


**TOWN OF JAMESTOWN
HARBOR COMMISSION**

Minutes of the July 13, 2022 Meeting of the Harbor Commission

Approved: 9/14/22 

A meeting of the Jamestown Harbor Commission (JHC) was held Wednesday, July 13, 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
Michael Junge, Vice-Chairman
Steven Bois, Commissioner
Richard Raynes, Commissioner
Dan Wurzbacher, Commissioner
Eric Lexow, Commissioner
Jessica McCarthy Commissioner (arrived at 5:09 p.m.)

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, June 8, 2022**

At 5:02 p.m. Commissioner Raynes moved to approve the minutes of June 8, 2022 of the Jamestown Harbor Commission; Commissioner Bois second. So voted: 6 ayes, 0 nays.

III. Open Forum

A. Scheduled Requests to Address

There were no Scheduled Requests to Address

B. Non-Scheduled Requests to Address

Marion Falla of 75 Green Lane addressed the Commission regarding houseboats and their potential for being used as short-term rentals given the new owners of the three marinas in Jamestown. Ms. Falla has been working with the Town Council since 2019 drafting the ordinance regarding short-term rentals but the use of houseboats is not covered in the ordinance. She was informed this would be a Harbor Commission issue. She produced a letter, that was accepted into correspondence, containing the statue concerning the use of vessels as abodes or floating

businesses, along with the text of a letter, written by Ann McMahon in 2021, to the editor of the Newport Daily News. Ms. Falla requested that the Harbor Commission review this issue and that the Town Council consider adding the use of houseboats into the short-term rental ordinance under consideration, before the use of houseboats as short-term rentals becomes an issue. Executive Director Mello said the issue has been addressed but that the language could be clearer regarding when houseboats are/are not permitted, and it could be put on the agenda for next month's meeting, and whatever the Harbor Commission decides would be incorporated into the Town ordinance.

IV. Executive Director's Report – E. Mello

Executive Director Mello introduced and welcomed Joan Rich as the new Harbor Clerk and Administrative Assistant in the Police Department. He also discussed the clean up at the town dock at Fort Getty, repairs to the fender pilings on the pier there, and the replacement of the main piling at the touch and go dock at West Ferry near the Harbormaster's boat.

V. Harbormaster's Report – G. Skalubinski

Harbormaster Skalubinski informed the JHC that the inspections are 99% in compliance and that he is waiting for a few more. He is also issuing more beach permits due to additional space at all locations. He has issued approximately 5-6 new permits at each location. Commissioner Junge asked if the kayak/dinghy racks were ours or under the control of the Parks & Rec. Department. He was under the impression that that department set the fees. Chief Mello stated the racks were under the control of the Harbor Commission and explained the process for maximizing the utilization of the kayak racks.

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

Chief Mello does not have a financial report yet as he is waiting for the prior fiscal year to be closed out. When the year is closed he will have a better picture of the prior year's financials so he and Commissioner Raynes can get started on the budget just after the August meeting.

VII. Sub-Committee Reports

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

Commissioners Raynes and Lexow had nothing to report.

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

Commissioners Wurzbacher and Banks had nothing to report.

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

Chairman Banks had nothing to report.

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

Vice-Chairman Junge had nothing to report.

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

Commissioner Bois stated he attended a successful meeting in June and will meet with the Army Corps of Engineers in November so they can update him with their analysis and predictions for reporting. He is trying to meet with Jamestown's legislative leadership in the same November time frame. Chairman Banks asked Commissioner Bois if he had gotten any feedback from the Town meeting on June 28 involving Gould Island and he had not. Town Councilman Randy White stated there was supposed to be a meeting between Town Administrator, Jamie Hainsworth, RIDEM and a representative from Sen. Reed's office but he does not know the outcome of that meeting.

VIII. Liaison Reports

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

Conservation Commissioner Liaison L. Orsi was not in attendance.

