastal Waters Commission for the hard work they do especially when the ordinance itself needs to be rewritten to make it more clear.

VII. ADJOURNMENT

Councilor Minthorn moved, Councilor Copeland seconded to adjourn the meeting at 8:05 p.m. The motion passed with six (6) yeas.

Attest: _______________________________
Michele L. Hughes, City Clerk
Chapter 4. Administrative Code

Article VII. Boards, Commissions and Committees


A. Duties of the Coastal Waters Commission.

(1) Establishing policy. The Saco Coastal Waters Commission exists for the general purpose of studying and evaluating public usage of and boating access to coastal waters under the jurisdiction of the City of Saco, planning for its future use, advising the City Council on policy matters and proposing to the City Council regulations concerning the Saco River and the City's coastal waters. The proposed regulations and policies shall be consistent with federal and state law.

(2) Further duties. In addition, the Commission shall review and cooperate in maintenance and care of City-owned waterfront facilities with the Harbor Master and Public Works Department and plan harbor improvements in conjunction with the City, state and federal authorities. The Commission shall sit as a Board of Appeals to hear an appeal from any person aggrieved by any decision, act or failure to act of the Harbor Master. The Commission shall regularly inform the City Council and other boards, committees, commissions or officials of the City, as is appropriate, of its activities.

B. Organization.

(1) The Coastal Waters Commission shall consist of seven members, appointed by the Mayor and confirmed by the Council. Each Commissioner shall be a resident of the City and shall serve without compensation.
   [Amended 9-16-2002]

(2) Neither a municipal officer nor his/her spouse may be a member of the Commission.

(3) Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.

(4) Commissioners may be removed by the City Council for cause, after notice and hearing. A Commissioner shall forfeit his/her membership on the Commission if he/she fails to attend three consecutive regular meetings of the Commission without being excused by the Commission. The Chairman of the Commission shall notify the Mayor of the forfeiture of office by a Commissioner.

(5) The term of office of a member shall be three years.
   [Amended 9-16-2002; 5-15-2007; 5-20-2013]

C. Procedure.

(1) A Chairman and a Secretary shall be elected by the Board in April of each year.

(2) The Chairman or City Administrator shall call meetings of the Commission as required. The Chairman shall also call meetings of the Commission when requested to do so by a majority of the members or by the Mayor. The Commission shall meet at least twice per year, semiannually, to conduct official
business. A quorum of the Commission necessary to conduct an official Commission meeting shall consist of at least four members. The Chairman shall preside at all meetings of the Commission and shall be the official spokesman of the Commission. [Amended 5-15-2006]

(3) The Secretary shall maintain a permanent record of all Commission meetings and all correspondence of the Commission. The Secretary shall be responsible for maintaining those records which are required as a part of the various proceedings which may be brought before the Commission. All records to be maintained or prepared by the Secretary are deemed public and shall be filed in the Municipal Clerk's office and may be inspected at reasonable times. The City Administrator may assign secretarial help to do minutes and other clerical work of the Commission.

(4) The Commission shall adopt rules of procedure, which shall be recorded by the Secretary, for any matter relating to the conduct of any hearing, provided that any rule may be waived by the Commission upon good cause shown.

D. Procedure for appeals from decision of the Harbor Master.

(1) Jurisdiction. The Coastal Waters Commission shall hear any appeal by any person affected directly or indirectly by any decision, order, rule, act or failure to act of the Harbor Master. In deciding any appeal, the Commission shall hear and approve, approve with modifications or conditions or disapprove the decision, order, rule, act or failure to act of the Harbor Master from which the appeal is made. The Commission's decision shall be made within 30 days of the filing of the appeal.

(2) Evidence. The Commission may receive any oral or documentary evidence but shall provide, as a matter of policy, for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present his/her case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(3) Record of proceedings. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record. All decisions shall become part of the record and shall include a statement of findings and conclusions, as well as the reasons and/or basis therefor. Notice of any decision shall be mailed or hand-delivered to the petitioner, his/her representative or agent, agency or office, the City Administrator, City Clerk, Mayor and City Council within seven days of the Commission's decision.

(4) Appeal. An appeal may be taken from any act or decision of the Coastal Waters Commission by appeal to the City Council.

E. Interlocal cooperation. The municipal officers of the City of Saco recognize the aesthetic beauty and environmentally sensitive condition of the Saco River, its harbors and the coastal waters of Saco Bay and fully recognize the City's obligation to the citizens of Saco and future generations to protect such a natural resource. The City Council further recognizes that the City of Biddeford also has an obligation to its citizens to protect these natural resources and, in the spirit of cooperation, hereby authorizes that the Coastal Waters Commission of Saco join with a similar Commission created by the City of Biddeford to address and incorporate community needs and wishes. The Commission shall have no police powers nor authority to create regulations or ordinances or to commit funds, but shall exist for the general purpose enumerated in Subsection A(1), Establishment of policy.
Chapter 118. Harbor, River and Waterfront

Article V. Enforcement, Legal Actions and Appeal

§ 118-28. Violations and penalties; manner and method of service; appeals.

A. Penalties. Whoever violates any of the provisions of this chapter is guilty of a separate offense for each day, or part of a day, during which the violation is committed or, continued. Unless stated elsewhere, each offense, upon conviction, is punishable by a civil penalty of not less than $100 and not more than $2,500 for each offense.

B. Each day, if the offense is repeated, shall constitute a separate violation. If the violation relates to damages caused, said party, if found responsible, shall bear reasonable costs of repair in addition to any fines and fees assessed hereunder.

C. Manner and method of service. Notice to owner or to persons responsible for a violation of this order shall be made in the following manner and method:

(1) Unless specifically addressed elsewhere in this chapter, at the discretion of the acting authority, a warning may be issued verbally or in writing, so long as such warning is recorded and made available for future reference.

(2) If, in the discretion of the acting authority, a citation is deemed necessary, such citation will be issued in the following manner:

(a) The citation shall include the name of the responsible person and/or owner, the date and time of the violation, a general reference location for the violation, a description of the violation and the location of and date of appearance at the local court having jurisdiction; if such date is required by the Court system.

(b) The citation used is authorized and accepted by the District Court of the State of Maine;

(c) Service of the citation is made upon the violator by a person authorized under law to make such service; and

(d) The completed citation is properly recorded in the District Court of the State of Maine having jurisdiction over the violation.

D. Notice as to permit holders shall, in all cases be sent by certified mail to their address of record on their permit application.

E. Appeals. Any appeal of a decision of the Harbor Master, except as to citations, herein shall be made to the Coastal Waters Commission as set out in § 4-39 of this Code, or its successor. Citations shall be solely addressed and resolved via the Court and as set out under Maine law.
Garon Mailman  
20 Freeman Street, Unit 102  
Biddeford, Maine 04005  
207-229-3780  
E-mail: hookdupfishingcharters@yahoo.com  

Appellant

SACO CITY COUNCIL  
IN THE COUNTY OF YORK

GARON MAILMAN,  
Appellant,  

vs.

COASTAL WATERS COMMISSION,  
Respondent.

PLEASE TAKE NOTICE that I, Garon Mailman, hereby appeal the September 17, 2018 decision of the Coastal Waters Commission revoking my mooring permit at Camp Ellis. Further, I demand production of the record on the matter and request a stay of the decision until Saco City Council hears the appeal.

I. INTRODUCTION

From the time I was old enough to peddle my bike to the river, I have been fishing the water around Saco. Born and raised here, I have taken great pride in my community and given back by speaking to students about fishing, participating in local charity events to raise awareness about marine conservation, and donating my time for the benefit of the fishing community. For the last ten years, without incident, I have been making a living hosting fishing charters and
fishing for tuna using my mooring at Camp Ellis. Without warning or notice, on August 27, 2018, I received an email from Harbor Master Daniel Chadbourne, unilaterally revoking my mooring permit and threatening to pull my boat and mooring. Immediately, I contacted the Coastal Waters Commission to resolve the matter. Without providing any formal notice of the basis for revoking my mooring permit and without providing me with any evidence of the alleged violation, the Coastal Waters Commission held an entirely disorderly hearing and summarily upheld the revocation. That mooring permit means food on my table and a roof over my head. I therefore, appeal their decision.

II. STATEMENT OF LAW

A. An appeal of a decision of the Coastal Waters Commission may be made to the City Council.

The Code of the City of Saco, Ch. 4-39, subdivision (D)(4), provides that an appeal may be taken from any act or decision of the Coastal Waters Commission to the City Council. On September 17, 2018, the Coastal Waters Commission denied my appeal of the Harbormaster's revocation of my mooring permit. Because the Coastal Waters Commission decided to uphold the revocation, their decision is appealable. As such, I am requesting a hearing before City Council on the matter of the revocation of my mooring permit.

B. A copy of the record of proceedings should be made available to me as required by the City Code and Freedom of Access Act.

The Code of the City of Saco, Ch. 4-39, subdivision (D)(3), requires the Coastal Waters Commission to maintain a record of proceedings, including the transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceeding. Further, all decisions shall become part of the record and shall include a statement of findings and conclusions, as well as the reasons and/or basis therefor. (Id.) Accordingly, a record should have been created, preserving testimony, exhibits, and papers filed in the contested matter of my mooring permit before the Coastal Waters Commission on September 11, 2018. Under the Freedom of Access Act, I am guaranteed access to this record. (1 M.R.S. § 400 et seq.)
To fully brief my appeal for City Council, I would like a copy of the record on this matter.\(^1\)

In addition, there may be emails and correspondence with Coastal Waters Commission that need to be added to the record before the City Council can rule on the matter. Until I see the record, and augment it if needed, the matter should not be deemed submitted to City Council for consideration.

C. Staying the decision of the Coastal Waters Commission's Decision pending the outcome of the appeal does not prejudice the Commission since all boats and moorings are required to be pulled from Camp Ellis for dredging no later than October 31, 2018.

All boats and moorings are required to be pulled from Camp Ellis no later than October 31, 2018 for the Saco River dredging. Seeing that my boat and mooring will have to come out of the water in a few weeks anyway, I see no harm in allowing me to keep the mooring until the City Council can hold a hearing on my appeal. To the Coastal Waters Commission, my mooring permit has no value. They will suffer no consequence if my boat remains on the mooring until the dredging. To me, my mooring means my livelihood…it means a few extra tunas to pay for heating oil to get me through next winter. These last few weeks of fishing are crucial for me.

///

\(^1\) I think the record will show that the Coastal Waters Commission's decision is flawed for several reasons: 1) Failure to properly notice the violation as required by The Code of the City of Saco, Ch. 118-28, subd. (D); 2) Improper burden shifting without first receiving competent evidence of a violation; 3) Improper reliance on incompetent evidence; 4) Abuse of discretion; 5) Lack of legal basis for removing a vessel for abandonment violation; 6) Failure to provide documentation of violation as required by the Freedom of Access Act.
III. CONCLUSION

Therefore, I respectfully appeal the decision of the Coastal Waters Commission, demand production of the record on the matter, and request that the decision of the Coastal Waters Commission of September 17, 2018 revoking my mooring permit be stayed until the City Council hears my appeal on the matter.

Dated: September 24, 2018

Respectfully Submitted,

GARON C. MAILMAN
Appellant
Sept. 17, 2018

Garon Mailman
76 Old Orchard Rd.
Saco, ME 04072

Dear Mr. Mailman,

The Saco Coastal Waters Commission (the “Commission”) heard your appeal of the Harbor Master's decision to revoke your mooring permit at our Sept. 11, 2018 meeting, and it has voted to deny your appeal. You are notified that you must remove your mooring from the Saco River or it will be removed at your expense.

The Commission did not find that you presented any facts that would prevent this action and that you failed to adhere to the conditions required of all mooring holders with regard to utilization of the mooring, as described in the mooring permit application (which you signed) and in City Ordinance 118.

The Commission based its conclusion on the following:

1. You sold the vessel named in the mooring application on or about March 15, 2018, shortly after submitting your mooring application, and did not amend the application.

2. You did not place that vessel, or any other vessel registered to you, on the mooring for at least one day of any of three months out of the five months between May 1 and Sept. 30 of 2018 as required by Saco regulations. In accordance with Ordinance Section 118.5 (B)(4), the mooring is considered abandoned.

3. You apparently did not own another vessel, as evidenced by your not obtaining the registration of another vessel, until August 24, 2018.

4. No one present at the appeal hearing was able to confirm your claim of adherence to the regulations.

5. You did not avail yourself of the waiver procedure specified at Section 118.5 (I) to address situations which may have prevented you from occupying the mooring.

The Commission therefore found, and it determined, that you failed to meet your obligations under the Ordinance, and it upholds the Harbor Master's decision.

Please be aware you are not, by virtue of this decision, prevented from applying for a new mooring in the future. In fact, after the completion of the harbor dredge this fall, new mooring positions may open up to assist in waiting list reduction. You should feel free, and you are certainly welcome, to apply for a new mooring in the future.

For the Saco Coastal Waters Commission
Saco Coastal Waters Commission Meeting
Proposed Agenda
Tuesday Sept 11, 2018 at 7:00PM
Saco Train Station

1. Call meeting to order
2. Corrections, changes, and approval of minutes of the May 2018 meeting.
3. Hear the appeal of the revocation of mooring privileges of Garon Mailman
4. Discuss position of commission on floats proposed for The Waters Development.
5. City Council Update.
6. Any other business as may come before the commission.
7. Set the next meeting date.
8. Adjournment

Exhibit Item: 5

Saco Coastal Waters Commission
Agenda September 11th, 2018 (Tuesday)
7:00 P.M. Saco Transportation Center Conference Room

I. Call Meeting to Order & Roll Call of Members. At 7:00pm a Saco Coastal Waters
Commission Meeting was held at the Saco Transportation Center Conference Room. The
members present constituted a quorum. The members present: Chairman James Katz, Vice-
Chairman Jim Henderson, Secretary Robert Steeves, Rick Milliard, Gary Marston, John
Nickerson. Also present were, Harbor Master Dan Chadbourne, Mayor Marston Lovell, Sean
Tarpy of the Biddeford Harbor Commission, Garon Mailman, Dave Scholander and Mike
Keegan. Absent was Council Liaison for Ward 4 Lynn Copeland. Member Tom Casamassa was
excused

II. Review the minutes of the May 2018 meeting and accept. The minutes were reviewed. John
Nickerson made the motion to accept the minutes as presented. Motion was seconded by Rick
Milliard. Minutes were accepted as presented.
III. Hear the appeal of the revocation of mooring privileges of Garon Mailman. The Harbor Master reported to the CWC the reasons behind revoking the mooring privileges from Garon Mailman. According to the Harbor Master, there was no boat tied to the mooring for at least one day during three of the five months between May and Sept., as is required by the mooring ordinance and application. Also, the boat that was specified on the mooring application had not been in Mr. Mailman’s possession since March 2018, and Mr. Mailman did not own any boat until August 2018. Finally, Mr. Mailman had failed to avail himself of the provision for exceptions in the ordinance specifically for this type of issue.

IV. Mr. Mailman claimed he “didn’t realize” he needed to have a boat on the mooring for a minimum of 24 hours in each of three consecutive months. Mr. Mailman claims he was not notified until it was too late that he had broken the rules of the mooring permit. The Harbor Master claims there were multiple conversations about it.

When asked, Mr. Scholander and Mr. Keegan were not willing to corroborate Mr. Mailman’s claims

After hearing from both parties, the commission asked both Mr. Mailman and the Harbor Master to leave the room while they deliberated. The commission concluded that there is enough information and that the Harbor Master did communicate the violation. John Nickerson made the motion to stand behind the Harbor Master and revoke the mooring permit. The motion was seconded by Rick Milliard. The motion was passed unanimously.

V. Discuss position of commission on floats proposed for The Waters Development. The CWC is concerned with safety and position of the floats? In particular, the position of the floats in the river is not viewed as optimal. At a minimum, there should be safety ladders installed on the floats in the event someone falls into the water. But we do have to be careful because ladders may invite swimming. There also needs to be throw rings, signage and life preservers available. Members of the commission, including the Harbor Master have given their personal opinions, not a combined opinion of the CWC. No formal opinion will come from the commission unless requested by the City Council.

VI. City Council Update. The City Council unanimously voted to approve the Beach Management plan at the last council meeting.

VII. Set next meeting and adjourn. The next meeting will be set for Tuesday October 9th, 2018 at the Saco Transportation Center Conference Room. Jim Henderson made the motion to adjourn, seconded by John Nickerson. Meeting adjourned at 9:01pm.
Jim Katz: Anybody have any additions or changes to the minutes of the previous meeting? [inaudible 00:00:15]

Jim Katz: May I have a motion to accept the minutes as presented?

John Nickerson: I'll make that motion.

Jim Katz: Second?

Rick Milliard: Second.

Jim Katz: Motion made by [John Nickerson 00:00:34], seconded by [Rick Milliard 00:00:37]. All those in favor say aye. [crosstalk 00:00:40]. Minutes are approved.

Jim Katz: First item of business on the agenda this evening is to hear the appeal of the rotation of mooring privileges of [Garon Mailman 00:00:51]. Are any of you Garon Mailman?

Jim Katz: You are, sir? As I understand it, your attorney is going to be here as well tonight?

Garon Mailman: Ah, no. She is not.

Jim Katz: She's not going to be here tonight?

Garon Mailman: Nope.

Jim Katz: Okay.

Jim Katz: So, basically, what we're going to do this evening is hear what you have to say and hear what the Harbor Master has to say. Where's my Harbor Master? [crosstalk 00:01:20]. And we will need to make a determination. According to regulation, we must notify you within 30 days of our determination.

Jim Katz: I'd like to call on the Harbor Master to state his complaints about your use of the mooring and why it was revoked, and you can respond and present any materials that you have.

