



Jamestown Harbor Office
250 Conanicus Avenue
Jamestown, RI 02835
401-423-7190

**TOWN OF JAMESTOWN
HARBOR COMMISSION**

Minutes of the February 13, 2019 Meeting of the Jamestown Harbor Commission
Approved: 3/13/2019

A meeting of the Jamestown Harbor Commission (JHC) was held Wednesday, February 13, 2019 at the Jamestown Town Hall, 93 Narragansett Avenue, Jamestown, Rhode Island.

I. CALL TO ORDER AND ROLL CALL

Vice-Chairman Harsch called the meeting to order at 6:00 PM with roll call:

Present:

William Harsch, Vice-Chairman
James Heagney, Commissioner
Dan Wurzbacher, Commissioner
Wayne Banks, Commissioner
Eric Lexow, Commissioner
Steven Bois, Commissioner

Absent:

David Cain, Chairman

Also in attendance:

Chief Mello, Executive Director
George Souza, Conservation Commission Liaison
Kim Devlin, Harbor Clerk

II. APPROVAL OF MEETING MINUTES - Review, discussion and/or potential action and/or vote

A. Wednesday, January 9, 2019

Commissioner Lexow moved to approve the minutes; Commissioner Banks seconded. So voted; 6 ayes, 0 nays.

III. OPEN FORUM

A. Scheduled Requests to Address

1. Proposal to install upwellers at Ft. Getty Pier – Mr. Anthony Pinheiro and Mr. Joseph Pinheiro

Tony Pinheiro addressed the Jamestown Harbor Commission regarding a request he has made with the Town to place an upweller at Ft. Getty Pier. Mr. Pinheiro indicated that he expected this item to be placed under New Business, not as a Request to Address, as he is requesting the Jamestown Harbor Commission grant him permission to place his upweller at the pier so he can request the permit from CRMC.

Executive Director Chief Mello informed the Jamestown Harbor Commission that he, Commissioner Wurzbacher, Commissioner Banks and Town Administrator Andy Nota met in early December to discuss Mr. Pinheiro's plans for the upweller. Executive Director Chief Mello stated that at the meeting the Town asked Mr. Pinheiro to provide a proposal for an agreement between himself and the Town regarding the operation plan for maintaining the upweller at Ft. Getty Pier. The plan was to include how the operation would affect the pier itself, the type and quantity of equipment needed to be stored at the pier, an inclement weather plan, etc. The plan was to be submitted by the end of December in order to be placed on the January agenda. Executive Director Chief Mello stated that a complete proposal and plan was not submitted.

Vice-Chairman Harsch asked Mr. Pinheiro why he has not responded with the information requested.

Mr. Pinheiro stated that he did provide Executive Director Chief Mello with a plan.

Executive Director Chief Mello stated that the only thing submitted by Mr. Pinheiro was a sketch of the top dimensions of the float and there were no details on the time frame the upweller would be at the pier. The equipment, an inclement weather plan, impacts on the public use of the pier have not been addressed. This is a new venture for the Town and it is something the Town is in support of but in order to approve this operation the Town needs a detailed plan.

Vice-Chairman Harsch directed Mr. Pinheiro to work with Town staff so he is clear on the information that he needs to provide to the Town in order to move forward.

B. Non-scheduled Requests to Address- Review, discussion and/or potential action and/or vote

There were no Non-Scheduled requests to address.

IV. EXECUTIVE DIRECTOR MELLO'S REPORT- Review, discussion and/or potential action and/or vote

Executive Director Chief Mello reported that the East Ferry pump house was built by Ramon and is in place. Most of the material for the construction was covered by a grant.

Executive Director Chief Mello also reported that there are some concerns about the cleanliness of the Ft. Getty Pier. Pier permits now run January 1st through December 31st of each year and the renewals have been sent out for this season. There was a reminder in the renewal letters to keep the pier clean. The permit holders, including the Pinheiro's, have been working hard at cleaning up the pier.

Executive Director Chief Mello reported that he has requested quotes from some local contractors to get some repair work done on the pier and that the Public Works Department will be doing some work on the road leading up to the pier. The gangway leading to the pier will be widened and the road will be smoothed out to make the access much easier.

Executive Director Chief Mello stated that he is working with the Recreation Department to make sure the boat trailers are being parked in the designated area and that the kayak racks are accessible.

Vice-Chairman Harsch asked Executive Director Chief Mello if the repairs will make the pier ADA accessible.

Executive Director Chief Mello stated that there is the possibility that the pier will fall into ADA accessibility requirements.

V. HARBORMASTER REPORT- Review, discussion and/or potential action and/or vote

Harbormaster Campbell was absent.

VI. MARINE DEVELOPMENT FUND BUDGET

A. 2018/2019

MDF YTD Budget- Review, discussion and/or potential action and/or vote

The budget was not available.

VII. SUB-COMMITTEE REPORTS

A. Budget - Review, discussion and/or potential action and/or vote

Commissioner Heagney had nothing to report.