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

Town Councilor Randy White informed the Commission that Christian Infantolino, attorney for Bill Munger, and Mike Gray, the former Public Works director, came before the Town Council at their meeting on 6-21-22 to present the results of a discussion they had regarding a proposal for land use near the cement floating dock. The Jamestown Newport Ferry, through Mr. Infantolino, is seeking approval to build a ticket booth near the top of the ramp where the arch is. Knowing that the matter is also before the Harbor Commission, and recognizing the issue is one on which not everyone agrees, the Town Council voted to table discussion and/or a vote until a future meeting. The two proposals presented to the Town Council were a joint effort with the Town and JNF to rehabilitate the decrepit cement area near the top of the gangway to the ferry dock. There is no money at this time to rehab the cement slab near the gangway and Mr. Gray felt that if money is available to do anything at East Ferry it is more important to repair sidewalks at Veteran's Park that present a safety hazard.

Councilor White made note in the Town Council meeting that even if the Town got a windfall of funds that they should not approve anything to do with the Ferry company until the matter of the use of the touch and go dock on the southwest side of the cement floating dock, which he understands will be addressed later in this meeting, is resolved. Councilor White's understanding is that the east side of the touch and go has pretty much been committed to use for loading and unloading passengers from the Coastal Queen and that historically, the southwest side of the dock has been for public use as a touch and go. He stated he has not been monitoring who has been using the dock but has heard that the Ferry has basically "commandeered" the southwest dock for its use and Councilor White does not see how a public utility (the ferry) with a schedule can share space with the public who can use the dock for a maximum of half an hour.

The Town Council is not going to do anything about the land side of the proposals until it is determined where the ferries are going to park. Councilor White feels this is an issue that should not be decided in a public forum such as the Town Council and Harbor Commission but perhaps a group of the stakeholders including Jamestown Newport Ferry, TPG Conanicut Marine, the

Town Administrator, and representatives from the Harbor Commission, or some other combination of interested parties. Councilor White has great respect for Mr. Munger and the service the ferries have provided to the public over the years and he wishes the town can have a strong working relationship going forward, but as a town councilor and a citizen, he is concerned about the public's right to use the touch and go docks.

Mr. Junge asked for clarification regarding TPG's right to use the wood pile pier. His understanding of the lease is that it is primarily a public pier and TPG has the right to use it. Executive Director Mello stated the public has the right to walk on the deck of the pier, make their way out to the touch and go docks, and fish, and TPG cannot infringe upon that. TPG has the right to lease space alongside the pier, which they have done and the previous marina had done for several years. TPG's interpretation of the lease is that they can also lease space along the south side of the pier. Executive Director Mello voiced his concern that the lease language is not as clear as he would like regarding the use of the south side of the pier by TPG.

Commissioner Bois informed Councilor White that in validation of his concern about the public's right to use the docks, he was informed by someone that ferry employees have been telling some boaters/members of the public that it is not a public dock. That issue needs to be addressed and Commissioner Bois is hoping it can be discussed tonight.

Chairman Banks asked Councilor White if the sub-committee that he is proposing violates any open meetings laws and Executive Director Mello stated that if staff was directed by a town committee to work out an agreement, such as often happens when the Town Administrator is directed by the Town Council, it would not be in violation of the open meetings laws.

IX. Old Business

A. Use of inner touch and go

B. Use of outer touch and go

C. Use of wood pile pier by Coastal Queen

Executive Director Mello summarized last month's meeting when the use of the inner and outer touch and go docks and the wood pile pier, specifically by the Coastal Queen, was brought before the committee. During a meeting with some of the Commission members at East Ferry in the fall of 2021, it was brought to his and Harbormaster Skalubinski's attention that there was misleading/lack of signage at the inner touch and go dock that it was public space. He attempted to facilitate a solution regarding the signage of public space and the time limit.

Mr. Munger reached out to Executive Director Mello wanting to discuss the matter and that is where he and Mr. Munger had a difference of opinion regarding the public's use of the southwest dock. At the last meeting Commissioner McCarthy had asked what was agreed to and what was the contract.

Executive Director Mello discussed the attachments to the meeting packet: Attachment A, which is a letter dated 1-15-18 to the then Town Administrator, from Executive Director Mello on behalf of the Harbor Commission regarding the plans of Conanicut Marine Services for their waterfront operations. Projects 1, 2, and 3 relate to reconfiguration of the fuel docks and floats within the