Dan Chadbourne: The mooring didn't get used in the months of May, June, and July, and, therefore, under our use rule, the permit is revoked. This [inaudible 00:02:03] is resigned for the next person on the wait list.

Dan Chadbourne: That was the original complaint. Since all the other crap started [inaudible 00:02:13], excuse me, there's a bunch of other things that might interest you. But I think, as everyone knows, there is a cover letter and a terms and conditions that come along with the mooring permit. In both letters, it's clearly stated the use rule, and it's explained to everyone this way. Put your hand up. May, June, July, August, September. You have to use the
moorings for three of those months, only for a 24-hour period in each one of those three months.

Dan Chadbourne: So, you can use this one. This one, this one, this one. This one, this one, this one. This one, this one, this one. You get the idea. But if you don't put your boat on mooring in May, and you don't put the boat on the mooring in June, and you don't put the boat on mooring in July, that's it. You're done, unless you get the extra finger, in which case you get a free pass.

Dan Chadbourne: So, that's where we're at.

Jim Katz: Could you explain briefly what this reasoning for that particular rule?

Dan Chadbourne: There's a wait list-

Jim Katz: A wait list?

Dan Chadbourne: You have a wait list. There's about 14 or 15 people on it right now.

Jim Katz: Who are waiting to utilize that mooring.

Dan Chadbourne: Right, right.

Gary Marston: I guess, can you define what your definition of use is?

Dan Chadbourne: I just did. According to our ordinance-

Gary Marston: Is it just putting a boat on it or is it getting to the boat and then you take the boat around the water?

Dan Chadbourne: Nope. It says, "Any mooring location not occupied by a vessel or float registered to the owner business named above at least one day in each of three out of the months from May 1 through September 30 during the permit year will be considered to be abandoned." Simple as that.

Dan Chadbourne: So, the mooring didn't get used. There were several phone calls that I do with everybody that has an issue with not putting a skiff on a mooring. As you can see, this is the month of July. There's a call up here from me to him. That's a "get a skiff on the mooring" call. There's a call from him to me down here. "I don't have a skiff to put on the mooring." "You have to make some kind of effort."

Dan Chadbourne: August 2nd rolls around. No skiffs have been on the mooring. No efforts been made. That's it. I asked around. I asked the two people on both sides of him if they've seen a skiff on the mooring in case maybe I missed it, you know being there every day not likely. Nobody saw anything.

Dan Chadbourne: The skiff that's on there now, the 8-foot inflatable, showed up on the 4th, two days after the permit was revoked. I can keep going with the whole thing-
Jim Katz: Keep going with the whole thing.

Dan Chadbourne: The skiff that showed up on the 4th wasn't registered to anyone. As a matter of fact, no boat was registered to Garon Mailman until the 24th of August. So that's three and a half weeks past the deadline of having a registered boat on your mooring. That's for the year of 2018.

Dan Chadbourne: This is his MOSES report from the state of Maine. He has two things on here for 2018. One's the residential hunting license, the other is a boat up to 10 horsepower registration.

Dan Chadbourne: Like I said, 8-24-2018. Three and a half weeks past the deadline.

Dan Chadbourne: Then we continue on. A lot of this stuff I wouldn't have known if the bulls t hadn't had started, the lying hadn't started. There is the mooring application. The boat's been sold. He still has the same mooring application; no adjustments to the mooring application. So the mooring application is fraudulent, which in our ordinance on page six, Assignment of Moorings, "any permit issued hereunder may be revoked if the Harbor Master determines if any portion of the permit holder's application contains false or misleading information." So, they don't own the boat, but here it is on the mooring application.

Dan Chadbourne: So, I think that's probably enough from me.

Jim Katz: [inaudible 00:07:39]

Gary Marston: Dan.

Dan Chadbourne: [inaudible 00:07:41]

Gary Marston: When was the application filed?

Dan Chadbourne: February 18.

Gary Marston: When was the boat sold?

Dan Chadbourne: I don't know. [crosstalk 00:07:52] It wasn't registered in 2018 so.

Gary Marston: Excuse me?

Dan Chadbourne: It wasn't registered in 2018.

Gary Marston: I understand that. Was it sold post-February 18?

Dan Chadbourne: I don't know. You tell me.

Garon Mailman: I can probably pull it up on Facebook to get me ... I can probably show you the date it actually sold. It's going to be right at the end of February.
Gary Marston: Okay [crosstalk 00:08:21].

Garon Mailman: [inaudible 00:08:24]

Dan Chadbourne: No. [crosstalk 00:08:26]. Stop. Stop, because he's not going to be able to do this because I've already looked.

Garon Mailman: If I can prove that [inaudible 00:08:33] before it gets into a huge pissing match-

Dan Chadbourne: Well, we can suspend that portion of that this, this one [crosstalk 00:08:39]-

Gary Marston: This is a question on the fraudulent aspect of that application only.

Dan Chadbourne: So, I'm waiting.

Gary Marston: So if you've got proof-

Garon Mailman: Who do I need to prove this to?

Gary Marston: Prove it to the man that's sitting next to you. He's happy, I'm happy.

Garon Mailman: March 15.

Gary Marston: Okay. It seems that when the request-

Garon Mailman: This is the guy I sold it to and this is the first I'm selling it. February 7. Yeah, February 7th. This is Billy Lee. He's asking me if that's the price, what size, everything. And the check finally came out of my account. That's the bill of sale or whatever that is.

Dan Chadbourne: So is the date-

Garon Mailman: We're in March 1st, still hasn't sold. [crosstalk 00:09:52] Two seconds, two seconds.

Dan Chadbourne: All right, I'm happy with that much. [inaudible 00:09:57] so I'm not going to call this fraudulent. It just hasn't updated.

Gary Marston: There you go, there you go.

Dan Chadbourne: It's still kind of hasn't ... there's no big boat.

Garon Mailman: March 15th is when the check went through.

Gary Marston: But you didn't notify anybody it had been sold.

Garon Mailman: No.

Gary Marston: Okay-
Garon Mailman: And I sold it because my motor blew.

Gary Marston: That's your business. But you didn't notify the city that you no longer needed that mooring.

Garon Mailman: Well, this is how I make a living. That mooring is incredibly important to me. That's how I made my living for the last 10 years. My motor blew, I didn't have $30,000 for a new motor. I just planned on fishing Mike's boat for the summer so I could save up enough to buy a new boat for next year. I didn't know that this was ... This is how I make my living, is on that mooring.

Gary Marston: Did you put any boat on that mooring?

Garon Mailman: I did. I did.

Dan Chadbourne: On August 4th.

Garon Mailman: That is after-

Dan Chadbourne: After the permit had been revoked on August 2nd.

Gary Marston: Did you put any boat on that mooring before the fourth of August?

Garon Mailman: Yes, yes.

Gary Marston: And what boat did you put?

Garon Mailman: So it was a boat, it's another dinghy. It's registered in [Christian Stephee's 00:11:19] name, a good friend of mine. The boat sank like four times, it's our boat. He has a mooring down there, but I see Dan down there every single day and he said that dinghy's fine. So that's the dinghy I threw on there and the way he made it sound all summer long is just throw a dinghy on there for a few hours, make me happy, and it's no big deal. Like just throw it on there. He's always nonchalant, just throw it on there and it's good for a little while.

Garon Mailman: But he didn't say anything about 24 hours or anything like that. "Just throw it on there and you're good, kid." That's what he always would say.

Gary Marston: So you got the letter, right? You got the letter notifying you?

Garon Mailman: Yes. Well, now I do.

Gary Marston: Then there's no obligation on his part to repeat the rules to you on any given date to have you been notified.

Garon Mailman: Okay, but I listened to Dan. I listened to him for the last 10 years. For 10 years I've zero problems down there. I'm always doing what he's telling me.
Dan Chadbourne: That's kind of a stretch, too.

Gary Marston: So anyways-

Garon Mailman: This-

Gary Marston: These come with the mooring application when they mail it out in February?

Dan Chadbourne: Yes, understand. He had notification. Thank you.

Jim Katz: Do you have anything else to add?

Garon Mailman: I have a lot. First of all, I did want it to turn into this pissing match. Thanks for hearing me, at least listening to me too, as well. But, I mean, this is how I make my living. I'm down in Camp Ellis all day, every day. It's how I made my living the last 10 years, and you can ask anybody down there. They see me down there all the time. I know the importance of having that mooring. That mooring is where I've made my living for 10 years. I know there's people on the waiting line. I'm a responsible person; I wouldn't just let that slide. I wouldn't risk losing that mooring over something so minor.

Garon Mailman: I thought all summer long, when I seen him down there, everything's cool. Then all of a sudden, August 2nd. Things are hitting the fan. Those phone calls he brought up, I don't even remember what those were. That wasn't telling me to put a mooring on; I would have done that in a heartbeat. Like, he called and texted me. He said to me other times, too, talking about tuna fishing.

Garon Mailman: I thought we were buddies. I never felt so stabbed in the back in my life, you know, until the other day. That's how I feel. I feel stabbed in the back; I feel like my legs are cut off from underneath me. I've done everything I was supposed to do down there. I see him every day. He said everything's good. I threw that dinghy on there for a couple of hours in between tuna trips. I'm not down there from 9 to 5. I'm down there for days on end. I show up 9, 10 o'clock Camp Ellis when no one's around. I leave again in the morning, no one's around in 4 in the morning.

Garon Mailman: I've gotten off topic, but I'm been making a living commercial fishing for 13 years. I've had a mooring down there for 10 years; zero issues before. This mooring, I know the importance of having. I know there's a waiting list. I know there's people who would love to have it, but I've been playing by the rules and for some reason Dan's got it out for me all this time.

Dan Chadbourne: That's what I've been waiting for because everybody on that pier is picking on Garon.

Garon Mailman: No.

Garon Mailman: I sold my boat because of the motor problems, and I'm working my a off this summer, so I can save up for another boat next year. This guy, he works for me. He's with me all day, every day. And this is the owner of the boat. He's down there all day, every day. They will vouch for me that I'm responsible. This wasn't a big deal to put a dinghy on there, then it's nothing. I'm down there all the time. Everything's been good all summer long and, all of a sudden, August 2nd comes and there's a problem. Then the very next day, I took action and put a dinghy on there so everybody could see.

Garon Mailman: Now, I don't know if someone's down there that didn't see us crying to him or what, but everything's been good all summer long. The first time trouble, I took immediate action and put a different dinghy on there. I did register it, but I didn't have time to do it right away because I'm commercial tuna fishing, and I'm out there all the time.

Garon Mailman: Then my sister, she wanted to ask a few other questions as well, just because that's what she told me to do.

Garon Mailman: Would you agree that your job in Camp Ellis is to enforce the rules?

Dan Chadbourne: That's part of it.

Garon Mailman: Okay. Do you pick and choose the rules you enforce or do you enforce all of the rules?

Dan Chadbourne: I do my job.

Garon Mailman: Okay. Would you agree that Chapter 118 of 28 Saco's rules provides that a notice to permit holders shall be sent by certified mail.

Dan Chadbourne: No.

Garon Mailman: Did you follow that rule and send me a copy of the violation by certified mail?

Dan Chadbourne: I don't have to send you a copy via certified mail as long as-

Garon Mailman: So is that-

Dan Chadbourne: I'm not done. As long as the conversation is still carried on via text message or via e-mail.

Garon Mailman: So is that a yes or a no?

Dan Chadbourne: E-mails and text messages are legal documents. You can take it any way you want.

Garon Mailman: Okay.
Dan Chadbourne: According to you.

Garon Mailman: So, I mean, I can't stress to you guys enough. I don't bother anybody down there. It's where I make my living. I grew up in Camp Ellis. I don't know what else to say. This is super important to me and it's how I made my living. I've never felt so stabbed in the back before. If you go down to Camp Ellis and ask anybody else about me, they'll say the same thing. That I don't bother anybody, I'm down there fishing all the time. That's how it is.

Garon Mailman: I don't know what else I'm supposed to add, but this is my livelihood. If you take this mooring away from me, you're affecting my livelihood. If you take it away from me, it's not going to affect Dan; it's going to affect how I make my living. The only that's going to affect Dan by letting me have this mooring is his pride's going to get hurt. This is how I make my living.

Jim Katz: Who are the two gentlemen sitting next to you?

Dave Shoelander: I work for him. I'm his first mate.

Garon Mailman: [Dave Shoelander 00:18:48].

Jim Katz: Dave Shoelander?

Garon Mailman: Yep.

Dave Shoelander: I'm down there all the time, too.

Jim Katz: And who is the other gentleman?

Garon Mailman: [Mike Keegan 00:18:55]. He's the owner of the boat that I'm running right now.

Jim Katz: Would either of them like to say anything?

Garon Mailman: I think they would.

Dave Shoelander: I agree with Garon. I know Dan has to do his job and, as far as I know, we put a boat on there. I didn't know we had to document it. Maybe, maybe. I don't know what day it was, you know what I mean? I don't know. We try to do everything that we're supposed to do. We don't cause any trouble down there, we clean up after ourselves.

Garon Mailman: I should have documented it.

Dave Shoelander: I know, but we didn't know we had to. I just hope you let him keep his mooring because it means a lot to him. That's how we make our living. If we don't have a boat right now, but our plan is to get another boat to it up. If we don't have a mooring, where are we going to put the boat?
Dan Chadbourne: Well, it should be clear that nobody's taking actual tackle. The permit is revoked, the tackle is still his. I didn't haul it in because, quite frankly, it's a pain in the a . If I haul the thing in, now I got to find a place to put all the stuff, I got to bring up the [inaudible 00:20:05], there's storage fees, there's all that garbage. You know what? It can sit there. He's already taken half the summer off from next person on the wait list by not hauling it out himself.

Dan Chadbourne: So, here we are.

Dave Shoelander: Well, I've known Garon for 10 years. He's a hard worker. He's a stand by a man's word. I don't think something as little as this, you let slide. If [inaudible 00:20:36] 10 years [inaudible 00:20:40].

Dave Shoelander: So if you take that and he doesn't get a boat, now his business is jeopardized because he has to wait 10 more years versus a couple of months.

Dave Shoelander: I don't know. I wasn't there when they put the boat on. He says did I believe him? Did I not believe him? [inaudible 00:20:57].

Gary Marston: So you can't verify whether there was a boat on there-

Mike Keegan: No.

Gary Marston: The one day a month for three months?

Mike Keegan: I can't verify that. I'm just here to-

Gary Marston: Are you able to verify?

Dave Shoelander: I'm pretty sure we put one on there in July, but I can't tell you the day.

Dave Shoelander: You know, lots of time what happens we'll come in at 2:00 or 3:00 in the morning. We'll go to the hoist and hoist the fish or wherever we're putting the boat. Then I'll get off and go to my truck and Garon will put a dinghy on whatever. I know [inaudible 00:21:24].

Dave Shoelander: I didn't know it had to be documented so I can't ... To be honest with you, I didn't really pay that much attention too much because I didn't know.

Garon Mailman: We were up for three days. It was 2:00 in the morning. [crosstalk 00:21:36].

Dan Chadbourne: It's not Dave's fault this is happening. Okay?

Jim Katz: He's got to answer the question. You call and leave a message for him, he hasn't answered-

Garon Mailman: I should've gotten-

Dan Chadbourne: This isn't-
Garon Mailman: When I see him every day and everything is all gravy and good, I didn't realize it.

Dan Chadbourne: It's not all gravy and good. If we get in to-

Jim Katz: [crosstalk 00:21:58] have any questions for either the Harbor Master or Mr. [crosstalk 00:22:04].

Gary Marston: I have one question. Is this whole discussion about a specific location in Camp Ellis, or is it any mooring in the [inaudible 00:22:12] district.

Garon Mailman: No, I really love where my mooring is.

Gary Marston: So it's that location-

Garon Mailman: I love that location. I love my mooring.

Gary Marston: But you might be able to get a mooring somewhere in the river to still put your boat on. You might be able to.

Garon Mailman: I mean, I really like that spot-

Gary Marston: I get that, but you're not answering my question. There could be some other place in the city of Saco, section of the river where you could put your boat [inaudible 00:22:36] Saco. Is that true?

Garon Mailman: There is a spot?

Gary Marston: There could be. If you went to visit Harbor Master of [inaudible 00:22:46] or somewhere else, could you possibly get a mooring that would hang your boat on until another mooring in Camp Ellis became available one, two, three, four years later.

Garon Mailman: I don't think so.

Gary Marston: You don't think so?

Garon Mailman: I mean, this mooring is like my blood and I love this mooring. It's like my fishing charter business is up, when fishing [inaudible 00:23:07] my charters, the mooring that I have now, that I've worked and weighed on, that I have actually moved. I used to have one downriver and since I've been down there so long, he actually let me have a better mooring spot. And now it's right by the docks so when I want to have a charter or where everybody gets to see you, all the cars and stuff-

Gary Marston: I understand all that. I'm just saying that it is probably possible for you to get a mooring. So it's not that you would lose a opportunity to moor your boat and still fish, but it could be little in the boonies.
Garon Mailman: If I lost this mooring, it would be a super inconvenience, an expensive inconvenience, and be super expensive. Like, Camp Ellis is awesome. I love Camp Ellis. It's a great inexpensive place to keep your boat, it's close to the ocean so you don't have to go the whole length of the river with all the noise and stuff.

Gary Marston: No, I know all about-

Garon Mailman: I mean, this is like my life. This is my livelihood and this mooring is where I've kept my boat 10 years, right around. I wouldn't risk losing it over something so tiny. As soon as I found out there was any sort of problem, as soon as I found out, I took action and put a boat there. Now there's a boat there for August and September.

Garon Mailman: If Dan would have said something to me three days sooner, we wouldn't be here right now. I did not know. Every time I saw him down there, everything was great. I wouldn't risk losing it.