B. Facilities - Review, discussion and/or potential action and/or vote

Commissioner Wurzbacher stated that he and Commissioner Banks have met with Executive Director Chief Mello at the Ft. Getty Pier to examine the repairs needed and to come up with a plan for the repairs.

C. Mooring Implementation - Review, discussion and/or potential action and/or vote

Chairman Cain was absent.

D. Traffic Committee - Review, discussion and/or potential action and/or vote

Chairman Cain was absent.

E. Gould Island Restoration Committee - Review, discussion and/or potential action and/or vote

Chairman Cain was absent.

VIII. LIAISON REPORTS

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

Conservation Commission Liaison Souza had nothing to report.

IX. OLD BUSINESS

**A. Appeal – Mr. Chris Museler; re: Mooring location; 5/8/2018 – Review, discussion and/or potential vote;
Continued from December 12, 2018**

Mr. Quentin Anthony addressed the Jamestown Harbor Commission on behalf of his client, Mr. Chris Museler. Mr. Anthony stated that he indicated at the last meeting that he wanted to examine the Harbormaster under oath and that he was informed yesterday that the Harbormaster would not be at the meeting. Mr. Anthony requested the appeal be continued until March. Mr. Anthony also requested that the Jamestown Harbor Commission provide a stenographer for the appeal and also that if the Harbormaster is unavailable for the March meeting that he be allowed to depose the Harbormaster at his office via video deposition.

Vice-Chairman Harsch asked Town Solicitor David Petrarca for his input.

Town Solicitor Petrarca stated that there isn't money in the budget for a stenographer. He doesn't see a problem with the Harbormaster being deposed in Mr. Anthony's office via video.

Vice-Chairman Harsch asked Executive Director Chief Mello for his opinion on the matter.

Executive Director Chief Mello stated that it is up to the Jamestown Harbor Commission.

Vice-Chairman Harsch stated that he would take the advice of the Town Solicitor on the matter and that it would be unusual for the Jamestown Harbor Commission to provide a stenographer.

Commissioner Wurzbacher asked if it would set a precedent if we were to provide a stenographer.

Vice-Chairman Harsch stated that, yes, it would set a precedent and we have never provided one in the past and he requested the Town Solicitor provide his opinion on the matter in writing to Executive Director Chief Mello.

Commissioner Banks moved to continue the appeal until the next meeting, Commissioner Lexow seconded. So voted; 6 ayes, 0 nays.

B. Capital Improvement Plan - Review, discussion and/or potential action and/or vote

Executive Director Chief Mello stated that the draft 2019-2020 Long Range Infrastructure Plan was developed with the Facility Committee members. The Jamestown Harbor Commission can modify the plan but Executive Director Chief Mello stated he would like to have the plan voted on tonight so the Town Council can include it in their Capital Plan.

Commissioner Heagney asked about the West Ferry touch and go dock and why that isn't included in the plan.

The Jamestown Harbor Commission agreed to allocate \$20,000 for the rebuilding of the touch and go docks at West Ferry.

Commissioner Banks moved to approve the LRIP, as amended; Commissioner Wurzbacher seconded. So voted; 6 ayes, 0 nays.

C. Harbor Management Ordinance and Comprehensive Harbor Management Plan amendments - Review, discussion and/or potential action and/or vote

1. Riparian Moorings

Executive Director Chief Mello provided a background on the agenda item for the public in attendance. Executive Director Chief Mello stated that these ordinance changes are a result of a mooring request by an individual property owner on Zeek's Creek. The property owner was denied a mooring by the Town and subsequently approached CRMC for assistance in obtaining a mooring. It was that individual who pointed out to CRMC that there were riparian mooring being issued outside of the lateral extensions of the property lines. CRMC has requested that we draft an ordinance change to address this issue.

Executive Director Chief Mello stated that we have also invited a CRMC representative, Mr. Kevin Cute, to provide clarification and to answer questions the Jamestown Harbor Commission may have.

Mr. Cute stated that there are about 35 moorings in Jamestown that are outside of the lateral extensions of the property lines. The riparian rights, as granted by the State of Rhode Island, provide access to the water. Those rights do not guarantee that you will be issued a mooring permit if there isn't sufficient water in front of the property to support a mooring. Mr. Cute stated that part of his job is to review Harbor Management Plans for consistency. In order to approve a HMP, all of the elements must be consistent with State law and the State owns all of the submerged lands.

Vice-Chairman Harsch asked Mr. Cute if there is any grandfathering rights for old moorings.

Mr. Cute stated that he strongly recommends bringing the moorings into compliance and moving the moorings in front of the property.

Commissioner Lexow asked if the riparian non-conforming moorings will have any special rights over other moorings, as far as bringing them into compliance.

Executive Director Chief Mello stated that most of the moorings that are not in compliance are able to be brought into compliance. Executive Director Chief Mello stated that about twelve of the moorings cannot be brought into compliance because there is not sufficient water in front of the property to support a mooring.

Commissioner Bois asked who decides if a mooring is non-compliant.