Marina basin. Project 4 was the discussion of the elimination of the old, inner, wood touch and go dock to be replaced, based upon a proposal brought forth by CMS and the ferry service, by a new concrete float. CMS had submitted a grant proposal to RIDOT to enhance the ferry landing area. The project proposal and bid documents are Attachment B. There was a question at last month's meeting as to who committed to do what regarding the proposed 10 x 130 timber floating dock that would be supplied and installed by the owner. Attachment C contains the reimbursement requests from CMS to the Rhode Island Department of Transportation after the completion of the project. There was approximately \$210,000.00 available to CMS for the project. CMS requested reimbursement in the amount of \$157,000.00, which was limited to the concrete float. The third-party testing engineer for the DOT made note that the 10 foot x 130 foot timber float was not constructed "due to limited demand and need the float is not required for ferry operations at this time". Attachment D is a proposed Master Plan of CMS for the Jamestown-Newport Ferry to the Town of Jamestown which includes a waiting area, additional ferries, additional bathrooms and a float to be placed on the south side of the pier, but it is not clear if that is for the public's use or for the ferries.

Executive Director Mello has spoken to the Newport Harbormaster, and the City of Newport has used similar grants to enhance their public spaces and their facilities for ferry landings, touch and go, and transient docks, but the spaces are not comingled, they are separate. The City of Newport charges JNF an annual fee for landing and to keep a ferry overnight at one of their docks. Commissioner Junge asked if one of the ferries stays overnight in Newport, why did the ferry service keep ten moorings instead of transferring them to TPG? Bill Munger, the owner of JNF, stated that none of his ferries stays overnight in Newport, but a new ferry that is to be built will stay overnight there. Commissioner Bois asked Mr. Munger asked he pays anything to the Town of Jamestown if one of his ferries ties up at the touch and go dock overnight. Mr. Bois then clarified that the Town does not charge Mr. Munger anything for the use of the dock.

Christian Infantolino, Mr. Munger's attorney, had presented the Commission with a Ferry Docking Management Plan and a Timeline for Ferry and Dock Usage. He also discussed the amount of the grant and that the documentation provided to the town only showed the allowable expenses for the grant, which were about 65% of the total cost. Commissioner McCarthy asked for clarification of the use of the term "public/private partnership" because she only saw "CMS" on the documentation. Mr. Infantolino explained that CMS was a private company but public grant money was available because CMS was also a ferry operator overseen by the Public Utilities Commission.

There was much discussion of the meaning of the shared space. It was Chairman Banks' understanding that the shared use of the dock meant that the Coastal Queen had use of the north side of the pier and the public had the use of the south side. Mr. Infantolino was under the impression that the shared space was for the Catherine (one of the ferries). There was also an issue that a town employee was told by an employee of TPG, in consultation with the owner of the Jamestown Newport Ferry, that he could not place a sign regarding public access to the dock. Commissioner McCarthy stated that the Harbor Commission must protect public access to the

town owned docks. Commissioner Bois summed up four questions that he felt were the key issues that need to be addressed and wanted Mr. Munger to answer:

1. Who coordinated putting up the new sign for the Jamestown-Newport Ferry over the new concrete floating dock? It is implying that the dock belongs to the ferry when, in fact, it does not.
2. Where did the 10 hours/day that the public would have use of the touch and go dock come from? How is the public to know when they are allowed on that dock? The JNF communication plan states the primary function of the dock is for the ferry, and must be adhered to. Who agreed to that? Did Mr. Munger discuss the ferry schedule with anyone outside JNF?
3. Who is Mr. Munger communicating with in the Harbor Commission/Town/TPG regarding the expansion of his fleet and facilities?
4. How is Mr. Munger communicating his plan with the public for his private use of a public dock? When you have comments that the public must check in on Channel 71 and must check the ferry schedule. How does the public know that?

Mr. Munger was not sure who he coordinated with to put up the new sign. The old ferry sign was previously located on the CMS-owned dock and was about 20 years old. When Mr. Munger sold CMS to TPG he lost the use of that dock and he is unsure who has jurisdiction over the new concrete dock. Mr. Munger is under the impression the land/dock is controlled by the State of Rhode Island because it is below the high-water mark, and Executive Director Mello stated it is clear that the land and dock are controlled by the Town.

In response to question #2, Mr. Infantolino stated that the PUC sets the ferry schedule.

Executive Director Mello stated the sub agreement does not specify who gets to use the shared space. The sub agreement, and Executive Director Mello clarified with the DOT, discussed the monies available, the scope of the work, the ADA compliance, and the partnership of funding, but it does not address who gets to use what side of the dock. There was discussion at that time of the ferry using the ADA access on occasion, as needed, because the ferries were then using the privately owned CMS dock. Regardless of what was discussed and/or agreed to in 2018, the circumstances of how and where the ferry operates have changed significantly.