Gary Marston: I hear you. You said that.

Garon Mailman: I don't mean to [inaudible 00:24:37], but this is like my livelihood.

Jim Katz: Do you swear under oath there is a dinghy on that mooring in July?

Dave Shoelander: Nope, I can't. I'm pretty sure there was a dinghy there-

Dan Chadbourne: Just leave Dave alone.

Jim Katz: Okay.

Dan Chadbourne: Okay?

Garon Mailman: Well, I mean, you [inaudible 00:24:56] on the dock and I don't where the boat goes.

Dan Chadbourne: Dave is not involved. This is Garon's issue.

Dan Chadbourne: And back to the phone records. There's two phone calls here, okay? I've got four people doing the skiff thing this year. Garon's one of them. [Don Breean 00:25:15] is one. Don Breean's boat is blown up and he put a skiff on it his mooring in July; it's still sitting out there.

Dan Chadbourne: Christian Stephee, who is hooked up with him, little story there. On July 31st, he was supposed to put Christian's moor boat on Christian's mooring. Instead, he put it on the wrong mooring and Christian has to pay Todd Stewart $100 to move it to the correct mooring so that he would be compliant with the ordinance.

Dan Chadbourne: And the last one is [Bart Wellborn 00:25:45]-
Jim Katz: Could you repeat that one second?

Garon Mailman: About Christian Stephee? Because he's one of my very best friends.

Dan Chadbourne: Yeah. [crosstalk 00:25:50] Christian Stephee paid [Todd Stewart 00:25:52] $100 to move the skiff that you put on the wrong mooring to Christian's mooring. And Todd would love to come in here and talk about that, I can tell you right now.

Dan Chadbourne: The last guy-

Garon Mailman: Todd Stewart. Here we go.

Dan Chadbourne: Bart Wellborn, who had a stroke last winter and he's had a series of mini strokes so he falls under our medical waiver, he was one who put a skiff up. I told him not to.

Garon Mailman: How is Christian Stephee going to come here tonight in my defense and just say how it's our dinghy and that I'm responsible and stuff. Christian Stephee is one of my very good friends. I can call him right now, put him on speaker phone, and he would tell everybody in this room that I'm a great guy and responsible, would have done anything that he had ever asked of him. This is crazy right now.

Garon Mailman: And Dan, he's telling me he's got phone records, but I've got text messages from him saying about-

Dan Chadbourne: This is a phone record from Verizon right here. And it states July 9th, there's a phone call from you to me-

Garon Mailman: Yeah, he texted me [inaudible 00:26:56] gut fishies.

Dan Chadbourne: Yep. [crosstalk 00:26:58]

Garon Mailman: Dude, what's up with that? [crosstalk 00:26:58]

Dan Chadbourne: [crosstalk 00:26:58] on July 17th there's a two-minute call from you to me having to do with ... I try to be friendly with everybody down there. Apparently, it doesn't work all the time.

Garon Mailman: He never said a word about a thing. He's texted me all summer long, but he can't text me anything about a dinghy-

Dan Chadbourne: I don't have to say a word or anything to anyone-

Garon Mailman: I have a bunch of texts from him-

Jim Katz: Do any of the other members have a question for either of the parties involved in this dispute?
Garon Mailman: I have a bunch of texts from him all summer long, but not one says it's about a dinghy.

Dan Chadbourne: I don't have to text you about a dinghy because it's in the terms and conditions and the cover letter and the ordinance. And just let me read this at the bottom of the terms and conditions where it states in bold black ink, "It is the permit owner's responsibility to be aware of all applicable ordinances. Special attention should be given to Chapter 118 River and Harbor and Waterfront Ordinance. Ordinances can be located at the city clerk's office, online at sacomaine.org."

Dan Chadbourne: The other damning information here is the MOSES report where no boat was registered until August 24th. He didn't have time to register his permit, his boat up to 10 horsepower until the 24th of August, but he managed to get his hunting license on the 11th of August, seven days after the boat [crosstalk 00:28:31].

Garon Mailman: If there's no boat on it, does it need to be registered?

Dan Chadbourne: It has to be registered. Any mooring location not occupied by a vessel or float registered to the owner. Period.

Jim Katz: The only way you can register is if it has a motor on it. Every motor boat has to be registered.

Garon Mailman: I put motor on it-

Dan Chadbourne: And you don't have a motor on it.

Garon Mailman: Not right now. It did have a motor on it. I got it registered and I took the motor off because I wasn't going to leave a $3,000 motor-

Dan Chadbourne: And that I have no problem with. Okay? You do the one day, take the motor off-

Garon Mailman: I'm just boiling right now. The rules, the rules. Yes, the rules. But when I see him every day and he tells me to do something, I do it.

Dan Chadbourne: We don't see each other every day and we actually-

Garon Mailman: Multiple times a week. Three times.

Dan Chadbourne: Okay, I'll say that.

Garon Mailman: Dave's with me every day-

Dan Chadbourne: You don't want to get into the pier thing because there's a lot of issues with you and the pier thing. So let's stick to the mooring thing here.
Jim Katz: Well, we seem to be repeating ourselves [crosstalk 00:29:34]. What I'm going to do is dismiss you folks. Okay? And the procedure here is we have 30 days to give you a determination as to whether or not we feel that you should lose your mooring. If you don't like that determination, you can appeal to the city council and they will go through this whole mishmash again.

Garon Mailman: Okay.

Jim Katz: So that's the procedure. So right now we're going to-

James Henderson: You say you use this mooring to make a living.

Garon Mailman: Yes.

Jim Henderson: You didn't make a living off that mooring this year? What about last year?

Garon Mailman: Last year, yes.

James Henderson: You never used Keegan's boat to-

Garon Mailman: No. Yeah, but the people I have running that boat make me money. Right? You see me down there at Camp Ellis all the time, too. You know I'm down there all the time.

James Henderson: I don't see you all the time. I'm in Camp Ellis all the time. About 365 days a year-

Garon Mailman: And you don't see me down there all the time?

James Henderson: I see you. Not all the time. Don't say you're there all the time because you're not. You're there July, August-

Garon Mailman: Well, how many days a week-

James Henderson: July, August, September when you're tuna fishing. When tuna fishing season is. That's when you're supposed to be-

Garon Mailman: I'm not even sure of your name. What hours? You show up at like 9:00 in the morning [crosstalk 00:30:59]. I'm sorry, I'm sorry.

James Henderson: Yeah.

Garon Mailman: I'm lost.

James Henderson: I've been telling you for four years, so don't tell me that I don't go down there.

Garon Mailman: Yeah, okay.
James Henderson: Rumor has it that Mr. Keegan bought the boat for you so if you don't make enough money on it, he's going to sell it on you. Is that true?

Garon Mailman: No.

James Henderson: Spent money on a permit to go ground fishing. He doesn't like ground fishing because it's too much work.

Gary Marston: This is a pissing match.

Mike Keegan: [inaudible 00:31:26].

Garon Mailman: Listen, you know what? I'll excuse ourselves because I'm over this. But I can't stress enough-

James Henderson: If you guys are going to testify how nice a guy he is, then I'm going to [crosstalk 00:31:38].

Garon Mailman: I really appreciate you guys hearing me, but that's how I make my living down there. It really is. You're going to affect my livelihood.

James Henderson: You make a living off 14 fish a year [inaudible 00:31:51].

Dave Shoelander: If we only caught 14 fish a year, we wouldn't make a living. We catch some more than that in a month. [inaudible 00:31:58].

Jim Katz: Thank you for your participation.

Dave Shoelander: Thank you.

Garon Mailman: One more thing, too. These guys are all supposed to be these big guy fishermen, they can't even touch a tuna. So they're half jealous-

James Henderson: I've never been tuna fishing in my life.

Garon Mailman: I'm really sorry about that. I don't mean to be [crosstalk 00:32:11]. Have a good night, guys.

James Henderson: More bulls t channel from the Discovery channel. He's a f ing liar. Excuse my French, but he is. He's an arrogant [inaudible 00:32:28].

Jim Katz: We don't need any F-bombs in this meeting.

Jim Katz: So basically we have this situation [crosstalk 00:32:33]-

James Henderson: You guys don't uphold the ordinance; this man is running it. I'm f ing done. I'm already leaving this city because I can't stand the bulls t. [crosstalk 00:32:41].

Jim Katz: Wait a minute, where are you going?
James Henderson: I'm done!

Jim Katz: What do you mean?

Dan Chadbourne: Stop! Hey, hey!

Jim Katz: You got to vote.

James Henderson: No.

Dan Chadbourne: At least vote first.

Jim Katz: What are you doing? This meeting isn't over.

Jim Katz: What's he angry about?

Dan Chadbourne: Ah, he's pissed. He knows the story. There's a lot more to the story than the mooring. There's the pier use issues. Karen's got the big boat under the front hoist that he's vacuuming the rug in the cabin and there's a line of lobster men trying to unload their lobsters. This has been going on for years. I made a promise to myself I wouldn't evict anybody from the pier because most of them, like he told you, don't have any other place to go because they shot their mouth off so much. He's been caught hanging on high fliers out on [inaudible 00:33:29], on the guys with the lobster trawls out there. People want to shoot this guy, you know? The lying thing is just ... I mean, I think I showed you that he's full of s t a nyways with just paperwork.

Dan Chadbourne: But the pier use thing. I used to get, when he first [inaudible 00:33:46], "I'm too drunk to put my boat on the moor."

Dan Chadbourne: Now, you got to ask yourself. [Mike Gray 00:33:53] had the spot that he's in. Remember the venom? It was right directly in front of the pier. Okay? Mike had an issue and he got [inaudible 00:34:03]. So I had an open spot for a 25-footer. I have a problem person who can't put their boat away, and he's leaving on the charter folks and on the maintenance flow overnight. So, instead of kicking him out of there, I give him this spot. It's kind of like when you work for a company and they got [inaudible 00:34:21] and they don't want to really fire the guy. They're going to give him one more shot. This is the last shot, you know?

Dan Chadbourne: All he has to do is go from here to the end of the building with his boat to put his boat away so, hopefully, I don't have to take his pier use from him.

Dan Chadbourne: The problem now is that he doesn't have a pier use permit. The pier use permit belongs to Mike Keegan, who everybody knows is a local contractor. Garon talked Mike into buying this 38 [inaudible 00:34:51], like a $200,000 boat to go tuna fishing with. Some of these tuna fish go for a dollar a pound, right?
Dan Chadbourne: That presents another problem. Mike is supporting Garon. He's the only captain he's going to get to put on his tuna boat. Mike's got two kids and a wife. Mike was down there every single day the first year that [inaudible 00:35:19] showed up. I seen him one time this summer. That's it. Took the family for a ride. He lost all of his crews; he almost went bankrupt with his contracting business and now he's getting going again.

Dan Chadbourne: Like I said, he was ranting and raving about getting into the pier use thing. I have other people down here, too, that are on strike two. They have written warnings because of shooting their mouths off or making a big mess or mostly yelling. The tuna people are worse than the [inaudible 00:35:56] used to be.

Jim Katz: Well, I think you should excuse yourself from the meeting.

Dan Chadbourne: Okay.

Jim Katz: We'll call you back in when we're-

Dan Chadbourne: Yeah.

Jim Katz: I had a discussion with [Tim Murphy 00:36:17]. Tim Murphy is legal counsel for the city Saco. Garon's sister is an attorney. She is qualified to practice in the state of Maine. She threatened to sue the city. So Tim Murphy, basically at that point, hung up on her because "I can't talk to you if you're threatening to sue the city. We have nothing to talk about."

Jim Katz: So threw it back on me and I basically told her what our procedure was. Because we have a hearing to listen to the complaint and to hear the appeal. We'll make a determination in 30 days according to Chapter 439, the city code. If that point they're not happy with the determination that this body, then they can appeal to the city council. If the city administrator and mayor choose to put that on the agenda or not, it's up to them. If you don't want to hear it, don't want to be bothered with it, you can say the appeal is denied and then you're probably going to hear from his sister, Randy Mailman, who's going to sue the city. Or not. I have no idea.

Jim Katz: But I just have to deal with the part that faces this committee tonight, which is as fairly and impartially as I can. Rationalize between what the Harbor Master has said and what one of the other members has said between what Garon Mailman had to say.

Jim Katz: Now, at no time did Garon Mailman make any attempt to contact the Harbor Master and ask what he should do. We have allowance in the regulation for illness, for mechanical problems, and even for a lack of a boat. And none of those things that were offered in the regulation were taken advantage of by Garon. Maybe he has some difficulties in administering things like this. I mean, not everybody has computers and answering machines and fax machines and all this stuff, so maybe he's not able to
answer and respond to the Harbor Master in a timely way. I don't know if you choose to take that into consideration.

Jim Katz: But the Harbor Master has to deal with a great deal of crap down there. It is sometimes unbearable, and the commercial guys are fighting for a living down there. We're talking about guys who make $70,000 to $100,000 a summer on those 14 boats that are tied up at the pier taking people out fishing. It's big business, and it needs to be taken very, very seriously. It's not just people catching fish for recreation.

Jim Katz: That mooring that he has is probably the primo mooring at Camp Ellis. It is right across from the pier. I mean, you can row a boat from that mooring to the pier. It's in a prime location, and it's right there, and all the commercial fishermen there knew there was nobody on that mooring this summer and they complain to the Harbor Master about it. He takes it from not only the individual, but he also takes it from the all the other fishermen who are looking for an in road to get a leverage to take advantage of the Harbor Master trying to control them because they really are sometimes out of control down there.

Jim Katz: We're between a rock and a hard place.

Rick Millard: Did Dan comply with the city's regulations as far as when the fish were cleared?

Jim Katz: As far as notification, I believe we're on thin ice. Yes, Bill Gates testified to Congress that e-mails and text messages are a legal tender provided they've been acknowledged. You send your e-mail on a system that says, "The person who sent you this message has requested a read receipt." Meaning, you received it. But you don't get that with a text message. You don't get that with Gmail. Okay? So you don't when they're able to receive that notification or not. You don't know how many of Dan's phone calls were left on an answering machine and whether or not they were heard.

Jim Katz: So, we're a little weak in the area of notification. If we had sent a registered letter, we would have a read receipt; we would have a notification that it was received. So we're on weak ground there and we could be sued, and it could get just a summary judgment on the behalf of Garon Mailman because we didn't notify.

Gary Marston: On the flip side of that is, the ordinance says, "Must be occupied by a vessel or a boat registered to a permit holder," which he admitted is not the case. He [crosstalk 00:41:58]-

Jim Katz: He admitted he borrowed somebody else's boat.

Gary Marston: Correct. They're two parts of the same section.
Jim Katz: But it's- 
Robert Steeves: He didn't comply. 
Jim Katz: It's clear he did not comply. 
Robert Steeves: But then again, perhaps we didn't either. You are correct that we did have a waiver procedure that was not ... It clearly says- 
Jim Katz: Clearly says- 
Robert Steeves: Here's how you can get out of this requirement, and he didn't do it. 
Jim Katz: And the city council was very, very involved in that particular aspect of that regulation for this exact reason, okay? To give the fishermen who depend on this for a livelihood, a way to keep their livelihood if they get sick or they have to go out of town for five months to take care of their mom and dad in Miami or whatever. There's a way that they just pick up the phone and tell the Harbor Master. Ba-da-bup, ba-da-bup, and you're covered. 
Speaker: [inaudible 00:43:01] instead of your regular request for whatever. 
Gary Marston: So [inaudible 00:43:06] tried to make this. There are prime locations for people fishing at the pier that want more near the pier. But there are more that probably would be by [inaudible 00:43:20], maybe in the bay that we have mooring from summer that we know we don't like [inaudible 00:43:32]. So it's not that you- 
Gary Marston: There are moorings that could be a mooring pool, there could be a [crosstalk 00:43:39] pool. [crosstalk 00:43:42]. 
Robert Steeves: There is actually one port of mooring directly across the pier on the Biddeford side. I had a mooring there for years. There's plenty of room over there. [crosstalk 00:43:52]. 
Jim Katz: There are moorings available in the spring when they get all the sand out of there. 
Gary Marston: So it's not an issue of losing livelihood here. 
Jim Katz: I don't think it is because I don't he brings in that many fish and he- 
Gary Marston: There are people that sail out of [inaudible 00:44:08] Marina and get tuna, and it's a long ways from Camp Ellis. They get tuna, and they go to the pier and they have the wave and people come and get them. 
Rick Millard: The question here is not whether we make a living or not. It's whether or not we follow the rule.
Jim Katz: He did not follow the rules, plain and simple.

Rick Millard: I understand that, but we also have to weigh the way the situation was handled.

Jim Katz: The way that was not properly notified.

Rick Millard: One of our responsibilities is to make sure that we don't put the city in a situation where they are liable for something, any more than they are on a daily basis.

Jim Katz: I think this guy has been perfectly chastised. I mean, he knows what he has to do now.

Rick Millard: I think the arguments that he argued were all emotional. There was nothing in there from that statute.

Jim Katz: There was not-

Rick Millard: Whether he's a great guy or a jerk, doesn't make a difference.

Jim Katz: He knows what he has to do to occupy a mooring without being evicted now.

Robert Steeves: So what's to stop us from giving him certified mail notice right now?

[inaudible 00:45:30]. If we did that then it would cover the city and he would have 30 days to put a mooring on it in July, which isn't possible.

Jim Katz: Yeah, he couldn't possibly do anything with that.

Robert Steeves: If he doesn't send him a certified letter, then that's when your period of response is going to start.

Jim Katz: We've already had the appeal.

Robert Steeves: He's already had the appeal?

Jim Katz: We can't do it now.

Robert Steeves: The process is not done [inaudible 00:45:59].

