Saco Coastal Waters Commission
Minutes of the September 1, 2004 Meeting

I. Call Meeting to Order – At 7:11 p.m. a Saco Coastal Waters Commission meeting was held in the City Hall Auditorium.

II. Roll Call of Members – The members present constituted a quorum. The members present: Chairman James Bastille, Council Liaison Ron Michaud, Harbormaster Don Abbott, Robert Lapointe, Glenn Chadbourne, Wayne Hutchins, Robert Morowski and Peter Scontras. Assistant Harbormaster Tom Casamassa arrived at 7:20 p.m., and Treasurer Robert Barris arrived at 7:30 p.m.

III. Approval of Minutes – August 4, 2004

Robert Lapointe moved, Glenn Chadbourne seconded to approve the August 4, 2004 minutes. The motion passed with six (6) yeas.

V. Old Business

D. Unpaid Mooring Permit Fees and Late Fees – Justin Caron & Unpaid Commercial Pier Use Fees – Steve Caron

Steve Caron stated that he had attempted several times to pay his son Justin Caron’s Mooring Permit fees, but the City Clerk wouldn’t accept the money because she was told there were no more moorings left. Justin Caron was sent a form for the last two years to be kept on the Mooring Waiting list, and he did pay the $5.00 fee each year. Now Justin Caron is being asked to pay the Mooring Permit Fees for the past two (2) years, in addition to $50.00 Late fees for each year. Harbormaster Don Abbott stated that a couple of people had dropped off the waiting list, and Justin Caron was the next on the list to be issued a Mooring Permit. The City Clerk requires that the Harbormaster or Assistant Harbormaster contact her to let her know when they are issuing a mooring. The commission members recognize that there was a lack of communication between the City Clerk and the Harbormaster, and the Late fees need to be waived, and the Mooring fees need to be paid.

Steve Caron also stated that Mike Gray told him he didn’t need to pay the Pier Use fees, since the City wasn’t accepting the money for the Mooring Permit. Steve Caron hasn’t paid the Pier Use fees for the last three (3) years.

Peter Scontras moved, Wayne Hutchins seconded to authorize the Harbormaster to communicate with the City Clerk that Justin Caron’s Late Mooring fees be waived, and that he be required to pay the past Commercial Mooring fees and Dock fees. The motion passed with six (6) yeas.

E. Commercial Pier Use – Late Fees

The Commercial Pier Use Fees were at one time due on January 1st. The Fishermen asked that the due date be changed to July 1st. It’s September 1st right now and a few people still haven’t paid their Pier Use fees. It was suggested to leave the due date as July 1st, but on July 2nd a late fee of $150.00 be instituted. Council Liaison Ron Michaud stated he would contact the City Administrator Rick Michaud to see if this late fee would require a Code change.

A. Chapter 118 Harbor & Waterfront Ordinance – Disruptive Conduct – Scheduled for
September 7, 2004 – (1st Reading) – Update

Councilor Liaison Ron Michaud stated that the City Councilors had expressed concerns about the ambiguity of the request, and the length of the duration of penalty of the loss of the access to the pier on the following proposed code amendment:

Code Amendment to Chapter 118 - Harbor & Waterfront, Dated August 30, 2004

Words underlined represent new language, while strikethrough represents language to be deleted.

Chapter 118 Harbor and Waterfront

Article I - River and Bay Regulations

§ 118-4 Harbor use regulations

H. Disorderly Conduct. It shall be a violation of this ordinance for any person to engage in disorderly conduct as defined in 17-A M.R.S.A. § 501, and as amended, in or around the docks, wharves, floats or tidal waters of the City of Saco. Any persons found in violation of the Saco City Code Chapter 118, may lose his/her mooring assignment(s), commercial and recreational Pier Use Permits, and all rights to use the city dock, wharves and floats.

17-A M.R.S.A.

§501. Disorderly conduct

A person is guilty of disorderly conduct if: [1975, c. 499, § 1 (new).]

1. In a public place, he intentionally or recklessly causes annoyance to others by intentionally:

   A. Making loud and unreasonable noises; [1981, c. 37, § 1 (amd).]

   B. Activating a device, or exposing a substance, which releases noxious and offensive odors; or [1975, c. 499, § 1 (new).]

   C. Engaging in fighting, without being licensed or privileged to do so; [1989, c. 266 (amd).]
      [1989, c. 266 (amd).]

2. In a public or private place, he knowingly accosts, insults, taunts or challenges any person with offensive, derisive or annoying words, or by gestures or other physical conduct, which would in fact have a direct tendency to cause a violent response by an ordinary person in the situation of the person so accosted, insulted, taunted or challenged; or [1975, c. 740, § 64 (amd).]