The commissioners, in an attempt keep moving forward, suggested that the options for the ferry were to give it exclusive use of the inner touch and go dock for the rest of the season or go to a private entity to lease dock space, with the exception of ADA usage on occasion, and the outer touch and go docks for special events. The interested parties also need to sit down and come up with an agreement specifying what is allowed, who owns what, who is paying for what, who is providing insurance, and who is maintaining the docks. All of those things need to be determined going forward. Commissioner Bois added that he also wants to see better communication and coordination between the Jamestown-Newport Ferry, TPG, and the town with regard to the business plan of the ferry.

Commissioner Junge made a motion to give JNF exclusive use of the southwest portion, and only that portion, of the concrete touch and go dock for the remainder of the season, with no right to use any of the other touch and go docks, until November 15. That would leave all the others available for public use. Commissioner Junge stated to Mr. Munger and Mr. Infantolino it was incumbent upon them to figure out a plan going forward, it was not up to the Town Council or the Harbor Commission to come up with a plan. After more discussion, Commissioner Junge withdrew his motion. Mr. Infantolino stated the Ferry Docking Management Plan that he submitted that afternoon was the proposal. Commissioner McCarthy moved to decline the plan of use schedule submitted by Mr. Munger and Mr. Infantolino and Commissioner Junge seconded. The motion carried with 6 ayes and Commissioner Raynes opposed.

Commissioner Bois moved to establish a committee of the interested parties to determine the appropriate approach. Commissioner Junge asked what happens between now and the end of the season, and Commissioner Bois stated it would remain a dual use dock as it was intended in 2018 and no one should be telling the public they cannot use the dock. The current arrangement will continue for the time being. Executive Director Mello suggested the committee consist of himself, someone from the Harbor Commission, the Town Administrator, and representatives from the ferry and TPG. Commissioner McCarthy seconded the motion. So voted: 6 ayes and Commissioner Junge opposed.

Commissioner Wurzbacher asked what the dock, previously owned by CMS and currently owned by TPG, was being used for. Executive Director Mello stated that when CMS owned it, the dock accommodated the small ferries and the CMS launch service. It is now being used solely by the TPG launches. Executive Director Mello had previously reached out to TPG and asked if they could still accommodate the small ferries at that dock and was told that they could. He pointed out that because the ferry is a commercial enterprise there would likely be a fee involved. More discussion ensued about the Catherine (ferry) using TPG's dock, Commissioner Junge made a motion to adjourn, but Chairman Banks stated there was till business to conduct.

Executive Director Mello stated he will coordinate the sub-committee to consist of the Town Administrator, TPG, JNF, and a representative from the Harbor Commission. Chairman Banks volunteered to be the representative.

X. Correspondence

None.

XI. New Business

A. Kayak Rack Permitting

Covered under Harbormaster's report.

B. Rules for fishing on Town docks

The intent of the town owned docks is for use by the boating public and the fishing public. Fishermen have been monopolizing the touch and go docks and it is has become a problem. Up to 8 to ten people have been observed fishing at times. They have chairs, coolers, and they are filleting fish on the dock. Some boaters have reported being uncomfortable

approaching the docks because of the number of fishermen located on them. Executive Director Mello and the Harbormaster noted that there are signs posted with the rules for using the docks but the rule that boaters have precedent to the use of the dock is further down the sign and is being ignored. The fishermen do not move out of the way when Harbormaster Skalubinski approaches and they don't move out of the way when a boater approaches. Harbormaster Skalubinski brought in a contractor to clean up the pier and had it power-washed but it is rapidly becoming dirty again. Executive Director Mello stated the issue should be addressed at the next meeting. It is another issue of shared space. Commissioner Banks suggested that perhaps fishing could be limited to one side of the touch and go docks. The Commission members should inspect the docks, especially early in the morning, to see what the issues are and come up with a solution to be put on the agenda for the August meeting.

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

None.

XIII. Adjournment

Chairman Banks made a motion to adjourn at 6:30 p.m.; Commissioner Junge seconded. So voted: 7 ayes, 0 nays.

Respectfully submitted,



Joan Rich, Harbor Clerk