Jim Katz: So what do you folks want to do?

Gary Marston: Well, continuing the discussion here. So he might not get that mooring, but he can get another mooring.

Jim Katz: He can go and get on the waiting list tomorrow for another mooring. He's not barred from ever getting a mooring, he's just going to lose this mooring and go on the wait list.
Gary Marston: The wait list for-

Jim Katz: For 14-

Gary Marston: The thing that I'm trying to understand here is I get moorings from the city of Saco for moorings under the city itself beside it, because that's where Camp Ellis is. It's not a matter of a wait list.

Jim Katz: You get them year after year after year-

Gary Marston: In the section right off [inaudible 00:46:53] Marina and there's one [inaudible 00:46:55]. Nobody else even wants to be there. He can go up the bay where people will [inaudible 00:46:59] and what have you, there's two or three moors at the sea. He can use one of those until he gets the other one.

Gary Marston: But the point would be it's two miles from the pier, and he'd have to sail down and then finally sail up and fish and sail back.

Gary Marston: My point is anyone in the coastal section of the bay or river, you can get a mooring and go fish. Because there's no dams restricting you to get there. It's that mooring that he wants. Is that not true?

Gary Marston: [crosstalk 00:47:30]

Gary Marston: So is that the issue? It's that mooring or a mooring? That's my point.

Jim Katz: Pretty much that mooring.

Gary Marston: He pretty indicated it was that mooring that he wanted hang on to.

Gary Marston: Now, if somebody else has that mooring [crosstalk 00:47:49].

Jim Katz: Dan was going to have him pulled out, and I told him not to until this appeal had been resolved one way or the other. So it's just frozen in time; there it is.

Robert Steeves: Sean, do you know if there's a waiting list in Biddeford?

Sean Tarpey: Yes, I know and, yes, there is.

Gary Marston: The pool area or the whole area?

Robert Steeves: Plus, we don't know if he's going to buy a boat next year either.

Jim Katz: There's not guarantee that he's going to buy a boat or he's going to have anything to register come January 1st as a boat to put on that mooring.

Gary Marston: He doesn't even know if he's going to fish next year.

Jim Katz: He can't register a dinghy to put it on a mooring. He can register a dinghy to
hold the place of the mooring, but you have to have a boat.

Gary Marston: I even think that's kind of a questionable act.

Gary Marston: What's that?

Gary Marston: So I go get a mooring and I put a dinghy on it for two years, that's okay. I hadn't really let my boat be there, but it's going to get one.

Rick Millard: You pay for privilege.

Gary Marston: What?

Rick Millard: You pay for the privilege.

Gary Marston: Yeah, I know.

Jim Katz: Defeats the whole purpose.

Gary Marston: It does, but you pay for privilege.

Jim Katz: You're trying to promote commerce and recreation in the area, and that does none of that.

Jim Katz: So what do you want to do? Is there a motion?

John Nickerson I'd like to make a motion that we revoke.

Jim Katz: You make a motion to revoke. Is there a second?

Rick Milliard: Yes.

Jim Katz: Rick, you made the second?

Rick Milliard: I did.

Jim Katz: Any discussion on that?

Robert Steeves: [inaudible 00:49:43] the notification problem?

Jim Katz: We still have the notification problem. We are hanging out there, yes. It's a game of chicken, whether they back down. If we say in the denial that you were notified by the Harbor Master.

Gary Marston: I guess we can't make it a motion, I guess. Say can you negotiate with this person and say, "Hey, look. You've made mistakes. With another place that isn't as ideal, you can have that." Is there any other mooring in there that he could have that is not exactly in the spot that he-

Gary Marston: [inaudible 00:50:34] just give him another moor in another place.
Gary Marston: My point is somebody else going to [crosstalk 00:50:42]. Has this mooring been reassigned?

Jim Katz: No.

Jim Katz: I agree with you. I'm pretty sure the other moorings are all occupied with a 14-person lake, which we don't have [crosstalk 00:50:55].

Gary Marston: But this one's not occupied.

Jim Katz: This one was not revoked. It's still sitting there with nothing on it.

Gary Marston: So the season's coming to an end.

Jim Katz: Yep.

John Nickerson: I think he said it's time to move forward and at least apply the rules that we have right now, and make that vote and revoke his privilege because he did not conform at all and totally just kind of blew everything off. [inaudible 00:51:29] and was not telling the truth right through the whole thing and was just trying to steer things away from where the mooring issue.

Jim Katz: Which was why [Henderson 00:51:42] stormed out.

John Nickerson: Right.

Jim Katz: Because he didn't want to listen to the BS anymore.

Rick Millard: Not only that. He has denied the privilege of somebody else for using that site.

Jim Katz: Yes [inaudible 00:51:53].

Gary Marston: My interpretation that of what I'm hearing is that he lost his ... are we hearing that he hasn't followed the rules, therefore he's lost the rest of that mooring?

Jim Katz: He's lost the privilege of having a mooring.

Gary Marston: And he should be to back of the list-

Jim Katz: And he'll go to the back of the waiting list. Unless he finds a mooring some other place or shares one with someone else. He can do that.

Gary Marston: This is for me anyway. So what we're saying is his rights to the mooring should be revoked and he should move to the wait list promptly [crosstalk 00:52:38].
Rick Millard: The only thing I'm concerned about is whether or not he has a hearing, retains the privilege of that mooring. Whether he gets on somebody's waiting list or not, is not a concern.

Gary Marston: I agree with you. I agree with you. But the reality of it is, if he wants a mooring, he's going to go back to the process and get [crosstalk 00:53:06].

Speaker: I'm not suggesting that he [inaudible 00:53:10], I'm just talking here [crosstalk 00:53:12].

Jim Katz: He has to have a real boat, it has to be registered to him.

Gary Marston: Read the regulations and follow the regulations.

Jim Katz: It's what the regulation says, that's all.

Gary Marston: Pretty straightforward.

John Nickerson: Even though if we go ahead and pull his privilege, he still has the city council to go through if he so chooses-

Jim Katz: If the city council chooses to accept it.

John Nickerson: And I think that's a better alternative at this point in time.

Gary Marston: But is it revoking that privilege or is it we're actually enforcing the regulation, and the regulation states that he's going to go back to the-

John Nickerson: We're just enforcing regulations.

Robert Steeves: The regulation says that if you don't comply, which is how a boat [inaudible 00:54:06] which is on the mooring location for that time period, then Harbor Master can reassign that mooring to the next person on the wait list.

Gary Marston: That sounds like a motion. [inaudible 00:54:17].

Jim Katz: The motion is we deny the appeal and uphold the action of the Harbor Master to revoke his mooring privilege.

Gary Marston: As per number 118.

Jim Katz: Yes.

Rick Millard: So the risk is minimal.

Jim Katz: That's your motion, is that correct?

Gary Marston: Yes.

Jim Katz: I'll call the question. All those in favor say aye.
Gary Marston:  

In favor of?

Jim Katz:  

To revoke.

Gary Marston:  

As per 118.

Jim Katz:  

Can I see a show of hands? One, two, three, four, five. You're not a member, neither of you are members. So that's unanimous.

Marston Lovell:  

[inaudible 00:54:58] I can't say because it may come before the Council [crosstalk 00:55:01].

Jim Katz:  

Okay, would you call the Harbor Master back in, please? And we'll continue the agenda. We can notify them before 30 days. I think I can [inaudible 00:55:16] this letter out. Registered mail, of course.
Posted to Facebook Market:

Maine Comm Fishing Gear Swap/Sell
Facebook
Nov 10, 2017

2520 Parker 2004 mod V with trailer
The 2004 225 Yamaha needs a new
Power head. Sold

Permit Fraudulent

Terms & Conditions
#12
#7

Moses

Phone Records
February 7, 2018

Dear Applicant:

Enclosed is your 2018 Mooring Permit application and Terms and Conditions regulations. Please complete the mooring application and return it to the office with a check in the amount of $135.00. **Applications need to be received on or before March 15, 2018 in order to avoid a $50.00 late fee.** Incomplete applications will be returned to the applicant.

Please note that Harbormaster Daniel Chadbourne will address all issues and/or concerns regarding moorings with the mooring applicant. He can be reached at 423-2755 or steelfish873@gmail.com.

**Mooring users should be aware of the following parts of Sec. 118-5 Harbor Use Regulations:**

- Any mooring location not occupied by the vessel or float registered to it, or a vessel of equal or lesser gross tonnage owned by the mooring permit holder, for at least one day in each of three out of the five months during the period May 1 through September 30 during the permit year may be considered to be abandoned. The location may be reassigned by the Harbor Master, after the Harbor Master has first given the registrant 30 days' advance written notice at his/her last known address (certified mail, return receipt). The cost of removing or dropping moorings shall be assessed to the owner if not removed by him within 30 days of receipt of said notice, in accordance with state law. Notwithstanding the above, this subsection will not apply to a mooring whose owner has notified the Harbor Master that such mooring will not be occupied due to prolonged absence from the area, illness, or other extenuating circumstances, provided the permit is timely renewed annually as required by this chapter.

- Inspections of moorings. The Harbor Master or his/her designee shall inspect moorings biannually. It is the permit holder's responsibility to contact the Harbor Master to arrange for inspections. Two visits by the Harbor Master are included in the mooring application fee; any additional visits required to complete an inspection shall be at the applicant’s expense.

- A mooring shall be removed after September 30, unless it is still in use by its owner. If not removed by its owner, the Harbor Master shall see to its removal at the expense of the mooring owner. The mooring and ground tackle shall not be returned to its owner until such bill is paid. All noncommercial vessels shall be removed from the river by December 1.

Sincerely,

Michele L. Hughes
City Clerk

Enc: 2
## City of Saco
### Mooring Permit Application
(Rev. 11/14/2017)

<table>
<thead>
<tr>
<th>Owner’s Last Name:</th>
<th>Mallman</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of Application:</td>
<td>Feb/18/2018</td>
</tr>
<tr>
<td>New ____ Renewal A</td>
<td></td>
</tr>
<tr>
<td>Use (circle): Recreational Comm. Fish Other:</td>
<td></td>
</tr>
</tbody>
</table>

### Boat Information:
- **Boat Reg/Doc #:** ME 1911EC
- **Boat Name:** Opportunity
- **Make:** Parker
- **Type:** Sport Cabin
- **Color (hull/trim):** White
- **Length:** 25 ft
- **Draft:** 18 in
- **Propulsion:** Outboard

### Owner Information (Individual/business):
- **Name:** Garon Mallman
- **Summer Address:** 76 Old Orchard Rd Saco ME 04073
- **Winter Address:**
- **E-mail:** Hostoupfishingcharter@yahoo.com
- **Home Tel. #:** 207-229-3780
- **Bus Tel. #:**
- **Contact name:**
- **I have read and agree to the attached terms and conditions of the mooring permit.**

**Signed:**

**Date:** 2/18/2018

### Office Use Only

<table>
<thead>
<tr>
<th>Harbor Master</th>
<th>Biennial Inspection Date:</th>
<th>By:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mooring Tackle Information:</strong></td>
<td>Heavy Chain: _______ ft. Light Chain: _______ ft.</td>
<td></td>
</tr>
<tr>
<td>Mooring type and weight:</td>
<td>Ball Size: _______ Pennant Size: _______</td>
<td></td>
</tr>
<tr>
<td>Location of Mooring:</td>
<td>Camp Ellis Up River: _______</td>
<td></td>
</tr>
<tr>
<td>Date Present Mooring Put Down:</td>
<td>Latitude: _______ Longitude: _______</td>
<td></td>
</tr>
<tr>
<td>Harbor Master Signature:</td>
<td>Date:</td>
<td></td>
</tr>
</tbody>
</table>

### City Staff

<table>
<thead>
<tr>
<th>Date Received:</th>
<th>2/18/18</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payment Type:</td>
<td>Cash 192 Check/Money Order</td>
</tr>
<tr>
<td>Payment Amount:</td>
<td>$135.00</td>
</tr>
</tbody>
</table>

### Fees
- **Mooring Fee:** $135.00
- (125.00 + $10 Application Fee)
- **Late Fee – After March 15:** $50.00
Terms and Conditions

1) THIS PERMIT IS NON-TRANSFERABLE and is for the use of a vessel registered only to the above named owner/business provided the gross tonnage is not exceeded. Any vessel used to meet the requirements of item 7 below must have mechanical propulsion (including dinghies).

2) Location of all moorings will be assigned by the Harbor Master. The location is subject to change at any time at the discretion of the Harbor Master as conditions dictate.

3) The Permit Holder is responsible for setting their mooring and making adjustments as required for the safety of their boat and adjacent boats.

4) MOORING NUMBERS AND BOAT REGISTRATION NUMBERS MUST BE ON A WHITE MOORING BLOY in at least 3” tall font.

5) If any boat on a mooring is taking on water or in danger of sinking, the Harbor Master may authorize a private contractor to pump out said boat at the boat owner’s expense. The owner must pay the contractor within 80 days, or lose mooring privileges.

6) Registration form and fee must be received on or before March 15th or a pay an additional late fee. All moorings not registered by July 30th will be considered abandoned, removed and their locations reassigned. All moorings must be in by July 30th or their location will be reassigned according to waiting list priority.

7) Any mooring location not occupied by a vessel or float registered to the owner/business named above for at least one day in each of three out of the five months from May 1 through September 30 during the permit year may be considered to be abandoned. The location may be reassigned by the Harbor Master, after the Harbor Master has first given the registrant thirty (30) days advance written notice at his/her last known address, (certified mail, return receipt). The cost of removing or dropping moorings shall be assessed to the owner if not removed by him within thirty (30) days of receipt of said notice, in accordance with state law. Notwithstanding the above, this paragraph will not apply to a mooring which was not occupied due to the prolonged absence of the owner from the area, illness or other extenuating circumstances, provided the permit is timely renewed annually as required by this ordinance.

8) Adequacy of moorings. All existing moorings hereinafter to be set shall be of sufficient size to hold the vessel for which they are used. All moorings shall have approved buoys and must be visible at all times.

(a) The following mooring standards are provided as a guideline, all mooring requirements will be determined by the Harbor Master.

<table>
<thead>
<tr>
<th>Maximum Boat Length (feet)</th>
<th>Maximum Boat Weight (gross pounds)</th>
<th>Minimum Mooring Weight (pounds)</th>
<th>Minimum Chain Link Size (inches)</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>500</td>
<td>350</td>
<td>3/8</td>
</tr>
<tr>
<td>20</td>
<td>1,500</td>
<td>750</td>
<td>3/8</td>
</tr>
<tr>
<td>25</td>
<td>5,000</td>
<td>1,500</td>
<td>1/2</td>
</tr>
<tr>
<td>30</td>
<td>8,000</td>
<td>1,800</td>
<td>1/2</td>
</tr>
<tr>
<td>35</td>
<td>12,000</td>
<td>2,500</td>
<td>1/2</td>
</tr>
<tr>
<td>40</td>
<td>3,500</td>
<td></td>
<td>5/8</td>
</tr>
</tbody>
</table>

9) Inspections of moorings. The Harbor Master shall inspect moorings biannually. The inspection includes two visits by the Harbor Master. It is the permit holder's responsibility to contact the harbor master for these visits before the mooring is placed in service. Any additional visits required by the Harbor Master will be at the applicant's expense.

10) Manner/Condition of Moorings:

(a) All mooring floats shall meet United States Coast Guard regulations.

(b) The float attached to the mooring line shall be of sufficient size to remain afloat when not attached to the vessel.

(c) The Harbor Master may at any time examine any mooring or mooring line to determine compliance with this section. Except in the case of an emergency, he shall notify the owner of his intention to examine the mooring and request the presence of the owner during such examination. Any cost of examination shall be borne by the owner of the mooring.

11) Mooring Permit holders (permits issued by the City of Saco) may tie one small boat (a.k.a. dinghies, skiffs, punts, Jon boats, etc. – must be 16 feet long or less) to the Camp Ellis floating docks without additional charge provided the mooring holder has obtained a Camp Ellis Pier Use Permit. The small boat is for the sole purpose of transporting the boat owner to and from his moored vessel and must be clearly identified with the moored vessel's boat name, or the owner's name. Any person who does not have a City of Saco Pier Use Permit shall pay the hourly docking fee to tie a small boat to the dock.