3. In a private place, the person makes loud and unreasonable noise that can be heard by another person, who may be a law enforcement officer, as unreasonable noise in a public place or in another private place, after having been ordered by a law enforcement officer to cease the noise. [1995, c. 258, §1 (amd).]

4. [1977, c. 510, § 55 (rp).]
5. As used in this section:

A. "Public place" means a place to which the public at large or a substantial group has access, including but not limited to

(1) public ways as defined in section 505;

(2) schools, government-owned custodial facilities, and

(3) the lobbies, hallways, lavatories, toilets and basement portions of apartment houses, hotels, public buildings and transportation terminals;  
[1975, c. 499, § 1 (new).]

B. "Private place" means any place that is not a public place.  [1975, c. 499, § 1 (new).]
[1975, c. 499, § 1 (new).]

6. Disorderly conduct is a Class E crime.  [1975, c. 499, § 1 (new).]

Section History:
PL 1975, Ch. 499, §1 (NEW).
PL 1975, Ch. 740, §64,65 (AMD).
PL 1977, Ch. 510, §55 (AMD).
PL 1981, Ch. 37, §1,2 (AMD).
PL 1989, Ch. 266, § (AMD).
PL 1995, Ch. 258, §1 (AMD).

Robert Morowski presented a draft code amendment, that he prepared with the help of a State Official, to give the commission members some ideas on how to proceed with the language:

**Added Wording to Amendment of City Code Chapter 118 Harbor and Waterfront**

If a Pier User (or Crewmember) is found guilty (by reason of law) of Molesting of fishing gear; stealing fishing gear (traps; nets), destroying equipment of another person or city property, this would constitute a violation of city ordinance. The result would also be loss of pier use, parking privileges and any other rights promised or otherwise previously given to person in violation of ordinance.

**Due Process:**

All pier users shall be given the right of due process and shall be notified in writing by the city no more than 7 days after violation has occurred or from the time that city has been made aware that a violation has occurred; which ever is greater.
After pier user has been notified in writing of the violation and penalties for such violation, the person shall have 30 days to appeal said violation to the city, by written notice of appeal to the City Administrator.

After written appeal has been received the Harbor Commission shall meet with the City Administrator to discuss the violation and appeal and may speak with pier user before final ruling on appeal is given.

After this process has taken place there will be no further right to appeal and the final ruling shall be sent in written notice to pier user within 30 days of original written filing of appeal.

**Penalties for Violation of City Ordinance for Pier Users:**

1. **Class-A** Offence; pier user shall be given a written warning of the violation as well as restitution to person if harmed. Depending on the gravity of the violation the pier user may lose his or her pier usages for a 30 day period at the discretion of the City Administrator and or Harbor Commission.

2. **Class-B** Offence; pier user shall lose all pier privileges for a 90 day period. Including but not limited to all pier use, docking, fuel usage, parking lot privileges and landing of product, as well as restitution to the person if harmed.

3. **Class-C** Offence; pier user shall lose all pier privileges for a 365 day period. Including but not limited to all pier use, docking, fuel usage, mooring permits, parking lot privileges and landing of product, as well as restitution to the person if harmed. Also pier user shall be moved to the bottom of the waiting list for all permits and user fees.

4. **Class-D** Offence; pier user shall lose all pier privileges for an indefinite period of time, but no less than 730 days. To be determined by the Harbor Commission with the help and guidance of the City Administrator. Also pier user will be moved to the bottom of the waiting list for all permits and usages in the future.

The reference to a **Class Offence** allows the City to apply leniency where needed as well as fit the punishment to the crime. As well as increase the level of punishment as the amount of violations increase.

The term **Pier User** applies not only to the boat owner but also the vessel itself. Since some if not all City Permits are tied to the vessel.

Pier User is also responsible for the actions of his Captain and or crew while in performance of their duties at or around the pier and parking lot. It is the responsibility of the pier user to keep control over his or her Captain and or Crewmembers at all times in and around the pier and parking lot.

Crewmember is an extension of the pier user and is as responsible for his actions as such. If he or she or his or her Captain is found guilty of City Code the same Class Offence Penalties applies.

Peter Scontras moved, Robert Lapointe seconded that given the new information presented tonight, the State interpretation of the Codes and process, that the code amendment for Chapter 118 be resubmitted to the Council. The motion passed with seven (7) yeas.
Council Liaison Ron Michaud stated that he would contact the City Administrator Rick Michaud, and have this item removed from the Council schedule.

