

**TOWN OF JAMESTOWN
HARBOR COMMISSION**

Minutes of the October 12, 2022 meeting of the Jamestown Harbor Commission

Approved: 11/9/22

A meeting of the Jamestown Harbor Commission (JHC) was held Wednesday, October 12, 2022 at the Jamestown Town Hall, 93 Narragansett Avenue, Jamestown, Rhode Island.

I. Call to Order and Roll Call

Chairman Wayne Banks called the meeting to order at 5:00 p.m.

Present:

Wayne Banks, Chairman
Richard Raynes, Commissioner
Eric Lexow, Commissioner
Steven Bois, Commissioner
Jessica McCarthy, Commissioner

Absent:

Michael Junge, Vice-Chairman
Dan Wurzbacher, Commissioner

Also in Attendance:

Chief Edward Mello, Executive Director
Glenn Skalubinski, Harbormaster
Joan Rich, Harbor Clerk
Randy White, Town Council Liaison

II. Approval of Meeting Minutes – Review, discussion and/or potential action and/or vote

A. Wednesday, September 14, 2022

At 5:01 p.m. Chairman Banks moved to approve the minutes of the September 14, 2022 meeting of the Jamestown Harbor Commission; Commissioner Raynes seconded. So voted: 5 ayes, 0 nays.

III. Open Forum

A. Scheduled Requests to Address

There were no scheduled requests to address.

B. Non-Scheduled Requests to Address

There were no non-scheduled requests to address.

IV. Executive Director's Report – Chief Mello

Executive Director Mello did not have anything to report other than what was already scheduled on the agenda.

V. Harbormaster's Report – G. Skalubinski

Harbormaster Skalubinski stated that the boating season is coming to a close, the harbor boats will be coming out of the water soon and prepped to be winterized. He will be de-commissioning the pump-outs and is coordinating with TPG Conanicut Marina so their customers can access the pumpout located at East Ferry prior to the de-commissioning. He is also in the process of scheduling the removal by TPG Conanicut Marina of the floating docks at East Ferry and West Ferry, and is assessing the damage to the docks from the most recent nor'easter. Some cleats loosened up on the floating docks and one was dislodged but overall the damage was minor. Chairman banks questioned if the "Narwhal", which broke loose from its mooring and struck a private dock during the nor'easter, was on a commercial or a private mooring. Harbormaster Skalubinski stated that it was on a commercial mooring and he asked Jonathan Wilkes of TPG where their responsibility for the mooring system ended. It broke at the pennant which is the boat owner's responsibility. Several vessels also broke free of their moorings on the West Ferry side but after investigating it appeared that it was the owner's responsibility, none of the mooring systems failed.

VI. Year-to-Date Financial Report – Review, discussion and/or potential action and/or vote

Executive Director Mello had nothing to report.

VII. Sub-Committee Reports

A. Budget – E. Lexow and R. Raynes - Review, discussion, and/or potential action and/or vote

Commissioner Raynes and Commissioner Lexow had nothing to report.

B. Facilities – W. Banks & D. Wurzbacher - Review, discussion, and/or potential action and/or vote

Chairman Banks had nothing to report and Commissioner Wurzbacher was absent.

C. Mooring Implementation – W. Banks – Review, discussion, and/or potential action and/or vote

Chairman Banks had nothing to report.

D. Traffic Committee – M. Junge – Review, discussion, and/or potential action and/or vote

Vice-Chairman Junge was absent.

E. Gould Island Restoration – W. Banks & S. Bois – Review, discussion, and/or potential action and/or vote

Commissioner Bois stated the Army Corps of Engineers is going to have a presentation on Thursday, October 27, 2022 at 6:00 p.m. at the Jamestown Town Hall on the status of their analysis of Gould Island that they have completed to date and they will talk about their strategy going forward. The Gould Island committee is trying to work with the Town Administrator, Jamie Hainsworth, and DEM on a strategy for Gould Island beyond what the Army COE has planned. That will occur after the presentation on October 27. Commissioner Bois encouraged everyone present to attend.

VIII. Liaison Reports

A. Conservation Commission – Review, discussion and/or potential action and/or vote

Conservation Commission Liaison Leo Orsi was not present.

B. Town Council – Review, discussion and/or potential action and/or vote

Town Council Liaison Randy White had nothing to report.

IX. Old Business

A. Access to Pumpouts

This topic arose out of a discussion regarding the use of houseboats as rental properties in marinas. The town ordinance regarding houseboats currently states that if one has a houseboat in a marina it must be tied in to a pumpout. The only marina that currently has pumpout facilities is TPG in East Ferry. The former operator of the marina, CMS, tied into the pumpout approximately 25-30 years ago with a handshake agreement with the Town. A formal agreement was never put into place so Executive Director Mello has developed a Memorandum of Understanding between the Town and TPG that states they can continue to use the pumpout as they have in the past. They can use it to provide a service to their customers but they cannot allow the permanent tie in for any commercial operation or houseboats. That will eliminate the ability for a houseboat to reside at the dock tied into the pumpout.