12) It is the permit Owner's responsibility to be aware of all applicable ordinances. Special attention should be given to: CHAPTER 118 RIVER AND HARBOR AND WATERFRONT ORDINANCE. Ordinances can be located at the City Clerk’s Office or online at: www.sacomaine.org.
| Item Code | Item Description          | License Year | Valid From | Valid To | Permissons | Permanent License No | Source | Bull/Site ID | First Name | Last Name | Middle Name | Business Name | Name Change Date | MoveFromMesse | MoveFromMesseId | License Document No | Agency ID | Agency Name | Clerk ID | SaleDate/Time |
|-----------|---------------------------|--------------|------------|----------|------------|----------------------|--------|--------------|------------|-----------|-------------|---------------|------------------|------------------|---------------|---------------|----------------------|----------|-------------|----------|--------------|
| 1400      | BoatTitle/10/Reg/View/Door| 2018         | 12/31/2018 | 12/31/2018 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1702      | Res Hunt                  | 2018         | 09/12/2018 | 12/31/2018 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1706      | Res Muzzleloader Hunt     | 2017         | 12/31/2017 | 12/31/2017 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1713      | Migratory Waterfowl Hunt | 2017         | 09/16/2017 | 12/31/2017 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1479      | Expand Archery Elitter Sax| 2017         | 09/16/2017 | 12/31/2017 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1751      | Res FleshHunt             | 2017         | 07/11/2017 | 12/31/2017 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1921      | Boat/115HspReg/Removal    | 2017         | 05/31/2017 | 12/31/2017 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1479      | Expand Archery Elitter Sax| 2016         | 10/04/2016 | 12/31/2016 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1801      | Duplicate Rec License     | 2016         | 10/20/2016 | 12/31/2016 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1752      | Res Hunt                  | 2016         | 01/11/2016 | 12/31/2016 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1921      | Boat/115HspReg/Removal    | 2016         | 09/27/2016 | 12/31/2016 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1778      | Guida Renewal             | 2016         | 04/27/2016 | 12/31/2016 | TIDEWATER 72 | 119822 | MOSES      | GARDON MALLMAN | C |         |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1753      | Res Fish                  | 2016         | 01/02/2016 | 12/31/2016 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1795      | Res Muzzleloader Hunt     | 2015         | 11/20/2015 | 12/31/2015 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1713      | Migratory Waterfowl Hunt | 2015         | 06/30/2015 | 12/31/2015 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1651      | Boat/115HspReg/Removal    | 2015         | 02/02/2015 | 12/31/2015 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1785      | Res Muzzleloader Hunt     | 2014         | 12/05/2014 | 12/31/2014 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1801      | Duplicate Rec License     | 2014         | 09/10/2014 | 12/31/2014 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1713      | Migratory Waterfowl Hunt | 2014         | 08/13/2014 | 12/31/2014 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1479      | Expand Archery Elitter Sax| 2014         | 08/13/2014 | 12/31/2014 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1479      | Expand Archery Artillery  | 2014         | 08/13/2014 | 12/31/2014 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1480      | Boat/115HspReg/Removal    | 2014         | 06/17/2014 | 12/31/2014 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1604      | Boat/115HspReg/Removal    | 2014         | 09/03/2014 | 12/31/2014 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
| 1671      | Saltwater Fish Registry   | 2014         | 01/08/2014 | 12/31/2014 | MOSES      | GARDON MALLMAN       | C      |              |            |           |             |               |                  |                  |               |              |                    |          |             |          |              |
### Talk activity

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Number</th>
<th>Origination</th>
<th>Destination</th>
<th>Min.</th>
<th>Airtime Charges</th>
<th>Long Dist/ Other Chgs</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jul 3</td>
<td>7:56 PM</td>
<td>800.227</td>
<td>Saco, ME</td>
<td>Toll-Free, CL</td>
<td>3</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 4</td>
<td>9:11 AM</td>
<td>207.898</td>
<td>Biddeford, ME</td>
<td>Portland, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 4</td>
<td>1:28 PM</td>
<td>603.694</td>
<td>Old Orchard, ME</td>
<td>Dover, NH</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 5</td>
<td>1:57 PM</td>
<td>207.281</td>
<td>Old Orchard, ME</td>
<td>Incoming, CL</td>
<td>5</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 5</td>
<td>3:05 PM</td>
<td>207.281</td>
<td>Old Orchard, ME</td>
<td>Incoming, CL</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 6</td>
<td>9:57 AM</td>
<td>207.292</td>
<td>Biddeford, ME</td>
<td>Incoming, CL</td>
<td>13</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 6</td>
<td>11:41 AM</td>
<td>207.801</td>
<td>Biddeford, ME</td>
<td>Incoming, CL</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 6</td>
<td>12:34 PM</td>
<td>603.634</td>
<td>Old Orchard, ME</td>
<td>Dover, NH</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 6</td>
<td>1:37 PM</td>
<td>207.292</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>6</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 6</td>
<td>2:26 PM</td>
<td>207.282</td>
<td>Biddeford, ME</td>
<td>Biddeford, ME</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 6</td>
<td>6:52 PM</td>
<td>207.281</td>
<td>Saco, ME</td>
<td>Incoming, CL</td>
<td>14</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 6</td>
<td>7:20 PM</td>
<td>600.227</td>
<td>Old Orchard, ME</td>
<td>Toll-Free, CL</td>
<td>3</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 7</td>
<td>5:02 PM</td>
<td>207.898</td>
<td>Old Orchard, ME</td>
<td>Freeport, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 7</td>
<td>10:02 AM</td>
<td>508.427</td>
<td>Old Orchard, ME</td>
<td>Incoming, CL</td>
<td>5</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 9</td>
<td>2:27 PM</td>
<td>645.323</td>
<td>Old Orchard, ME</td>
<td>New City, NY</td>
<td>6</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 9</td>
<td>3:57 PM</td>
<td>207.604</td>
<td>Biddeford, ME</td>
<td>Kennebunk, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 9</td>
<td>3:59 PM</td>
<td>207.291</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 9</td>
<td>4:51 PM</td>
<td>207.441</td>
<td>Biddeford, ME</td>
<td>Biddeford, ME</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 9</td>
<td>4:55 PM</td>
<td>207.281</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>23</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 9</td>
<td>4:44 PM</td>
<td>207.229</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 10</td>
<td>7:27 PM</td>
<td>207.488</td>
<td>Old Orchard, ME</td>
<td>Incoming, CL</td>
<td>5</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 10</td>
<td>11:20 AM</td>
<td>207.281</td>
<td>Old Orchard, ME</td>
<td>Incoming, CL</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 11</td>
<td>11:26 AM</td>
<td>207.593</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 11</td>
<td>11:56 AM</td>
<td>207.593</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 11</td>
<td>11:56 AM</td>
<td>207.604</td>
<td>Old Orchard, ME</td>
<td>Incoming, CL</td>
<td>5</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 11</td>
<td>11:56 AM</td>
<td>207.604</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 12</td>
<td>2:20 PM</td>
<td>800.022</td>
<td>Old Orchard, ME</td>
<td>Toll-Free, CL</td>
<td>3</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 12</td>
<td>3:43 PM</td>
<td>207.229</td>
<td>Biddeford, ME</td>
<td>Incoming, CL</td>
<td>4</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 13</td>
<td>4:52 PM</td>
<td>207.281</td>
<td>Biddeford, ME</td>
<td>Biddeford, ME</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 13</td>
<td>4:53 PM</td>
<td>978.680</td>
<td>Biddeford, ME</td>
<td>Tewksbury, MA</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 13</td>
<td>6:27 PM</td>
<td>207.281</td>
<td>Old Orchard, ME</td>
<td>Incoming, CL</td>
<td>12</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 14</td>
<td>7:21 AM</td>
<td>207.281</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 14</td>
<td>4:06 PM</td>
<td>800.022</td>
<td>Biddeford, ME</td>
<td>Toll-Free, CL</td>
<td>4</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 14</td>
<td>6:20 PM</td>
<td>207.281</td>
<td>Biddeford, ME</td>
<td>Incoming, CL</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 15</td>
<td>12:37 PM</td>
<td>207.347</td>
<td>Saco, ME</td>
<td>Incoming, CL</td>
<td>5</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 15</td>
<td>1:25 PM</td>
<td>207.281</td>
<td>Saco, ME</td>
<td>Biddeford, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 15</td>
<td>8:16 PM</td>
<td>207.281</td>
<td>Old Orchard, ME</td>
<td>Incoming, CL</td>
<td>22</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 15</td>
<td>8:40 PM</td>
<td>207.281</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 15</td>
<td>8:48 PM</td>
<td>207.281</td>
<td>Saco, ME</td>
<td>Incoming, CL</td>
<td>14</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 16</td>
<td>8:47 AM</td>
<td>207.291</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 16</td>
<td>12:09 PM</td>
<td>207.281</td>
<td>Biddeford, ME</td>
<td>Incoming, CL</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 16</td>
<td>1:00 PM</td>
<td>207.281</td>
<td>Old Orchard, ME</td>
<td>Incoming, CL</td>
<td>3</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 16</td>
<td>5:13 PM</td>
<td>207.898</td>
<td>Old Orchard, ME</td>
<td>Incoming, CL</td>
<td>8</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 16</td>
<td>8:06 PM</td>
<td>207.281</td>
<td>Old Orchard, ME</td>
<td>Incoming, CL</td>
<td>23</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 17</td>
<td>7:46 AM</td>
<td>207.281</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 17</td>
<td>10:09 AM</td>
<td>207.281</td>
<td>Biddeford, ME</td>
<td>Biddeford, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 17</td>
<td>3:14 PM</td>
<td>207.281</td>
<td>Saco, ME</td>
<td>Incoming, CL</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 17</td>
<td>3:46 PM</td>
<td>207.281</td>
<td>Saco, ME</td>
<td>Incoming, CL</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
</tbody>
</table>
### Talk activity - continued

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Number</th>
<th>Origination</th>
<th>Destination</th>
<th>Min.</th>
<th>Airtime Charges</th>
<th>Long Dist/Other Chgs</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jul 17</td>
<td>4:18 PM</td>
<td>207.834</td>
<td>Old Orch, ME</td>
<td>Oldorchbch, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 17</td>
<td>6:08 PM</td>
<td>508.958</td>
<td>Old Orch, ME</td>
<td>Hoppington, MA</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 15</td>
<td>6:32 PM</td>
<td>207.734</td>
<td>Old Orch, ME</td>
<td>New York, NY</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 15</td>
<td>6:59 PM</td>
<td>207.834</td>
<td>Old Orch, ME</td>
<td>Biddeford, ME</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 15</td>
<td>6:20 PM</td>
<td>207.834</td>
<td>Old Orch, ME</td>
<td>Biddeford, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 18</td>
<td>7:48 AM</td>
<td>508.758</td>
<td>Old Orch, ME</td>
<td>Worcester, MA</td>
<td>3</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 18</td>
<td>8:10 PM</td>
<td>207.834</td>
<td>Old Orch, ME</td>
<td>Oldorchbch, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 19</td>
<td>6:23 PM</td>
<td>207.859</td>
<td>Old Orch, ME</td>
<td>Biddeford, ME</td>
<td>3</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 20</td>
<td>3:59 PM</td>
<td>207.852</td>
<td>Biddeford, ME</td>
<td>Biddeford, ME</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 20</td>
<td>3:50 PM</td>
<td>207.834</td>
<td>Saco, ME</td>
<td>Incoming, CL</td>
<td>5</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 20</td>
<td>4:54 PM</td>
<td>207.829</td>
<td>Old Orch, ME</td>
<td>Biddeford, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 20</td>
<td>4:47 PM</td>
<td>207.811</td>
<td>Saco, ME</td>
<td>Incoming, CL</td>
<td>7</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 20</td>
<td>8:05 PM</td>
<td>617.511</td>
<td>Old Orch, ME</td>
<td>Cambridge, MA</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 22</td>
<td>7:50 AM</td>
<td>207.851</td>
<td>Old Orch, ME</td>
<td>Incoming, CL</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 22</td>
<td>12:10 PM</td>
<td>207.831</td>
<td>Old Orch, ME</td>
<td>Incoming, CL</td>
<td>5</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 22</td>
<td>6:21 PM</td>
<td>207.831</td>
<td>Old Orch, ME</td>
<td>Incoming, CL</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 23</td>
<td>10:46 AM</td>
<td>207.831</td>
<td>Old Orch, ME</td>
<td>Cornish, ME</td>
<td>17</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 23</td>
<td>11:06 AM</td>
<td>617.523</td>
<td>Saco, ME</td>
<td>Boston, MA</td>
<td>8</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 23</td>
<td>11:13 AM</td>
<td>207.834</td>
<td>Old Orch, ME</td>
<td>Portland, ME</td>
<td>11</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 23</td>
<td>1:28 PM</td>
<td>207.847</td>
<td>Old Orch, ME</td>
<td>Biddeford, ME</td>
<td>4</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 23</td>
<td>5:07 PM</td>
<td>403.841</td>
<td>Old Orch, ME</td>
<td>Dover, NH</td>
<td>3</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 23</td>
<td>6:51 PM</td>
<td>207.837</td>
<td>Old Orch, ME</td>
<td>Biddeford, ME</td>
<td>8</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 25</td>
<td>6:26 PM</td>
<td>207.888</td>
<td>Biddeford, ME</td>
<td>Biddeford, ME</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 25</td>
<td>7:32 PM</td>
<td>207.888</td>
<td>Biddeford, ME</td>
<td>Oldorchbch, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 25</td>
<td>8:01 PM</td>
<td>207.851</td>
<td>Old Orch, ME</td>
<td>Incoming, CL</td>
<td>6</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 27</td>
<td>6:36 PM</td>
<td>508.758</td>
<td>Old Orch, ME</td>
<td>Biddeford, ME</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 27</td>
<td>6:37 PM</td>
<td>207.841</td>
<td>Biddeford, ME</td>
<td>Worcester, MA</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 27</td>
<td>6:40 PM</td>
<td>617.533</td>
<td>Old Orch, ME</td>
<td>Portland, ME</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 27</td>
<td>6:58 PM</td>
<td>508.758</td>
<td>Saco, ME</td>
<td>Boston, MA</td>
<td>15</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 27</td>
<td>7:35 PM</td>
<td>207.834</td>
<td>Saco, ME</td>
<td>Incoming, CL</td>
<td>8</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 27</td>
<td>7:35 PM</td>
<td>207.834</td>
<td>Saco, ME</td>
<td>Incoming, CL</td>
<td>3</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 27</td>
<td>7:35 PM</td>
<td>207.834</td>
<td>Old Orch, ME</td>
<td>Incoming, CL</td>
<td>5</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 27</td>
<td>8:47 PM</td>
<td>207.834</td>
<td>Old Orch, ME</td>
<td>Incoming, CL</td>
<td>9</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 29</td>
<td>6:20 AM</td>
<td>207.858</td>
<td>Biddeford, ME</td>
<td>Biddeford, ME</td>
<td>18</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 29</td>
<td>7:37 AM</td>
<td>207.858</td>
<td>Old Orch, ME</td>
<td>Incoming, CL</td>
<td>3</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 29</td>
<td>8:19 AM</td>
<td>207.857</td>
<td>Biddeford, ME</td>
<td>Biddeford, ME</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 29</td>
<td>9:10 AM</td>
<td>207.847</td>
<td>Saco, ME</td>
<td>Incoming, CL</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 30</td>
<td>7:55 AM</td>
<td>508.734</td>
<td>Biddeford, ME</td>
<td>Worcester, MA</td>
<td>3</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 30</td>
<td>6:46 PM</td>
<td>207.834</td>
<td>Old Orch, ME</td>
<td>Waterbury, CT</td>
<td>6</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 30</td>
<td>6:51 PM</td>
<td>312.494</td>
<td>Old Orch, ME</td>
<td>Chicagoy01, IL</td>
<td>11</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 30</td>
<td>7:07 PM</td>
<td>207.837</td>
<td>Old Orch, ME</td>
<td>Incoming, CL</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 30</td>
<td>8:20 PM</td>
<td>800.253</td>
<td>Old Orch, ME</td>
<td>Toll-Free, CT</td>
<td>6</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 30</td>
<td>8:27 PM</td>
<td>800.986</td>
<td>Old Orch, ME</td>
<td>Toll-Free, CL</td>
<td>2</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 31</td>
<td>9:29 AM</td>
<td>207.822</td>
<td>Biddeford, ME</td>
<td>Biddeford, ME</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 31</td>
<td>9:31 AM</td>
<td>207.822</td>
<td>Biddeford, ME</td>
<td>Incoming, CL</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Jul 31</td>
<td>6:34 AM</td>
<td>207.505</td>
<td>Old Orch, ME</td>
<td>Kennebunk, ME</td>
<td>4</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Aug 1</td>
<td>8:24 AM</td>
<td>207.827</td>
<td>Old Orch, ME</td>
<td>Biddeford, ME</td>
<td>1</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
</tbody>
</table>
### Talk activity - continued