Mr. Cute stated that, because the Town has an approved Harbor Management Plan from CRMC, the Harbormaster would decide if a mooring is compliant. Mr. Cute stated that there are no provisions from CRMC that allow a riparian mooring to be outside of the lateral extensions of the property lines. Mr. Cute stated that in the past - no one currently on the Harbor staff and without the knowledge of CRMC – riparian moorings were being placed outside of the property lines. Mr. Cute stated that constitutional law has to be enforced.

Mr. Dan Sumner, property owner on Wright Lane, stated to the Jamestown Harbor Commission that he and all of the other property owners who are granted deeded rights to riparian property, are riparian property owners.

Mr. Bill Munger stated that the riparian moorings trying to come into compliance should take precedence over other moorings to move into space in front of their property.

Mr. Chris Museler stated that he has questions for Mr. Cute.

Mr. Cute stated that he is not going to entertain any type of questioning from Mr. Museler.

Vice-Chairman Harsch informed Mr. Museler that he may address the Jamestown Harbor Commission and the Jamestown Harbor Commission only. The Harbor Commission meeting is not the place to begin a conversation with someone not on the Jamestown Harbor Commission.

Mr. Museler asked the Jamestown Harbor Commission how long the definition of riparian moorings have been a problem for CRMC and asked why this is coming up now.

Vice-Chairman Harsch cautioned Mr. Museler that he is represented by council that has already left the meeting and that he is speaking on topics that directly relate to his current appeal with the Jamestown Harbor Commission.

Mr. Museler stated that he is being censored.

Ms. Karen Benson, on behalf of Mr. Alex Knowles, asked the Jamestown Harbor Commission for clarification on the transfer of a riparian mooring to a family member for estate planning purposes. If there is an existing mooring that doesn't comply what are the opportunities to relocate the mooring.

Executive Director Chief Mello asked Ms. Benson to send him her concerns in writing.

Executive Director Chief Mello stated that, as it now stands, riparian moorings already take priority over other moorings.

Mr. Bob Kalander stated that he doesn't want to have his property rights taken away.

Mr. Alan Katz stated that he would like to have his moorings in front of his house but that there are 1000 oyster cages in front of his house.

Mr. Museler stated that he has done research on moorings in the state of Rhode Island and that he has reached out to all of the Harbormaster's in the state. Only one town, Charleston, stated that they issue riparian moorings within the property boundaries, that Bristol, Barrington, South Kingstown and Portsmouth all issue riparian permits as close to the property as possible but not necessarily in front of the property.

Ms. Robin Main stated that she would like further clarification of the language on the grandfathering of the one riparian mooring.

Executive Director Chief Mello stated that it is CRMC's preference that there would be no grandfathering of any non-conforming mooring but that the town is trying to allow the one time transfer to a family member as currently allowed by the ordinance.

Ms. Main asked if the mooring would run with the land.

Executive Director Chief Mello stated that that is something we would have to take a look at.

Ms. Mary Marshall asked what those who have riparian moorings outside of their property lines have to do to come into compliance.

Commissioner Banks moved to continue this agenda item, Commissioner Wurzbacher seconded. So voted; 6 ayes, 0 nays.

D. Harbor Management Ordinance and Comprehensive Harbor Management Plan amendments - Review, discussion and/or potential action and/or vote
2. Modification of Conservation Zone

Executive Director Chief Mello stated that one condition of the five year approval of the Harbor Plan and Ordinance from CRMC was that we move the moorings outside of the Zeek's Creek Conservation Zone. In an attempt to come into compliance, we have consulted with the Conservation Commission, with the help of Conservation Commission Liaison Souza, and with CRMC on moving the Town's Conservation Zone to match CRMC's Conservation Zone.

Executive Director Chief Mello stated that the Town had the Conservation Zone set 1000' from shore and CRMC has theirs set at 500' from shore. If the Jamestown Harbor Commission agrees to move the Conservation Zone in to the 500' mark we will eliminate the need to move the majority of the moorings in the area.

The other amendment is the addition of the geographic coordinates of all of the maps included in the Comprehensive Harbor Management Plan. In order to codify the rules for those areas we would like to include the coordinates in the ordinance as Appendix A.

Commissioner Bois moved to approve those amendments to the Harbor Management Ordinance; Commissioner Wurzbacher seconded. So voted; 6 ayes, 0 nays.

X. CORRESPONDENCE

A. Letter from Sharon Purdie – Re: Proposed Changes to Harbor Ordinance; 2/5/2019

Vice-Chairman Harsch noted that the correspondence was received.

XI. NEW BUSINESS

There was no New Business to discuss.

XII. OPEN FORUM – CONTINUED- Review, discussion and/or potential action and/or vote

There was no Continued Open Forum.

XIII. ADJOURNMENT- Review, discussion and/or potential action and/or vote

Commissioner Lexow moved to adjourn at 7:40 PM, Commissioner Banks seconded. So voted; (6 ayes, 0 nays).

Respectfully submitted,



Kim Devlin
Jamestown Harbor Clerk