B. Houseboats

At the last meeting, Executive Director Mello provided the commissioners with a copy of the Town Ordinance regarding houseboats. The only restriction on houseboats in the ordinance is that if a houseboat is in a marina it must be tied into a pumpout. There are no other limitations on houseboats in the ordinance. According to the CRMC Red Book houseboats are permitted in Type 3 waters, which in Jamestown, run approximately from the Newport Bridge down to Fort Wetherill. There would be no prohibition on houseboats on moorings in that area. If the Commission is concerned about houseboats sitting on moorings the Commission will have to discuss it and perhaps amend the ordinance. The Harbor Management ordinances are due to

be updated in 2023 so any changes could be discussed at that time. Commissioner McCarthy asked if there was a way to gauge commercial activity and its impact on the docks, and Chairman Banks asked if the ordinance could be modified to prohibit houseboats in Type 3 waters.

Executive Director Mello summarized the process by which the Harbor Management ordinances get updated. Any discussions begin at the Harbor Committee and any changes are forwarded to CRMC. CRMC will indicate whether the changes are acceptable or if the Harbor Commission has overstepped its authority. Once any proposed changes are accepted by CRMC they are voted on by the Harbor Commission. Public hearings are then held on any changes and then the changes are ultimately voted on by the Town Council. It is a long process with numerous opportunities for public comment.

Commissioner Banks asked if houseboats have been a problem in the town waters and they have not yet been. There has been more discussion at the town level regarding the short term rental of houses but the issue of houseboats has been raised in those discussions because of the business model of larger, corporate-owned marinas using houseboats as short-term rentals.

Commissioner Bois stated his belief that the houseboat issue should be addressed during the review of the harbor ordinances because of the letter against houseboats presented during the July meeting and the opposition of the Bull Point residents to the expansion of Safe Harbor Jamestown Boatyard.

X. Correspondence

Chairman Banks moved to accept the letter from the Town Administrator to Conanicut Marine Services regarding the use of the East Ferry docks and Commissioner Raynes seconded. So voted: 5 ayes, 0 nay.

XI. New Business

A. Crane at East Ferry

Executive Director Mello provided the background as to how the crane came to be located near the TPG Conanicut Marina gas dock at the steel pile pier. The lease agreement between the Town and the former tenant, Conanicut Marine Services, allowed the use of a crane for marina operations with limitations as to the time of day it could be used, etc., even though a town ordinance prohibited the use of such a crane. The former tenant bought a new, bigger crane about four or five years ago, without permission from the Town as leaseholder, and concerns arose from Mike Gray, Director of Public Works, that the steel pile pier could not support the size/weight of the crane. Mike Gray reached an agreement with the former tenant that they must provide an engineering study that the steel pile pier was structurally sound to hold the size of the crane. The current tenant, TPG, is having the engineering study done.

One of the concerns is that the crane is at East Ferry all summer long, even though it does not appear to be in operation during the season. It is understood that the crane is used the most during the spring when boats are being launched, and in the fall when they are coming out of

the water. The optics of the crane being on the waterfront all summer are not pretty. The other issue is safety. At times the crane and its associated equipment have been left lying around. As the landlord, the Town has a responsibility to maintain a safe waterfront to protect itself from any liability issues.

Executive Director Mello stated that one of the managers at TPG has reached out to him regarding signage and improving the safety factor around the crane and he also informed the TPG manager about the concerns of the Commission that the crane is sitting there while it is not in constant use. The TPG manager is looking at ways to reduce the amount of time the crane is at East Ferry during July and August.

B. 2024 Harbor Mooring/Permit Rates

This item was put on the agenda at the request of Commissioner Raynes during the budget process. The rates that the Town charges today, with the exception of moderate increases to the outhaul rates at Fort Getty and West Ferry, have not increased in about seven years. The residential and commercial mooring permit fees, which make up the bulk of the revenues, have not changed during that time. According to Executive Director Mello, any increase to the mooring rates is a long, deliberate process with a lot of public interest and input, and should begin sooner rather than later for a potential increase for the 2024 season.

The harbor budget is a zero-based budget, meaning that expenses are equal to the revenues. Historically, the harbor budget has realized a surplus of approximately \$100,000 every year and that surplus, which is currently approximately \$250,000, is placed into a reserve fund solely for the use of the Harbor Commission. The fund is used for pier projects and maintenance, and any catastrophic damages to infrastructure not covered by insurance.