A Workshop was setup for September 15, 2004 at 7:00 pm. to discuss this new information, and to invite Police Chief Bradley Paul to give his input on this amendment.  (9/15/04  Note:  This Workshop was cancelled, no reschedule date was set.)

B. Saco River Re-designation - Yacht Club Moorings – Recommend Approval of Draft Language

Peter,
Sorry for being so slow to respond to your email. I have attached a copy of a portion of the minutes of the last Coastal Waters Commission meeting. They did not make a recommendation but have decided to gather more data on the channel. They are scheduled to meet next week. I will keep you posted on their actions.

Rick

-----Original Message-----
From: Morin, Peter (Snowe) [mailto:Peter_Morin@snowe.senate.gov]
Sent: Thursday, August 19, 2004 3:55 PM
To: eclifford@biddefordmaine.org; rmichaud@sacomaine.org
Subject: FW: Saco River Re-designation

Ed and Rick-
I just wanted to follow up with you both to get a sense of where this issue stands at this time with your respective communities? Congress will not be reconvening until after Labor Day so therefore, no official congressional action can take place until then, however, our staff has already participated in legislative discussions with committee staff. As soon as the Corps and our office learn of the acceptance of this re-designation initiative by the two communities, we can continue to prepare for congressional action. If you have any questions or concerns, please do not hesitate to contact myself or Roger Juhola, Corps Project Manager, at (978) 318-8145 or Roger.Juhola@nae02.usace.army.mil

-Peter

From: O'Donnell, Edward G NAE [mailto:Edward.G.O'Donnell@nae02.usace.army.mil]
Sent: Thursday, August 19, 2004 1:48 PM
To: Morin, Peter (Snowe)
Subject: RE: Saco River Re-designation

Peter:
Yes I believe it will address their concerns, but they need to review it to be sure. As a Maneuvering Basin they should not be mooring vessels in this area, it should be open for vessels turning and using facilities. The old definition is probably outdated since the big barges it was designed for have been supplanted for the most part by smaller boats that now use the area for mooring. Since it'll remain an authorized Federal navigation project, we retain authority to maintain it (albeit tougher to get the funding these days). The local harbor commission or harbor management group that oversees the river in this area will need to designate where boats are moored (mooring plan) and establish a fairway for vessels getting to and fro. As long as they take active management it shouldn't be a problem.

Alternately they can mark up a drawing and specify where they want changes and we can develop specific language.

EOD
-----Original Message-----
From: Morin, Peter (Snowe) [mailto:Peter_Morin@snowe.senate.gov]
Sent: Thursday, August 19, 2004 1:35 PM
To: O'Donnell, Edward G NAE
Subject: RE: Saco River Re-designation

Ed-
I will follow up with the two communities and ask that they provide the required verification that the language as stated is acceptable. For my own clarification, the original draft language as indicated below does exactly what Roger has indicated which is “to make the entire maneuvering basin an anchorage”? And that this change is going to fully address the mooring issues that the Corps State Office currently has and that the new designation does not change the Corps’ current responsibility associated with routine maintenance dredging?

Proposed draft language for Saco:

Sec.______. That portion of the project for navigation, Saco River, Maine authorized by the Rivers and Harbor act of 1960, Public Law 86-645, Section 107 as amended in 1965, described as a 6 foot deep, 10 acre maneuvering basin; located at the head of navigation, will be re-designated as an anchorage area after enactment of this Act.

Robert Lapointe moved, Peter Scontras seconded to accept the draft language presented. The motion passed with seven (7) yeas.

C. SHIP Grant Camp Ellis – Survey Letter to Commercial Pier Users

Robert Morowski drafted a survey to be sent to all the Commercial Pier Users to see if the Bait Cooler was a need or a want. It was decided to remove the financial questions from the survey, and to send along a stamped self-address envelope for the return reply. If the response isn’t positive, the Grant money goes back. (Note: These surveys were mailed out on September 3, 2004 to 37 Commercial Pier Users).

Saco Bay Harbor Commission
300 Main St.
Saco, ME.04072

RE: Multi-Use Bait Storage Facility/ Harbor Masters office/Homeland Security/Public Restrooms

To: All Commercial Fishermen/Lobstermen /Pier Users

This letter is to inform you of the status of the Multi-Use & Bait Storage Facility that is being proposed at the pier in Camp Ellis. At this time we are looking for input from the Commercial Fishing/ Lobstering Community as to usage needs. Please fill out the enclosed survey and return to us before October 1st, so that we can make an informed decision about going forward with this project. Your input is needed so that money generated from the use of the pier will go where it is needed. Thank you in advance for your input.

