

**TOWN COUNCIL SPECIAL MEETING MINUTES**  
**Monday, April 25, 2022**

A special meeting of the Jamestown Town Council was held on April 25, 2022. Town Council Members present were as follows: Mary Meagher, Michael G. White, and Erik Brine. Absent: Nancy Beye and Randy White

Also, in attendance: were Solicitor David Petrarca, Police Chief Edward Mello, Town Clerk Roberta Fagan, Atty. Giovanni La Terra Bellina and Nicholas Hentschel.

Town Council Vice President Meagher called the meeting of the Jamestown Town Council to order at 3:00 p.m. in the Jamestown Town Hall Rosamond A. Tefft Council Chambers at 93 Narragansett Avenue and led the Pledge of Allegiance.

**I. NEW BUSINESS**

*Please Note in Accordance with Section 42-46-6 (b) the Council May Review, Discuss and/or Take Action and/or Vote on the following items:*

- A) Appeal of Tri-State Dive Services, Inc.; regarding the February 17, 2022 decision of the Jamestown Harbor Commission not to approve Tri-State Dive Services, Inc. as a qualified mooring inspector for the Town of Jamestown pursuant to Section 78-30 of the Jamestown Code of Ordinances

Solicitor Petrarca gave a brief overview of the quasi-judicial capacity of reviewing the appeal de novo. De novo means “from the new”. Fresh appeal, no deference to the Harbor Commission or its decisions. The Council will apply the facts that have been presented, apply facts to the law as it is, and come to a conclusion based on those facts.

Chief Mello presented a summary of the appeal and the facts of the Harbor Commission’s decision to not certify Tri-State Dive Services, Inc as a Qualified Mooring Inspector for the 2022 season. The Town of Jamestown currently has approximately 1100+/- moorings that are managed. On an annual basis, Qualified Mooring Inspectors (QMIs) renew and/or apply to the Harbor Commission. Renewal applications are mailed in September and are required to be returned by December 1<sup>st</sup> for consideration for the next calendar year season. The Town relies on and endorses approved QMIs to provide the commissioning/decommissioning of moorings, maintenance, service, inspection, and payment for those products and services. The Town of Jamestown charges only a permit fee to the mooring owner. QMIs are required to use the online mooring system and monitor accounts on the Town of Jamestown online mooring system (OMS), which is outlined in the Rules of Conduct at the time of application and again when approved to be on the QMI list.

Tri-State Dive Services, Inc. had several incidences of failure to maintain account records, update the OMS and adhere to the Rules of Conduct. Chief Mello presented examples of the evidence that was used by the Harbor Commission in their decision to not approve Tri-State Dive Services, Inc. as a qualified mooring inspector for the Town of Jamestown.

At 3:24 p.m. Chief Mello was officially sworn in by Solicitor Petrarca and attested to all previous statements.

Giovanni La Terra Bellina, representing Tri-State Dive Services, Inc. is sworn in by Solicitor Petrarca. Atty. La Terra Bellina cross-examined Chief Mello on the facts presented.

Lengthy discussion on the OMS and how the QMIs interface with each client is tracked in the OMS.

Solicitor Petrarca advised that Chief Mello had the opportunity to re-direct. Chief Mello stated that he had nothing further.

Atty. La Terra Bellina gave a summary and informed the Town Council that he would be questioning his client as well. He thanked the Town Council and reminded them that the de novo appeal would allow the Town Council to consider the facts that were presented during the special session only.

At 3:44 p.m. Nicholas Hentschel was officially sworn in by Solicitor Petrarca.

Nicholas Hentschel/Tri-State Dive Services, Inc. provides QMI services to the Town of Narragansett, the Town of North Kingstown, the Town of South Kingstown as well as the Town of Jamestown. He attested that he has not had any issues with other towns as a QMI. Mr. Hentschel reviewed the services that his company provides. The North Kingstown and South Kingstown municipalities transmit electronic notifications when a mooring owner engages Tri-State Services, Inc. via their OMS. Other municipalities allow QMIs to withhold inspections until payment is received. Inspection, materials, and services range from approximately \$600-\$1400, with an hourly rate between \$150-\$175. The Town of Jamestown does not transmit an electronic notification when a Jamestown mooring owner designates Tri-State Dive Services, Inc. on the Jamestown OMS. QMIs do not have the opportunity to refuse service when a mooring owner designates a QMI. An inspection is required to be recorded within 72 hours. Mr. Hentschel was not aware and admitted that he did withhold an inspection until payment was received for a Jamestown mooring client. He admitted he made a mistake, but does not agree that this should be the basis for non-approval to be on the 2022 Jamestown QMI list.