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Number</th>
<th>Origination</th>
<th>Destination</th>
<th>Min.</th>
<th>Airtime Charges</th>
<th>Long Dist/ Other Chgs</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jun 20</td>
<td>5:40 PM</td>
<td>207.77E9</td>
<td>Saco, ME</td>
<td>Incoming, CL</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 20</td>
<td>7:36 PM</td>
<td>207.1E99</td>
<td>Saco, ME</td>
<td>Incoming, CL</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 21</td>
<td>3:06 PM</td>
<td>207.2E29</td>
<td>Saco, ME</td>
<td>Biddeford, ME</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 22</td>
<td>9:23 AM</td>
<td>207.5E77</td>
<td>Biddeford, ME</td>
<td>Incoming, CL</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 22</td>
<td>9:25 AM</td>
<td>207.3E39</td>
<td>Biddeford, ME</td>
<td>Lewiston, ME</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 22</td>
<td>9:33 AM</td>
<td>207.2E33</td>
<td>Biddeford, ME</td>
<td>Boston, MA</td>
<td>18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 22</td>
<td>2:26 PM</td>
<td>207.6E55</td>
<td>Saco, ME</td>
<td>Portland, ME</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 22</td>
<td>3:45 PM</td>
<td>207.5E17</td>
<td>Old Orchard, ME</td>
<td>Montgomery, AL</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 22</td>
<td>4:00 PM</td>
<td>207.1E21</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 22</td>
<td>7:51 PM</td>
<td>207.6E37</td>
<td>Saco, ME</td>
<td>Incoming, CL</td>
<td>24</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 24</td>
<td>9:05 AM</td>
<td>207.2E29</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 24</td>
<td>1:14 PM</td>
<td>207.2E12</td>
<td>Biddeford, ME</td>
<td>Biddeford, ME</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 25</td>
<td>12:01 PM</td>
<td>207.5E37</td>
<td>Biddeford, ME</td>
<td>Sanford, ME</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 26</td>
<td>12:03 PM</td>
<td>207.2E41</td>
<td>Biddeford, ME</td>
<td>Waterboro, ME</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 26</td>
<td>12:04 PM</td>
<td>603.3E47</td>
<td>Biddeford, ME</td>
<td>Somersworth, NH</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 26</td>
<td>12:05 PM</td>
<td>207.7E71</td>
<td>Biddeford, ME</td>
<td>Biddeford, ME</td>
<td>15</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 26</td>
<td>12:21 PM</td>
<td>207.2E11</td>
<td>Biddeford, ME</td>
<td>Scarborough, ME</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 25</td>
<td>12:34 PM</td>
<td>207.2E41</td>
<td>Biddeford, ME</td>
<td>Wells, ME</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 25</td>
<td>1:52 PM</td>
<td>207.5E10</td>
<td>Biddeford, ME</td>
<td>Portland, ME</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 25</td>
<td>4:20 PM</td>
<td>207.2E57</td>
<td>Old Orchard, ME</td>
<td>Incoming, CL</td>
<td>4</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 26</td>
<td>12:11 PM</td>
<td>603.3E35</td>
<td>Kennebunk, ME</td>
<td>Laconia, NH</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 26</td>
<td>4:05 PM</td>
<td>207.2E18</td>
<td>Hollis, ME</td>
<td>Incoming, CL</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 26</td>
<td>7:51 PM</td>
<td>207.2E37</td>
<td>Old Orchard, ME</td>
<td>Incoming, CL</td>
<td>13</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 27</td>
<td>6:36 AM</td>
<td>207.3E37</td>
<td>Biddeford, ME</td>
<td>Biddeford, ME</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 27</td>
<td>11:41 AM</td>
<td>603.4E24</td>
<td>Saco, ME</td>
<td>Incoming, CL</td>
<td>5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 27</td>
<td>3:22 PM</td>
<td>207.2E17</td>
<td>Saco, ME</td>
<td>Incoming, CL</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 28</td>
<td>12:00 PM</td>
<td>207.2E20</td>
<td>Biddeford, ME</td>
<td>Incoming, CL</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 28</td>
<td>12:03 PM</td>
<td>207.3E38</td>
<td>Biddeford, ME</td>
<td>Old Orchard, ME</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 28</td>
<td>12:06 PM</td>
<td>207.2E22</td>
<td>Biddeford, ME</td>
<td>Biddeford, ME</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 28</td>
<td>12:2 PM</td>
<td>781.3E47</td>
<td>Biddeford, ME</td>
<td>Peabody, MA</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 28</td>
<td>12:50 PM</td>
<td>207.9E38</td>
<td>Old Orchard, ME</td>
<td>Incoming, CL</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 28</td>
<td>12:54 PM</td>
<td>207.1E12</td>
<td>Saco, ME</td>
<td>Incoming, CL</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 29</td>
<td>6:15 PM</td>
<td>207.6E62</td>
<td>Saco, ME</td>
<td>Portland, ME</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 30</td>
<td>9:57 AM</td>
<td>207.5E10</td>
<td>Biddeford, ME</td>
<td>Incoming, CL</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 30</td>
<td>5:13 PM</td>
<td>207.9E38</td>
<td>Biddeford, ME</td>
<td>Old Orchard, ME</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun 30</td>
<td>5:23 PM</td>
<td>207.2E52</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>27</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jul 1</td>
<td>2:47 PM</td>
<td>207.2E32</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jul 1</td>
<td>6:25 PM</td>
<td>207.2E11</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jul 1</td>
<td>6:29 PM</td>
<td>207.2E11</td>
<td>Old Orchard, ME</td>
<td>Incoming, CL</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jul 2</td>
<td>9:37 AM</td>
<td>207.2E41</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jul 2</td>
<td>10:08 AM</td>
<td>207.2E1</td>
<td>Biddeford, ME</td>
<td>Portland, ME</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jul 2</td>
<td>10:14 AM</td>
<td>207.2E18</td>
<td>Old Orchard, ME</td>
<td>Augusta, ME</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jul 2</td>
<td>10:56 AM</td>
<td>207.308</td>
<td>Old Orchard, ME</td>
<td>Old Orchard, ME</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jul 2</td>
<td>1:29 PM</td>
<td>207.5E13</td>
<td>Old Orchard, ME</td>
<td>Incoming, CL</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jul 2</td>
<td>3:00 PM</td>
<td>207.4E37</td>
<td>Old Orchard, ME</td>
<td>Biddeford, ME</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Garon Mailman
20 Freeman Street, Unit 102
Biddeford, Maine 04005
207-229-3780
E-mail: hookdupfishingcharters@yahoo.com
Appellant

SACO CITY COUNCIL
IN THE COUNTY OF YORK

GARON MAILMAN,
Appellant,
vs.
APPELLANT’S OPENING BRIEF

COASTAL WATERS COMMISSION,
Respondent.

1. INTRODUCTION

On August 2, 2018, the Harbor Master for Camp Ellis revoked my mooring permit without warning or notice claiming I abandoned it. Even though I have used that mooring without incident for the last ten years, the Coastal Waters Commission upheld the Harbor Master’s decision. I rely on that mooring for my commercial fishing business and but for the misfortune of my boat’s engine blowing, I would have utilized the mooring almost every day this summer. By commercially fishing on a leased boat this past season, I have made financial arrangements to purchase another boat for 2019. Since I need that mooring for my commercial fishing business, I am appealing the decision to revoke my mooring permit.

Tuna migrate from the northern Bahamas and the Gulf Stream edge up to Cape Cod and the continental shelf for the summer months, and then travel back south in late fall. For a Maine tuna...
fisherman, this migratory pattern means that the window of opportunity to catch bluefin tuna opens in July and slams shut by late November. A fishing season of only five months per year is shrunken even more by the regulatory authority of the National Oceanic and Atmospheric Administration (“NOA”), which in 2018 closed tuna fishing for a couple weeks in September, most of October, and will likely keep it closed for most of November.

For the last ten years I have navigated the challenges facing the tuna fishing industry and operated a commercial fishing business from a mooring located in Camp Ellis. Every year I pay the $135.00 mooring fee to the City of Saco to obtain my mooring permit. I thought 2018 would be no different. However, shortly after obtaining my mooring permit, a diagnostic evaluation of the engine on my fishing boat “Oppo-Tuna-Ty” revealed I needed a new engine, an estimated cost of $30,000. Unable to afford a new engine, I sold the boat. For the summer of 2018 I tuna fished from “Avy Laine.” Now with the Saco River dredging project underway, the 2018 season is over for me and I look ahead to next year.

Adapting to the challenges of fishing and the tightening of regulations, my plan for 2019 is to diversify my commercial fishing business and offer fishing charters from my own boat (something I did early in my career to raise money to buy tuna fishing equipment.) Next season, more so than ever, having my mooring by the Camp Ellis pier will be vital to my business’s success. The advertising exposure and quick access to my boat in between charters will increase revenue and maximize efficiency.

My dependency on having a mooring permit for Camp Ellis brings this matter before the Saco City Council, Because I have not abandoned the mooring as the Harbor Master concludes, I am asking Saco City Council to reverse the decision and allow me to keep my mooring permit.

II. PROCEDURAL HISTORY

For the last ten years I have maintained a mooring permit at Camp Ellis pier in Saco, Maine for the storage of my commercial fishing boat. On February 26, 2018, I renewed my application for a mooring permit and paid the $135.00 mooring fee. On August 2, 2018, Harbor Master Dan Chadbourne revoked my mooring permit citing abandonment. After a hearing on the matter, the Coastal Waters Commission issued a decision dated September 17, 2018, upholding the Harbor
Master’s Decision. On September 24, 2018, pursuant to The Code of the City of Saco, Ch. 4-39, subdivision (D)(4), I filed a notice of appeal with the Saco City Council, challenging the decision of the Coastal Waters Commission. A hearing before the Saco City Council is scheduled for November 13, 2018.

III. STATEMENT OF FACTS

For the last ten years, my mooring at Camp Ellis has been vital to my commercial fishing business. (Mailman, RT 11.) I use the mooring for both tuna fishing, and to operate fishing charters when tuna fishing is slow. (Mailman, RT 6-7, 11.) During tuna season, I will leave at four in the morning and stay out to sea for days on end, returning late at night when I reach my quota of fish. (Mailman, RT 7.) The mooring’s proximity to the Camp Ellis Pier enables me to maximize efficiency and eliminates the long drive times from moorings further up river.

(Appellants Exhibit 1 - Google Earth image of Garon’s mooring location.) Late in 2017, my engine on Oppor-tuna-ty blew and I was unable to raise the $30,000 for a new engine. (Mailman, RT5.) Consequently, I fished from Mike Keegan’s boat for the summer of 2018 and saved to buy a new boat for 2019. (Mailman, RT5.)

Since 2008, I have operated my commercial fishing business out of camp Ellis without incident. (Mailman, RT 7.) I always listened to the Harbor Master when he needed me to do something. (Mailman, RT 6.) For ten years I have had zero problems at Camp Ellis. (Mailman, RT 6.)

On August 2, 2018, without 30 days prior notice or warning, the Harbor Master revoked my mooring permit. (Chadbourne, RT 3, 8.) Revoking my mooring permit will numerous problems for my commercial fishing. (Mailman, RT 11.) Mooring permits are issued year after year to the same permit holders. (Katz, RT 22.) Currently, there is a wait list of 14-15 people. (Chadbourne, RT 2.) If I am unable to keep my current mooring permit, it will likely take years for me to get a new mooring permit at Camp Ellis; there is also a waiting list for moorings in Biddeford. (Tarpey, RT 22.)

I promptly appealed the decision of the Harbor Master and a hearing was scheduled for September 11, 2018. (Appellant’s Exhibit 2 - Email from Randy Mailman to Jim Katz dated
IV. ARGUMENT

A. I did not abandon the mooring because I depend on that mooring to make a living and will need it again next year to tuna fish and operate fishing charters from Camp Ellis.

The Harbor Master claims that I abandon my mooring because I did not have a boat on it for the months of May, June, and July. However, the evidence presented at the hearing showed that I did not abandoned the mooring, will use it again next year when I commercial fish from my own boat, and utilized the mooring throughout this past summer to store other vessels in aid of my fishing efforts.

The Code of the City of Saco Provides,

"Any mooring location not occupied by the vessel or float registered to it, or a vessel of equal or lesser gross tonnage owned by the mooring permit holder, for at least one day in each of three out of the five months during the period May 1 through September 30 during the permit year may be considered to be abandoned…" (The Code of the City of Saco, Ch. 118-5, subd. (B), (4.).)

A copy of the abandonment statute is attached. (Appellant’s exhibit 5 – The Code of the City of Saco, Ch. 118-5.) Further, the Code of the City of Saco defines “shall” as being mandatory and “may” as being permissive. (The Code of the City of Saco, Ch. 1-17, subd. (A), (5.).)

At the revocation hearing, the Harbor Master was called to cite the basis for revoking my mooring permit. (Katz, RT 1.) As the Harbor Master stated, “The mooring didn’t get used the months of May, June, and July, and therefore, under our use rule, the permit is revoked.” (Chadbourne, RT 1.) The Harbor Master then went on to incorrectly recite the language of the abandonment statute, “Any mooring location not occupied by a vessel or float registered to the

---

1 Appellant’s exhibit 2 also contains an email that Randy Mailman sent to Tim Murphy alerting him of the potential issue. You can see that her tone and approach was that of issue resolution, not of threatening litigation as Jim Katz falsely relayed to the Coastal Waters Commission. (see Katz, RT 18.) The Coastal Waters Commission also failed to provide any of the documentation request in the email, a violation of the Freedom of Access Act. (Appellant’s Exhibit 3 – Copy of 1 M.R.S.A. § 408-A; 1 M.R.S.A. § 409.)
owner business named above at least one day in each of three out of the months from May 1 through September 30 during the permit year will be considered to be abandoned.” (Chadbourne, RT 2.) The Harbor Master misled the Coastal Waters Commission into believing that revocation was mandatory if a boat was not on the mooring. To the contrary, the abandonment provision regarding moorings creates a rebuttable presumption of abandonment after a showing that the mooring was not used for three of the five peak fishing months. This means that even though a boat may not be on the mooring, based on evidence presented, the Coastal Waters Commission may deem the mooring not abandoned. The discretionary nature of the abandonment statute was not provided to the Coastal Waters Commission as it considered the matter.

Here, there is ample evidence in the record that I did not abandon the mooring. First, I have been utilizing that mooring for my commercial fishing business for the last ten years. As I explained at the hearing before the Commission, I had to lease a boat for the summer of 2018 because the engine on my boat blew. However, by fishing all summer to raise money for a new boat, by 2019 I will be tuna fishing and offering fishing charters out of Camp Ellis from my own boat utilizing that mooring seven days a week. While there was no boat on my mooring for most of the 2018 summer, that was because I was fishing hard to raise money for a new boat, not because I relinquished any intention of returning to it.

Second, if I had abandoned the mooring as the Harbor Master claims, I would not be contesting these allegations with such vigor. My commercial fishing business depends on that mooring. If I truly abandoned that mooring, I would have made no desire to appeal before the Coastal Waters Commission, or now before City Council.

Third, while I did not have a boat registered to my name tied to the mooring until late August, I did use the mooring throughout the summer to store dinghies, skiffs, and other vessels from time to time that I needed in furtherance of my commercial fishing enterprise. As my first mate stated at the hearing before the Commission, “I’ve known Garon for 10 years. He’s a hard worker, he’s a stand by a man’s word.” (Sjulander, RT 8, 10.) I’m pretty sure we put one on there in July, but I can’t tell you the day.” (Sjulander, RT 10.)

Even though the Code requires that a boat be stored on a mooring for one day a month for
three of the five peak months, the Code does not mandate revocation of a permit for failing to strictly comply. Since I have demonstrated that I have not “abandoned,” my mooring, continue to utilize it for my commercial fishing business, will use it again next year to store my own boat. Saco City Council should find that I did not abandon my mooring.

B. **The Harbor Master failed to provide adequate notice to me before revoking my mooring permit.**

Had the Harbor Master provided me with 30 days written notice in advance of the August 2 mooring permit revocation date, I would have had time to purchase and register a boat and store it on my mooring to avoid the “abandonment” issue altogether.

Any time a permit is subject to revocation, The Code of the City of Saco requires that notice be given via certified mail. Further, a 30-day notice must be given before reassignment of the mooring can take place. *The Code of the City of Saco*, Ch. 118-28 reads in part, “Notice as to permit holders **shall**, in all cases be sent by certified mail to their address of record on their permit application.” (*The Code of the City of Saco*, Ch. 118-28, subd. (D.)) (Appellant’s exhibit 4 – Copy of *The Code of the City of Saco*, Ch. 118-28.) Further, Chapter 118-5 reads, “The location may be reassigned by the Harbor Master, after the Harbor Master has first given the registrant 30 days’ advance written notice at his/her last known address (certified mail, return receipt.)” (*The Code of the City of Saco*, Ch. 118-5, subd. (B), (4.).) "Shall" is mandatory and "may" is permissive. (*The Code of the City of Saco*, Ch. 1-17, subd. (A), (5.).)

At the hearing before the Coastal Waters Commission, I asked the Harbor Master if Chapter 118 of 28, of Saco’s rules provide that a notice to permit holders shall be sent by certified mail. (Mailman, RT 8.) The Harbor Master said, “no.” (Chadbourne, RT 8.) I further asked the Harbor Master if he followed that rule and sent me a copy of the violation by certified mail. (Mailman, RT 8.) The Harbor Master replied, “I don’t have to send you a copy via certified mail…” (Chadbourne, RT 8.) The Harbor Master admitted to not following the law regarding notification of permit holders.

Realizing he failed to comply with notification requirements, the Harbor Master attempted
to mischaracterize some phone calls between the two of us as putting me on notice. (Mailman, RT 8; RT Chadbourne 5, 18.) During the hearing, the Harbor Master stated, “So, the mooring didn’t get used. There were several phone calls that I do with everybody that has an issue with not putting a skiff on a mooring. As you can see, this is the month of July. There’s a call up here from me to him. That’s a “get a skiff on the mooring” call. There’s a call from him to me down here. “I don’t have a skiff to put on the mooring.” “You have to make some kind of effort.” (Chadbourne, RT 5.)

However, these phone calls had nothing to do with my mooring permit. Analyzing the telephone records submitted by the Harbor Master (Commission Hearing Exhibit Item: 7c), you will see only three telephone calls between the Harbor Master and myself during the months of June and July 2018. The first telephone call occurred on June 28, 2018 at 12:00 p.m. for two minutes. I initiated the call to the Harbor Master. The basis for that telephone call was to thank the Harbor Master for reminding me that payment for my pier use permit was due. My telephone call to the Harbor Master was in response to his June 28, 2018 text message at 12:00 p.m. where the Harbor Master texted me, “Pier use is due by tomorrow or there is 150$ late fee.”

(Appellant’s exhibit 6 – Screen shot of text messages between Dan Chadbourne and Garon Mailman.) The second telephone call occurred on July 9, 2018 at 4:44 p.m. and lasted for one minute. The Harbor Master initiated the call to check to see how my boat was doing after I had sent him a series of text messages describing some boat problems I was having, and he wanted to make sure it was not a lobster buoy that had jammed my prop and rudder. (Appellant’s exhibit 6 – Screen shot of text messages between Dan Chadbourne and Garon Mailman.) The third telephone call occurred on July 17, 2018 at 3:14 p.m., it lasted for under two minutes and I initiated the call to the Harbor Master. The reason I contacted the Harbor Master was to discuss the fact that Tim O’Brien’s boat broke down, a storm was coming in, and that I was going to tow O’Brien’s boat to the pier so that his boat could get fixed. You will see from the text messages that on July 17, 2018 at 2:39 p.m. I texted Chadbourne, “Hey bud give me a call when u get a chance thanks.”