SURVEY
Please check appropriate box below:

Are you a commercial fisherman, lobsterman, or both? Fisherman____. Lobsterman____. Both____.
Do you now store your bait at your home or do you purchase your bait form someone who delivers to the pier for you? At home____, Delivers____.

If you were given the opportunity to store fish products (bait, fish) or ice at the pier in a refrigerated facility, would you do so? Yes___, No____.

If you answered yes to the last question, would you be willing to pay additional fees to offset the cost of maintenance for the facility? Yes___, No____.

If you answered yes to the last question, would you prefer to pay an increased fee for pier usage or pay a separate fee to use the storage facility itself? Increased Pier User Fee____, Seperate Storage Facility Fee____.

If you would not like a Multi-Use Storage Facility, where would you store your bait if you were no longer allowed to store it at your residence?

_____________________________________________________________________________________

___________________________________________.

Whether or not you would like a Multi-Use Storage Facility, what other changes or improvements to the pier facility or parking lot would you like to see?

_____________________________________________________________________________________

___________________________________________.

Please keep in mind that your answers will be kept confidential and will not be distributed to anyone other then this Commission. Thank you...

F.  Chevy’s Bait & Tackle, 7 Bay Avenue – Parking Lot Issue - Update

Gerry Chevalier received the passes for his family members to get access to his father Lionel Chevalier’s back lot, by going through the Municipal Parking Lot. Gerry Chevalier stated that the parking lot attendant said the passes were for the Bait & Tackle shop, and he asked if this could be clarified with the Parking Lot Manager and Attendants that these were actually for his family and not the general public.

G.  Next Monthly Meeting – October 6, 2004

The commission members will be inviting the Camp Ellis Parking Lot Manager Sandy Bastille to give an overview of the monies being collected at the Pier.

Also The River Patrol will be invited to speak at the next meeting.

VI.  New Business

A.  Boat Launch Fees – Clarification – Kayak’s

In the past, portable boats haven’t been charged the boat launch fee of $10.00 when they use the Pier Ramp/Dock. It was asked recently why, because a boat is a boat. They do pay the Parking Lot fee if they use the lot. The commission discussed charging the regular boat launch fee of $10.00, if they use the Pier Ramp/Dock. If they launch from the beach, there wouldn’t be a launch fee, only a parking lot fee if they use the lot. Another suggestion was to have the people pay the parking lot fee and $1.00 for each portable boat.
Peter Scontras moved, Robert Lapointe seconded to Table this item until a later date. The motion passed with seven (7) yeas.

B. Parking Lot Permits – Fees

It was decided to wait until the new Parking Permit Fee figures were reviewed for the season, before changing the fees.

Peter Scontras moved, Robert Lapointe seconded to Table this item until a later date. The motion passed with seven (7) yeas.

C. Amending of Chapter 118 Harbor & Waterfront Ordinance – Mooring/Pier Use Permitting Procedure

A Workshop was scheduled for September 15, 2004 at the City Hall to discuss the Mooring/Pier Use Permitting Procedure along with Item# A – Disruptive Conduct Code Amendment. (9/15/04 Note: This Workshop was cancelled, and no reschedule date was set.)

D. Job Descriptions for Dock Master & Parking Lot Attendants

City Administrator Rick Michaud has asked the Human Resource Director Tammy Lambert to contact some neighboring communities and ask for copies of their job descriptions for Dock Master and Parking Lot Attendant. He would like to have these job descriptions in place for next season.

Robert Lapointe moved, Peter Scontras seconded to Table this item until a later date. The motion passed with seven (7) yeas.

VI. New Business

E. Possible Donation of a Camera to go On-Line and View the Pier Area

Asst. Harbormaster Tom Casamassa was asked by a couple of individuals to approach the Commission members to see if they would be interested in the donation of 2 cameras for Camp Ellis. It wouldn’t cost the City any money. You would be able to go on-line and view either up river or down river. This would be similar as the set up in Cape Porpoise. These individuals would need to raise between $1700-$1800. Liability, insurance risks, storage for computer and telephone to run the computer line were some of the members concerns. The Commission members asked that the individuals either come to a meeting to address them directly, or present a proposal.

IV. General

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VIII. Adjournment

Robert Lapointe moved, Peter Scontras seconded to adjourn. TIME: 8:45 p.m.

ATTEST: _______________________________  APPROVED:  December 8, 2004

Michele L. Hughes – Recording Secretary