Atty. La Terra Bellina reviewed the other Jamestown mooring owners that made complaints against Tri-State Dive Services for not performing inspections in the required time frame. Additional questioning regarding the relationship between Tri-State Dive Services, Inc. and Sam Paterson.

In closing, Atty. La Terra Bellina reviewed the requirements for Jamestown QMIs and asked Mr. Hentschel if he were to be approved he would understand and adhere to the requirements; to which Mr. Hentschel said he would.

Chief Mello cross-examined Mr. Hentschel. They reviewed the number of moorings in each of the municipalities where Tri-State Dive Services, Inc. provided QMI services. Narragansett 225 moorings, North Kingstown 2 moorings, South Kingstown 180 moorings, and Jamestown 24 moorings. Mr. Hentschel confirmed that Tri-State Dive Services, Inc. has been in business since 2018 and in 2020 acquired Sam Patterson's Jamestown mooring client list. He also acknowledged that although other towns encourage QMIs to hold inspections until payment is received, Jamestown does not permit this.

Vice President Meagher asked Mr. Hentschel, to confirm the following: the Jamestown OMS lists Tri-State Dive Services, Inc. as having 49 clients; whereas Mr. Hentschel reported that he was only aware of 26. Of the 25 that Mr. Hentschel was not aware of, 6 made complaints; and the other 17 are assumed to have contracted with another QMI. Mr. Hentschel confirmed this.

Councilor Brine asked Chief Mello to explain what the mooring holders' responsibility was. Chief Mello explained that the mooring was a shared responsibility of the mooring holder and the QMI. The mooring is required to be inspected and commissioned no later than June 15<sup>th</sup> each year. The mooring is subject to forfeiture based on use, lack of inspection, and lack of commissioning.

Vice President Meagher asked why the Tri-State Dive Services, Inc. QMI renewal application was filed late again. Mr. Hentschel stated that he did not receive the renewal in the mail and should have reached out to the harbor office sooner.

Chief Mello gave a closing summary stating that the Harbormaster and the Harbor Commissions position remained the same and that Tri-State Dive Services, Inc. is not at the level required by the Town to be a QMI. Of the 1100+/- moorings, 800 are in the Town of Jamestown's OMS. All the other registered QMIs use the OMS to service and acquire new clients. Chief Mello stated that other QMIs have missed the application deadline, but in those cases, it was a transfer of business ownership that caused the delay. Renewal applications are mailed and emailed each year. Chief Mello requested that the Town Council deny the Tri-State Dive Services, Inc. appeal, and follow the Harbormaster and Harbor Commission recommendation.

Atty. La Terra Bellina gave a closing summary. The information provided to the Town Council was Mr. Hentschel's personal attestation and he admits to his error. La Terra Bellina believes that Tri-State Dive Services, Inc. could be a valuable subcontractor to the Town. As a small business, Tri-State Dive Services, Inc.'s fee for materials and services ranging from \$700-1400 is a significant amount. Atty. La Terra Bellina recommended that the OMS be changed and/or modified to better serve all.

Councilor Brine stated that due to Tri-State Dive Services, Inc.'s inability to provide timely and reliable service, he would not be able to recommend reinstatement at this time and encouraged Mr. Hentschel to apply for consideration as a Jamestown QMI in the future. Councilor M. White agreed with Councilor Brine's statements. Councilor Brine made the motion to deny the appeal and uphold the decision of the Harbormaster and the Harbor Commission, with a second by Councilor M. White.

Vice President Meagher does not agree with Councilor Brine and Councilor M. White and would suggest more leniency given that Tri-State Dive Services Inc. is a small business and admits to its past errors.

In the matter of the Appeal of Tri-State Dive Services, Inc.; regarding the February 17, 2022 decision of the Jamestown Harbor Commission not to approve Tri-State Dive Services, Inc. as a qualified mooring inspector for the Town of Jamestown pursuant to Section 78-30 of the Jamestown Code of Ordinances, Councilor Brine made the motion to deny the appeal and uphold the decision of the Harbormaster and the Harbor Commission, with a second by Councilor M. White. Vote: Councilor M. White, aye; Vice President Meagher, nay; and Councilor Brine, aye.

## II. ADJOURNMENT

A motion was made by Vice President Meagher to adjourn at 4:28 p.m. with a second by Councilor M. White. Vote: Vice President Meagher, aye; Councilor M. White, aye; and Councilor Brine, aye.

Attest:

  
Roberta J. Fagan, Town Clerk