(Appellant’s exhibit 6 – Screen shot of text messages between Dan Chadbourne and Garon Mailman.) To which Chadbourne shortly replied, “what’s up.” (Appellant’s exhibit 6 – Screen
shot of text messages between Dan Chadbourne and Garon Mailman.)

None of the communications between myself and the Harbor Master had anything to do with my failure to properly use the mooring as the Harbor Master misled the Coastal Water Commission into thinking. At no point over the summer did the Harbor Master ever give me a warning or notice that I needed to have a boat on my mooring, that he considered it abandoned, or that he would be revoking my permit. Since the Harbor Master failed to follow the law regarding notification, the decision to revoke my mooring permit should be reversed.

C. The Harbor Master’s decision should not be upheld because he is untruthful, biased, and treats tuna fisherman less favorably than other types of commercial fishermen.

The Harbor Master’s bias against tuna fisherman and his difficulty with truthfulness has resulted in the disparate application of the law. Because the Harbor Master acts as a “quasi-judicial body” in enforcing the rules and regulations at the Camp Ellis pier, the Harbor Master needs to be fair, open minded, neutral, and impartial. The current Harbor Master fails at this.

In addition to the Harbor Master mischaracterizing the nature of the phone records, the Harbor Master made several other false accusations and misleading statements during the revocation hearing. First, the Harbor Master made a criminal accusation that I committed fraud in the permit application process. (Chadbourne, RT 3.) Quickly, I exonerated myself, showing that I did not sell my boat until March 15, 2018, after I submitted the permit application. (Mailman, RT 4.) Satisfied that his criminal accusation was false, the Harbor Master recanted stating, “So I’m not going to call this fraudulent...” (Chadbourne, RT 5.) The Harbor Master also lied about Christian Steppe having to pay Todd Stewart $100 to move a dinghy and lied about Michael Keegan’s business failures. (Appellant’s Exhibit 7 - Declaration of Christian Steppe; Appellant’s Exhibit 8 - Declaration of Michael Keegan.)

In addition to not being truthful, the Harbor Master demonstrated how he provides favorable treatment to the lobstermen, more than other types of commercial fishermen. “I have other people down here, too, that are on strike two. They have written warnings because of shooting their mouths off or making a big mess or mostly yelling. The tuna people are worse than
the ... used to be.” (Chadbourne, RT 18.) While the Harbor Master apparently gives other permit
holders written warnings, he gave me no such treatment. Rather, because I am a tuna fisherman,
he simply revoked my mooring permit without warning.

The Harbor Master demonstrated through his testimony at the revocation hearing that he
has a propensity to lie and shows favoritism to lobster fisherman. Now it is before the Saco City
Council to adopt the dubious decision of the Harbor Master and uphold the revocation of my
mooring permit which would decimate my commercial fishing business. I ask that Saco City
Council recognize that the rogue actions of the Harbor Master are not based in fact, law, or equity.

D. The Coastal Waters Commission failed to follow the law.

When the Coastal Waters Commission deliberated over whether to uphold the revocation of
my mooring permit, they knew that the Harbor Master failed to follow the law.

“As far as notification, I believe we’re on thin ice.... We’re a little weak in the area of
notification... so we are on weak ground there and we could be sued, and it could get just a
summary judgment on the behalf of Garon Mailman because we didn’t notify.” (Katz, RT 19.)

Again, weighing whether to revoke or not, they reflected, “We still have the notification problem.
We are hanging out there, yes. It’s a game of chicken, whether they back down.” (Katz, RT 24.)

Blinded by their own bias they could not overcome emotion to equitably apply the law. As
Commissioner James Henderson ranted about my testimony before he stormed out failing to stay
for the vote, “More bullshit channel from the Discovery channel. He’s a fucking liar. Excuse my
French, but he is. He’s arrogant...” (Henderson RT 16.) He goes on to state, “You guys don’t
uphold the ordinance; this man is running it. I’m fucking done. I’m already leaving this city
because I can’t stand the bullshit.” (Henderson RT 16).

The Commission was never given a correct statement of the law to begin with, they were
fed a series of lies to undermine my credibility, and they were more interested in playing a game
of chicken then reaching a legal and just result. My livelihood is at stake and when objectively
reviewing the evidence in this case, the only logical conclusion is that I have not abandoned my
mooring permit.

///
V. CONCLUSION

Therefore, I respectfully request that Saco City Council reverse the decision of the Coastal Waters Commission and allow me to renew my mooring permit for 2019.

Dated: October 30, 2018

Respectfully Submitted,

[Signature]

GARON C. MAILMAN
Appellant
Sent from my iPhone

Begin forwarded message:

From: Randy Mailman <randymailman@gmail.com>
Date: October 27, 2018 at 10:06:20 PM PDT
To: Randymailman <randymailman@gmail.com>
Subject: Fwd: Mooring revocation - Garon Mailman

---------- Forwarded message ----------
From: Randy Mailman <randymailman@gmail.com>
Date: Wed, Aug 29, 2018 at 8:26 PM
Subject: Fwd: Mooring revocation - Garon Mailman
To: <tmurphy@padzilla.com>

Good evening Mr. Murphy,

My apologies for catching you off guard earlier today with my telephone call. The city clerk referred me to you as the legal advisor to the Coastal Waters Commission and so when the below issue came up, I thought it should be brought to your attention. If there is any merit to my letter to Mr. Katz below, a simple call to him might resolve the issue. Of course, if you find it devoid of merit, you may tell me to pound sand. Any consideration is greatly appreciated.

Sincerely,
Randy Mailman
707-267-4545

---------- Forwarded message ----------
From: Randy Mailman <randymailman@gmail.com>
Date: Tue, Aug 28, 2018 at 8:54 PM
Subject: Mooring revocation - Garon Mailman
To: Jim Katz <katzmew@gmail.com>
Cc: <steelfish873@gmail.com>, Garon Mailman
<hookdupfishingcharters@yahoo.com>, <captaintodd@maine.rr.com>,
<nickoim@hotmail.com>, Robert Steeves <Bob@evolvingsolutions.com>,
<jhendler1@live.com>, <rp20lbr@gmail.com>, <glm@maine.rr.com>,
<jcsmassaa@yahoo.com>
Mr. Katz,

On August 10, 2018, I contacted you by telephone regarding Garon Mailman’s mooring permit. During our conversation, I inquired whether a mooring permit revocation notice had been sent to Garon. You informed me that you had not seen one. I informed you that I would be representing Garon in this matter should a revocation notice issue. On August 27, 2018, Daniel Chadbourne sent Garon the below email indicating that he intends to forcibly remove the mooring and tackle on Garon’s assigned mooring on or about September 2. Because Garon never properly noticed of this action, has not been given 30 days to dispute the allegations, has not violated any terms of the mooring permit, and continues to store a vessel on his mooring, it would violate the Code of the City of Saco for Mr. Chadbourne to go forward with removing Garon’s vessel and mooring.

First, Garon has not been properly served with notice that his mooring permit was going to be revoked. Chapter 118 -28 provides, “Notice as to permit holders shall, in all cases be sent by certified mail to their address of record on their permit application.” Garon has not received via certified mail any notice informing him of the basis for the revocation. Further, Garon is at Camp Ellis multiple days each week. Mr. Chadbourne has failed to make any effort to personally serve Garon with notice. Seeing that Garon has not been informed as to the basis of the revocation, it would be improper to go forward with removing Garon’s vessel and mooring at this time.

Second, Garon has not violated any of the mooring provisions. Inferring from Mr. Chadbourne’s email, it appears he is under the mistaken belief that Garon abandoned his mooring. This is not the case. Garon depends on that mooring to effectively make a living and to minimize the time he spends in harbor offloading fish and supplies while turning around and heading back to sea. Paragraph 7) on the permit application reads, “Notwithstanding the above, this paragraph will not apply to a mooring which was not occupied due to the prolonged absence of the owner from the area, illness or other extenuating circumstances, provided the permit is timely renewed annually as required by this ordinance.” Garon’s mooring cannot be deemed abandoned because he spends an abundance of time out of the area, fishing at sea. He timely renew and pays for his permit on an annual basis and stores a vessel on the mooring as required by the terms of the permit.

Third, forcibly removing the mooring and tackle on Garon’s assigned mooring would violate the terms of the Saco River, Harbor and Waterfront Ordinance. Article 118-5 (B)(4) requires 30 days advance written notice to the registrant prior to reassigning an abandoned mooring. In addition, the articles governing moorings do not provide for the forcible removal of a vessel. Since the provisions provide for the reassignment of “abandoned” moorings, the ordinance only grants
legal authority to remove or drop a mooring. The Ordinance does not grant authority to remove a vessel from a mooring that it has deemed abandoned (which logically makes sense because if there is a vessel on the mooring it has not been abandoned.) Since the Harbormaster has failed to follow the notice requirements and Garon continues to store a vessel on his mooring, the Coastal Waters Commission has no legal basis to forcibly remove Garon’s vessel.

I hope we can resolve this matter without a formal hearing. However, should that not be the case, in anticipation of Garon’s appeal, please provide us with the following:

1. A copy of the notice of revocation, proof of service, copy of certified mail return receipt
2. Basis for the Harbormaster’s finding of a violation of the permitting rules and regulations
3. All investigation reports documenting the violation
4. Any notations with respect to issuing verbal warning
5. Photographs of violation
6. Interviews of witnesses
7. Schedule of Mr. Chadbourne’s presence at Camp Ellis Pier
8. Documentation of effort by Mr. Chadborne to informally resolve the matter
9. Documentation of any warning issued to Garon of any violation

If you would like to discuss this further, please do not hesitate to contact me at 707-267-4545.

Sincerely,

Randy Mailman, Esq.

From: Daniel Chadbourne <steellish873@gmail.com>
Date: August 27, 2018 at 8:17:57 PM EDT
To: Hookdupfishingcharters@yahoo.com
Cc: katzmeow@gmail.com, fhender1@live.com, nickco@phxmail.com, tibbemann@gmail.com, captamodd@maine.rr.com, Robert Steeves <Bob@evolsingolutions.com>, glmv@maine.rr.com, m26lbs@gmail.com
Subject: Mooring revoking

Garon Mailman

As you are aware, your mooring permit was revoked on August 2 after you failed to use it according to Chapter 118 of the City of Saco’s Code. You were ordered to remove the mooring so the location could be reassigned. To date you have not.

On Sept 2, or in the following few days, the mooring will be removed at your expense. The tackle will be held until you pay your bill as dictated in Chapter 118 of the City of Saco’s Code. You may remove it yourself before this date.

Thank you
Daniel P Chadbourne H.M.

Sent from my iPhone
§ 408-A. Public records available for inspection and copying

Effective: November 1, 2017

Except as otherwise provided by statute, a person has the right to inspect and copy any public record in accordance with this section within a reasonable time of making the request to inspect or copy the public record.

1. Inspect. A person may inspect any public record during reasonable office hours. An agency or official may not charge a fee for inspection unless the public record cannot be inspected without being converted or compiled, in which case the agency or official may charge a fee as provided in subsection 8.

2. Copy. A person may copy a public record in the office of the agency or official having custody of the public record during reasonable office hours or may request that the agency or official having custody of the record provide a copy. The agency or official may charge a fee for copies as provided in subsection 8.

   A. A request need not be made in person or in writing.

   B. The agency or official shall mail the copy upon request.

3. Acknowledgment; clarification; time estimate; cost estimate. The agency or official having custody or control of a public record shall acknowledge receipt of a request made according to this section within 5 working days of receiving the request and may request clarification concerning which public record or public records are being requested. Within a reasonable time of receiving the request, the agency or official shall provide a good faith, nonbinding estimate of the time within which the agency or official will comply with the request, as well as a cost estimate as provided in subsection 9. The agency or official shall make a good faith effort to fully respond to the request within the estimated time. For purposes of this subsection, the date a request is received is the date a sufficient description of the public record is received by the agency or official at the office responsible for maintaining the public record. An agency or official that receives a request for a public record that is maintained by that agency but is not maintained by the office that received the request shall forward the request to the office of the agency or official that maintains the record, without willful delay, and shall notify the requester that the request has been forwarded and that the office to which the request has been forwarded will acknowledge receipt within 5 working days of receiving the request.

APPELLANT'S EXHIBIT

3
4. Refusals; denials. If a body or an agency or official having custody or control of any public record refuses permission to inspect or copy or abstract a public record, the body or agency or official shall provide, within 5 working days of the receipt of the request for inspection or copying, written notice of the denial, stating the reason for the denial or the expectation that the request will be denied in full or in part following a review. A request for inspection or copying may be denied, in whole or in part, on the basis that the request is unduly burdensome or oppressive if the procedures established in subsection 4-A are followed. Failure to comply with this subsection is considered failure to allow inspection or copying and is subject to appeal as provided in section 409.

4-A. Action for protection. A body, an agency or an official may seek protection from a request for inspection or copying that is unduly burdensome or oppressive by filing an action for an order of protection in the Superior Court for the county where the request for records was made within 30 days of receipt of the request.

A. The following information must be included in the complaint if available or provided to the parties and filed with the court no more than 14 days from the filing of the complaint or such other period as the court may order:

(1) The terms of the request and any modifications agreed to by the requesting party;

(2) A statement of the facts that demonstrate the burdensome or oppressive nature of the request, with a good faith estimate of the time required to search for, retrieve, redact if necessary and compile the records responsive to the request and the resulting costs calculated in accordance with subsection 8;

(3) A description of the efforts made by the body, agency or official to inform the requesting party of the good faith estimate of costs and to discuss possible modifications of the request that would reduce the burden of production, and

(4) Proof that the body, agency or official has submitted a notice of intent to file an action under this subsection to the party requesting the records, dated at least 10 days prior to filing the complaint for an order of protection under this subsection.

B. Any appeal that may be filed by the requesting party under section 409 may be consolidated with an action under this subsection.

C. An action for protection may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require upon the request of any party.

D. If the court finds that the body, agency or official has demonstrated good cause to limit or deny the request, the court
§ 408-A. Public records available for inspection and copying, ME ST T. 1 § 408-A

shall enter an order making such findings and establishing the terms upon which production, if any, must be made. If the court finds that the body, agency or official has not demonstrated good cause to limit or deny the request, the court shall establish a date by which the records must be provided to the requesting party.

5. Schedule. Inspection, conversion pursuant to subsection 7 and copying of a public record subject to a request under this section may be scheduled to occur at a time that will not delay or inconvenience the regular activities of the agency or official having custody or control of the public record requested. If the agency or official does not have regular office hours, the name and telephone number of a contact person authorized to provide access to the agency's or official's records must be posted in a conspicuous public place and at the office of the agency or official, if an office exists.

6. No requirement to create new record. An agency or official is not required to create a record that does not exist.

7. Electronically stored public records. An agency or official having custody or control of a public record subject to a request under this section shall provide access to an electronically stored public record either as a printed document of the public record or in the medium in which the record is stored, at the requester's option, except that the agency or official is not required to provide access to an electronically stored public record as a computer file if the agency or official does not have the ability to separate or prevent the disclosure of confidential information contained in or associated with that file.

A. If in order to provide access to an electronically stored public record the agency or official converts the record into a form susceptible of visual or aural comprehension or into a usable format for inspection or copying, the agency or official may charge a fee to cover the cost of conversion as provided in subsection 8.

B. This subsection does not require an agency or official to provide a requester with access to a computer terminal.

8. Payment of costs. Except as otherwise specifically provided by law or court order, an agency or official having custody of a public record may charge fees for public records as follows.

A. The agency or official may charge a reasonable fee to cover the cost of copying.

B. The agency or official may charge a fee to cover the actual cost of searching for, retrieving and compiling the requested public record of not more than $15 per hour after the first hour of staff time per request. Compiling the public record includes reviewing and redacting confidential information.

C. The agency or official may charge for the actual cost to convert a public record into a form susceptible of visual or aural comprehension or into a usable format.
§ 408-A. Public records available for inspection and copying, ME ST T. 1 § 408-A

D. An agency or official may not charge for inspection unless the public record cannot be inspected without being compiled or converted, in which case paragraph B or C applies.

E. The agency or official may charge for the actual mailing costs to mail a copy of a record.

F. An agency or official may require payment of all costs before the public record is provided to the requester.

9. Estimate. The agency or official having custody or control of a public record subject to a request under this section shall provide to the requester an estimate of the time necessary to complete the request and of the total cost as provided by subsection 8. If the estimate of the total cost is greater than $50, the agency or official shall inform the requester before proceeding. If the estimate of the total cost is greater than $100, subsection 10 applies.

10. Payment in advance. The agency or official having custody or control of a public record subject to a request under this section may require a requester to pay all or a portion of the estimated costs to complete the request prior to the search, retrieval, compiling, conversion and copying of the public record if:

A. The estimated total cost exceeds $100; or

B. The requester has previously failed to pay a properly assessed fee under this chapter in a timely manner.

11. Waivers. The agency or official having custody or control of a public record subject to a request under this section may waive part or all of the total fee charged pursuant to subsection 8 if:

A. The requester is indigent; or

B. The agency or official considers release of the public record requested to be in the public interest because doing so is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester.