Chairman Banks stated that it would be difficult to justify raising the rates if there is not a specific capital project in mind, and the subject of replacing/repairing the Fort Getty pier arose. He proposed that discussion of maintenance/rebuilding the Fort Getty pier be placed on next month's agenda.

Commissioner McCarthy asked if there could be a work session to look at the big picture of all the waterways in Jamestown and quantify the different projects and maintenance that need to be done to prioritize them. Executive Director responded the Harbor Commission used to have a five-year capital project plan. In order to justify the potential increase for mooring fees perhaps the Commission should revisit a five-year plan.

Chairman Banks stated that although he was not on the Commission at the time, a proposal was done years ago to replace the pier at Fort Getty that was very extensive and also included a dollar figure for replacement. The Commission should budget to hire a firm to do some conceptual drawings/renderings of a potential replacement of the Fort Getty pier. What would it look like, would it include commercial vessels, etc? Executive Director Mello responded that a two-phase engineering study was done to replace the Fort Getty pier to the military specs to which it was originally built. The total cost in 2009 dollars was \$1,000,000. A military grade

pier is not what the Town needs and Executive Director Mello has hired a firm to submit a design proposal based on the use of the pier today which is light commercial use and recreational fishing. What does the Commission and the Town want the uses of the pier to be and how should those goals be accomplished?

Commissioner Bois also added the stone pier/pile of rocks at East Ferry where the old car ferries used to dock to the list of things that need to be addressed. He feels it is a bigger eyesore than the pier at Fort Getty. Executive Director Mello stated the Town Council has authorized the Public Works Director, Mike Gray, to pursue an improvement there although there is no definitive plan. He has also scheduled a meeting with Mike Gray and representatives from TPG because there are a number of issues at East Ferry that need to be addressed. Some are Harbor projects, some are Town projects, and some are TPG projects, but they will all most likely take place in the spring of 2023.

Chairman Banks asked that the Fort Getty pier study and the mooring rate increase be placed on next month's agenda. Executive Director Mello also suggested adding the five year capital plan to the agenda as well.

C. Update on Town-Owned East Ferry Property

A letter, dated October 5, 2022, was sent by Jamie Hainsworth, the Town Administrator, to William Munger and his attorney regarding the use of the Town-owned inner touch and go dock by Mr. Munger's Jamestown-Newport Ferry.

Executive Director Mello stated that in 2018, Mr. Munger (who, at the time, also owned Conanicut Marina) proposed improvements to the Town-owned inner touch and go dock. The improvements required the approval of the Harbor Commission and Town Council, which was granted, and would be paid for by grant funds. The CRMC permits were applied for by Mr. Munger/CMS and were granted to Mr. Munger as the lessee, but CRMC had to amend the permits after the fact because they should have been issued to the Town of Jamestown as the property owner (lessor).

This year is the first year that the ferry has operated without Mr. Munger also owning the marina and his own dock, and without having a lease with the Town. Executive Director Mello and Chairman Banks became aware of Mr. Munger's intention to operate his ferry exclusively from the touch and go dock this spring when public access signs were being placed on that dock. In 2018 the intent of the ferry use of the touch and go dock was to tie up occasionally to pick up handicapped passengers. This year Mr. Munger's intent was to use the touch and go dock as "shared space" and he would present a shared space plan to the Harbor Commission. Mr. Munger and/or his attorney have not presented any specific use plan to the Harbor Commission, and meetings between the Town, Executive Director Mello, and Mr. Munger and his attorney have not yielded any agreement. Thirty-five feet of public access has been lost due to the ferry's constant use of the inner touch and go dock and an attempt to place more public access signs on that dock have been met with the response from Mr. Munger that the signs are inappropriate because the dock is for the exclusive use of the ferry.

The Town's position is that there is not and was never an agreement in place for the ferry to use that dock exclusively, and the improvements to the dock in 2018 were approved by the Harbor Commission and the Town, and they are Town assets. The letter stated that the ferry must vacate and stop using the dock by Tuesday, October 11, 2022. The ferry has not done so. The Town Solicitor is aware that the ferry has not vacated the dock and is determining what the next step should be. The Town Council does not want to see ferry operations stop but there must be an agreement in place before operations can continue.

Commissioner Bois asked if Mr. Munger had invested any of his own money into the improvements to the dock in 2018. Executive Director Mello believes that he has, and has asked for documentation of such investment, but none has ever been produced. Based upon the lease agreement in place at the time, however, such investment would be irrelevant to the question of ownership of the dock.

XII. Open Forum – Continued (if necessary) – Review, discussion and/or potential action and/or vote

None.

XIII. Adjournment

There being no further business, Chairman Banks moved to adjourn and Commissioner Raynes seconded. So voted: 5 ayes, 0 nay, and the meeting was adjourned at 5:44 p.m.

Respectfully submitted,



Jean Rich,
Harbor Clerk