Credits
§ 408-A. Public records available for inspection and copying, ME ST T. 1 § 408-A

Notes of Decisions (12)

1 M. R. S. A. § 408-A, ME ST T. 1 § 408-A

End of Document

§ 406. Appeals, ME ST T. 1 § 406

Maine Revised Statutes Annotated

Title 1. General Provisions

Chapter 13. Public Records and Proceedings (Refs & Annos)

Subchapter 1. Freedom of Access (Refs & Annos)

1 M.R.S.A. § 409

§ 409. Appeals

Effective: October 15, 2015

1. Records. Any person aggrieved by a refusal or denial to inspect or copy a record or the failure to allow the inspection or copying of a record under section 408-A may appeal the refusal, denial or failure within 30 calendar days of the receipt of the written notice of refusal, denial or failure to the Superior Court within the State for the county where the person resides or the agency has its principal office. The agency or official shall file a statement of position explaining the basis for denial within 14 calendar days of service of the appeal. If a court, after a review, with taking of testimony and other evidence as determined necessary, determines such refusal, denial or failure was not for just and proper cause, the court shall enter an order for disclosure. Appeals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

2. Actions. If any body or agency approves any ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action in an executive session, this action is illegal and the officials responsible are subject to the penalties hereinafter provided. Upon learning of any such action, any person may appeal to any Superior Court in the State. If a court, after a trial de novo, determines this action was taken illegally in an executive session, it shall enter an order providing for the action to be null and void. Appeals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

3. Proceedings not exclusive. The proceedings authorized by this section are not exclusive of any other civil remedy provided by law.

4. Attorney's fees. In an appeal under subsection 1 or 2, the court may award reasonable attorney's fees and litigation expenses to the substantially prevailing plaintiff who appealed the refusal under subsection 1 or the illegal action under subsection 2 if the court determines that the refusal or illegal action was committed in bad faith. Attorney's fees and litigation costs may not be awarded to or against a federally recognized Indian tribe.

This subsection applies to appeals under subsection 1 or 2 filed on or after January 1, 2010.

Credits
Chapter 118. Harbor, River and Waterfront

Article V. Enforcement, Legal Actions and Appeal

§ 118-28. Violations and penalties; manner and method of service; appeals.

A. Penalties. Whoever violates any of the provisions of this chapter is guilty of a separate offense for each day, or part of a day, during which the violation is committed or, continued. Unless stated elsewhere, each offense, upon conviction, is punishable by a civil penalty of not less than $100 and not more than $2,500 for each offense.

B. Each day, if the offense is repeated, shall constitute a separate violation. If the violation relates to damages caused, said party, if found responsible, shall bear reasonable costs of repair in addition to any fines and fees assessed hereunder.

C. Manner and method of service. Notice to owner or to persons responsible for a violation of this order shall be made in the following manner and method:

(1) Unless specifically addressed elsewhere in this chapter, at the discretion of the acting authority, a warning may be issued verbally or in writing, so long as such warning is recorded and made available for future reference.

(2) If, in the discretion of the acting authority, a citation is deemed necessary, such citation will be issued in the following manner:

(a) The citation shall include the name of the responsible person and/or owner, the date and time of the violation, a general reference location for the violation, a description of the violation and the location of and date of appearance at the local court having jurisdiction; if such date is required by the Court system.

(b) The citation used is authorized and accepted by the District Court of the State of Maine;
(c) Service of the citation is made upon the violator by a person authorized under law to make such service; and

(d) The completed citation is properly recorded in the District Court of the State of Maine having jurisdiction over the violation.

D. Notice as to permit holders shall, in all cases be sent by certified mail to their address of record on their permit application.

E. Appeals. Any appeal of a decision of the Harbor Master, except as to citations, herein shall be made to the Coastal Waters Commission as set out in § 4-39 of this Code, or its successor. Citations shall be solely addressed and resolved via the Court and as set out under Maine law.

Chapter 118. Harbor, River and Waterfront

Article I. General Regulation of Waters

§ 118-5. Moorings and buoys.

A. Assignment of moorings.

(1) No mooring shall be set within City waters except by permission of the Harbor Master. Any person wishing to place a mooring in City waters or to relocate an existing mooring shall request such permission in advance from the Harbor Master. Annually, the Harbor Master shall prepare an updated list of approved mooring holders and provide it to the City Clerk by January 1. Only applicants appearing on the current approved mooring holders list may submit a mooring permit application to the City Clerk. Following acceptance of the application by the City Clerk and the payment of the appropriate fee, and provided the conditions in Subsection B(7) are met, the Harbor Master shall then assign a location for such mooring and shall advise the applicant concerning the requirements of these rules and regulations.

(2) In the assignment of moorings, the Harbor Master shall, insofar as the same may be done consistently with these rules and regulations and with due regard for the safety of other vessels and of navigation, give consideration to the choice of the applicant. However, where mooring rights of individuals are claimed to be invaded and protection is sought of the Harbor Master, the Harbor Master shall assign and indicate to the masters or owners of the vessels the location which they may occupy for said mooring, and the Harbor Master shall assign mooring privileges in all cases where individuals who own or have an interest in the shore rights are complainants and shall locate suitable mooring privileges temporarily or permanently, fronting their lands if so requested, but not so as to encroach upon the natural channel or channels established by this chapter. Moorings shall be set by July 30 of each year.

(3) City Hall shall maintain a waiting list, with a registration fee established by the City Council, after a public hearing.
(4) The Harbor Master, based upon the waiting list, shall authorize moorings on a first-come-first-served basis, except that commercial harbor users may be given priority for facilities developed for commercial users with federal funds. The Harbor Master will provide the updated lists to the City Clerk on May 1, July 1 and October 1 each year and at other times when requested. The lists shall be provided to any member of the public who requests them. If there is a dispute about mooring assignments, the Saco Coastal Waters Commission shall hear appeals from the decisions of the Harbor Master.

(5) Any permit issued hereunder may be revoked if the Harbor Master determines that any portion of a permit holder’s application contains false or misleading information. Any revocation may be appealed as set forth herein. [Added 2-3-2014]

APPELLANT’S EXHIBIT

5

B. Application for mooring permits.

(1) Applications for mooring permits for any one-year period must be filed with the City Clerk by March 15 of the current year, on forms prescribed by the Saco Coastal Waters Commission. Applications and payment for renewal of a mooring permit which have not been received within 60 days of the permit application filing date will cause that mooring location to be deemed vacant, and the mooring location reassigned. Applications received during the sixty-day period are subject to a late fee. [Amended 2-3-2014]

(2) The City of Saco mooring permit application form contains additional rules and regulations regarding use and placement of moorings. The address of the applicant supplied with the permit application shall serve as the address of record for all purposes of notice where notice is required in this chapter.

(3) Permits shall be good for one year (January 1 to December 31). They are at all times a revocable license issued subject to the terms herein, and under no circumstances will they be treated as, or deemed, a property right. [Amended 2-3-2014]

(4) Any mooring location not occupied by the vessel or float registered to it, or a vessel of equal or lesser gross tonnage owned by the mooring permit holder, for at least one day in each of three out of the five months during the period May 1 through September 30 during the permit year may be considered to be abandoned. The location may be reassigned by the Harbor Master, after the Harbor Master has first given the registrant 30 days’ advance written notice at his/her last known address (certified mail, return receipt). The cost of removing or dropping moorings shall be assessed to the owner if not removed by him within 30 days of receipt of said notice, in accordance with state law. Notwithstanding the above, this subsection will not apply to a mooring whose owner has notified the Harbor Master that such mooring will not be occupied due to prolonged absence from the area, illness, or other extenuating circumstances, provided the permit is timely renewed annually as required by this chapter. [Amended 2-3-2014]

(5) The annual application fee for the waiting list shall be established by the City Council after a public hearing.

(6) Moorings are not transferable except as provided by 28 M.R.S.A. § 3-A.

(7) A person may be denied a mooring permit if they are found to have previously violated this chapter without good cause; or if they are in arrears of any City tax or fee.

C. Adequacy of moorings. All existing moorings hereinafter to be set shall be of sufficient size to hold the vessel for which they are used. All moorings shall have approved buoys and must be visible at all times. All mooring requirements will be determined by the Harbor Master. Guidelines on mooring block weight, attachment requirements and chain-link size are listed below and on the mooring permit application.

<table>
<thead>
<tr>
<th>Maximum Boat Length (feet)</th>
<th>Maximum Boat Weight (gross pounds)</th>
<th>Minimum Mooring Weight (pounds)</th>
<th>Minimum Chain Link Size (inches)</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>500</td>
<td>350</td>
<td>3/8</td>
</tr>
<tr>
<td>20</td>
<td>1500</td>
<td>750</td>
<td>3/8</td>
</tr>
<tr>
<td>25</td>
<td>5000</td>
<td>1500</td>
<td>1/2</td>
</tr>
<tr>
<td>Maximum Boat Length (feet)</td>
<td>Maximum Boat Weight (gross pounds)</td>
<td>Minimum Mooring Weight (pounds)</td>
<td>Minimum Chain Link Size (inches)</td>
</tr>
<tr>
<td>---------------------------</td>
<td>----------------------------------</td>
<td>-------------------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>30</td>
<td>8,000</td>
<td>1,800</td>
<td>1/2</td>
</tr>
<tr>
<td>35</td>
<td>12,000</td>
<td>2,500</td>
<td>1/2</td>
</tr>
<tr>
<td>40</td>
<td>3,500</td>
<td>5/8</td>
<td></td>
</tr>
</tbody>
</table>

D. Inspections of moorings. The Harbor Master or his/her designee shall inspect moorings biannually. It is the permit holder’s responsibility to contact the Harbor Master to arrange for inspections. Two visits by the Harbor Master are included in the mooring application fee; any additional visits required to complete an inspection shall be at the applicant’s expense.

E. Manner/condition of moorings:

1. All mooring floats shall meet United States Coast Guard regulations.

2. The float attached to the mooring line shall be of sufficient size to remain afloat when not attached to the vessel.

3. The Harbor Master may at any time examine any mooring or mooring line to determine compliance with this section. Except in the case of an emergency, he shall notify the owner of his or her intention to examine the mooring, either in writing or verbally, and request the presence of the owner during such examination. Any cost of examination shall be borne by the owner of the mooring.

4. If a party fails to properly maintain his/her and its mooring, float or cable, the Harbor Master will, in writing (by certified, return receipt mail), issue a seven-day notice-to-cure letter. If the offending party fails to correct the deficiency identified by the Harbor Master within seven days, the party’s mooring permit shall thereafter be revoked upon the filing of a written decision from the Harbor Master to the City Clerk with copies provided to the offending party and the Coastal Waters Commission.

5. Vessels on moorings must be properly maintained to minimize hazards to other vessels, including:

   [Added 2-3-2014][1]

   a. The vessel must be capable of moving under its own mechanical means.

   b. Sails, lines, and sheets must be secured at all times when the vessel is not occupied.

   c. All accessories, anchors, lines, poles, etc., must be secured and within the gunwales of the vessel.

   d. Nothing may be trailing behind a moored vessel or protruding from the vessel that can damage another vessel.

   e. Failure to properly maintain a moored vessel may result in revocation of the mooring permit.

   [1] Editors Note: This ordinance also redesignated former Subsection E(5) and (6) and Subsection E(6) and (7), respectively.

6. All moorings, whether now existing or hereinafter set, shall be so located or relocated that the vessels secured thereby will not impede navigation within City waters nor endanger other
vessels moored therein. If the Harbor Master shall find that any vessel is so moored as to impede navigation or to endanger other vessels, he may require that the owner of the mooring or of the vessel secured thereby take such steps, whether by shortening the scope of the mooring lines or by the use of additional mooring or mooring lines, as will prevent such impeding of navigation or endangering of other vessels; or, in the alternative, he may order that the mooring be removed and relocated. In requiring the removal of a mooring because of its danger to other mooring last set shall be the first ordered to be removed. Any person so ordered by the Harbor Master acting under this subsection shall remove a vessel within 48 hours after order, whether written or verbal; provided, however, that if the mooring owner fails to do so, then the Harbor Master shall thereupon cause the mooring to be removed or relocated. Any expense incurred by the City to move or remove a mooring shall be borne by the owner of the mooring or vessel.

[Amended 2-3-2014]

(7) If in the sole opinion of the Harbor Master a mooring creates an emergency or imminently dangerous condition, or if immediate action is required to ensure proper navigation and safety, the Harbor Master may temporarily, without notice to the permit holder, take possession of the mooring and temporarily remove and/or secure it until such time as the permit holder can be notified. The parties shall thereafter determine together the appropriate terms and conditions for resiting and reinstalling the mooring.

F. The Harbor Master shall hold all moorings and tackle removed from coastal waters as a lien against all fees, fines and costs incurred as a result of the acts, actions or inactions of any mooring permit holder. No such equipment shall be returned until all such charges are fully paid.

G. Interference with moorings. Except by direction of the Harbor Master acting in an emergency or with permission of the owner, no person shall move or interfere with any mooring or vessel in the harbor.

H. Removal.

[Amended 2-3-2014]

(1) A mooring shall be removed after September 30, unless it is still in use by its owner. If not removed by its owner, the Harbor Master shall see to its removal at the expense of the mooring owner. The mooring and ground tackle shall not be returned to its owner until such bill is paid.

(2) All noncommercial vessels shall be removed from the river by December 1.

I. Waiver procedures.

(1) A mooring permit holder may request a temporary waiver to the mooring requirements stated in this chapter by submitting a written request to the Harbor Master. A waiver will not be granted for a violation that impacts safe navigation on the Saco River. The waiver request must clearly state:

(a) Mooring number;

(b) Name and current address and phone number of the permit holder;

(c) The nature of the waiver (e.g., inability to position or remove an authorized mooring, inability to attach a boat to an authorized mooring, inability to pay for a mooring in a timely manner);

(d) The reason the waiver is needed; and
(e) Expected date for compliance (date the permit holder will make corrections or come into compliance with mooring requirements).

(2) The Harbor Master will notify the permit holder of his decision to approve or disapprove the waiver in writing and provide a copy of the written decision to the City Clerk, the Director of Public Works and the Coastal Waters Commission. If the Harbor Master must disapprove the waiver request, the Harbor Master will send the decision via certified mail return receipt requested to the address of record. The permit holder can appeal the Harbor Master’s decision to the Coastal Waters Commission.

(3) Waivers for medical conditions may be granted for a maximum of one permit year. [Added 2-3-2014]

(4) Waivers for mechanical conditions may only be granted for moorings which have been in use during the permit year. [Added 2-3-2014]

(5) Waivers and associated mooring privileges may be revoked if the Harbor Master determines that the waiver request misrepresented the facts and/or conditions that form the basis for the waiver request. [Amended 11-4-2014]

J. Buoys other than for mooring vessels. No buoy of this type shall be placed in channels leading to wharves, nor shall such buoys be placed less than 150 feet from a mooring buoy for that vessel. The Harbor Master is empowered, in the interest of public safety, to require the removal of any buoys.
Mon, Jul 2, 11:34 AM

Wull?

Got fishy?

Fri, Jul 6, 10:53 PM

Limping in something in prop or rudder got diver coming first thing boats on dock

Sat, Jul 7, 8:29 AM

Ok
Good luck
Better not be a black and white bouy.

Mon, Jul 2, 11:34 AM

Duuuuude
What’s up with that?
Please don’t make fluery the tuna hero.....

5:04 PM

Dan >

Dan >

5:04 PM

DC

It was fucking nasty last night then we lost the generator and all of our lights came in with a tiny flash light lol
Hey bud give me a call when u get a chance thanks

What's up

Mon, Jul 30, 5:52 PM

Your skiff must have got loose
Somebody put it on BART
Wellborn's mooring.
He won't care
It'll be fine until you get in

Ooo shit I thought that was steppes morning

I meant to put it on his for the

Garon Mailman
20 Freeman Street, Unit 102
Biddeford, Maine 04005
207-229-3780
E-mail: hookdupfishingscharters@yahoo.com
Appellant

SACO CITY COUNCIL
IN THE COUNTY OF YORK

GARON MAILMAN,

Appellant,

vs.

COASTAL WATERS COMMISSION,

Respondent.

DECLARATION OF CHRISTIAN STEPPE
I, Christian Steppe declare as follows:

1. I reside in the City of Saco and have lived here since 13 with my young daughter.
2. I am currently employed as a real estate broker with Coldwell Banker in Saco.
3. I have read the September 11, 2018, transcript of the hearing concerning the revocation of Garon Mailman’s mooring permit before the Saco Coastal Waters Commission.
4. On page 12 of the transcript of the hearing, Dan Chadbourn makes the following statement about me, because Garon put my mooring on the wrong mooring. “Christian has to pay Todd Stewart $100 to move it to the correct mooring ....”
5. That statement is false.

APPELLANT’S EXHIBIT 7

Declaration of Christian Steppe

6. I was unable to correct the falsity of the statement because I was not present at any portion of the hearing.
7. Had I known that such a statement would have been made, I would have attended the hearing in Garon’s support.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at the place shown above.

Dated: 10/30/2018

Signature of Declaring Party

IN THE COUNTY OF YORK

GARON MAILMAN,

Appellant,

vs.

COASTAL WATERS COMMISSION,

DECLARATION OF MICHAEL KEEGAN

Respondent.
I, Michael Keegan declare as follows:
1. I reside in the City of Saco and have lived here for the last 11 years with my wife and two young daughters.
2. I own and operate Keegan’s Construction, a Saco based residential construction company.
3. On September 11, 2018, I attended a hearing concerning the revocation of Garon Mailman’s mooring permit before the Saco Coastal Waters Commission.
4. I attended the hearing as a character witness for Garon.
5. I have read the transcript of the hearing.
6. On pages 17 and 18 of the transcript of the hearing, Dan Chadbourne makes the following statement about me, “He lost all of his crews; he almost went bankrupt with his contracting business and now he’s getting going again.”
7. That statement is false.
8. I was unable to correct the falsity of the statement because at that point in the hearing when Dan Chadbourne made that statement, I had already been excused from the room by the Chairman of the Coastal Waters Commission.
9. The false statement that Dan Chadbourne made about my business was a personal attack on my business reputation.
I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at the place shown above.

Dated: 11/14

[Signature]

Signature of Declaring Party

Type Footer Info Here («Matter Primary Court Case #»)

APPELLANT’S EXHIBIT

8