

**TOWN OF JAMESTOWN
HARBOR COMMISSION**

Minutes of the September 14, 2022 meeting of the Jamestown Harbor Commission

Approved: 10/12/22

A meeting of the Jamestown Harbor Commission (JHC) was held Wednesday, September 14, 2022 at the Jamestown Town Hall, 93 Narraganset 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
Eric Lexow, Commissioner
Jessica McCarthy, Commissioner

Absent:

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, July 13, 2022

At 5:01 p.m. Chairman Banks moved to approve the minutes of the July 13, 2022 meeting of the Jamestown Harbor Commission; Commissioner Lexow seconded. 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

There were no non-scheduled requests to address.

IV. Executive Director's Report – E. Mello

The Jamestown Harbor Commission, at its July meeting, directed Executive Director Mello and Chairman Banks to meet with the operators of the Jamestown-Newport Ferry (the Ferry) to discuss the use by the Ferry of the public touch and go spaces at East Ferry. There have been a few meetings with Executive Director Mello, Chairman Banks, the Town Administrator, Jamie Hainsworth, and Bill Munger, the Ferry operator, and his attorney. They have gone back and forth attempting to come up with a user agreement, and that was followed up by a meeting with the Town Council in an executive session on Tuesday morning. The Town Council is also impatient to get to a resolution. There was no indication to anyone on the Harbor staff that the ferries would be using the space at the touch and go docks to the extent that they have been throughout the summer.

Some of the issues are: there are some land-side operations that are being requested, there is the lease of town property that is being requested, use of the space by the general public must be regained, and is it accessible? Ferry operations in that area must not be in conflict with recreational boating, fishing, or marina operations. Executive Director Mello will keep the Harbor Commission informed as those discussions continue. Chairman Banks asked what the next step would be, and Executive Director Mello stated he has a clear directive from the Town Council, although he was not at liberty to disclose what that was because of the executive session, but he anticipates that he will be reporting back to the Harbor Commission and the Town Council in the next month or two. It is the end of the season and there will most likely not be a resolution this year. It is the intent of the Council that a solution be in place before the start of next season. It is the goal to have something to present to both bodies by January 1.

Chairman Banks asked if it would be helpful to meet at East Ferry before the end of the boating season this year and the equipment is hauled. Executive Director Mello agreed that it would be a good idea, either collectively or individually, so all members of the commission could see how the Ferry operations impact the use of the public docks. A way to regain the use of the thirty feet on the wood pile pier has not been determined yet. This weekend would be a good time to go observe the Ferry because the Newport Boat Show is being held this weekend, and many times people use the Ferry to get over there. It's convenient and it is promoted by the Ferry as a special event with special event parking packages. Chairman Banks also agreed it was a good idea for everyone to go observe because, once the ferries are pulled for the season, it will be more difficult to visualize the thirty feet that has been lost to ferry use. Vice-Chairman Junge stated he took a series of photos back in July of the signage and the gangway that leads people to believe it is a private dock for the exclusive use of the Ferry. Commissioner McCarthy also has photographs she took during Folk Festival weekend. She and a friend visiting from out of town took a walk down to the wood pile pier and her friend said "oh, we can't go down there, that's the ferry" because it has the white tent over the wood pile pier and there were three people sitting there, and all the signage and brochures project to the public who don't know any better, that they are not allowed there.

Executive Director Mello stated the photos should not be shared among the commission, but should be forwarded to Harbor staff to be put together in a presentation for the next meeting, to show what people actually see when they are down there. Without knowing when, exactly, Michael took his photos, the dynamics change significantly when there is a special event in Newport. Chairman Banks asked if anyone could take photos of the Ferry operations this weekend, as he will be out of town, but he has noticed the ferries using the outer touch and go docks as well. Commissioner McCarthy offered to take photos midday on Saturday and Commissioner Bois stated he could take photos throughout the day on Sunday. Vice-Chairman Junge also asked if the police department camera at East Ferry could be used to monitor Ferry activity. Executive Director Mello stated the camera has the ability to be focused on the Ferry operations but it would be a narrow focus of the broader nature of what is going on at the dock.

If Chairman Banks would like to schedule an official meeting at East Ferry to view the Ferry operations a special meeting can be scheduled for a site visit.

V. Harbormaster's Report – G. Skalubinski

Harbormaster Skalubinski stated that several moorings have been relinquished this year and are in the process of being reassigned. He will be meeting with Jonathan Wilkes of TPG Conanicut Marina next week to go over what their plan is for storm preparedness and to share lessons from last year when several boats broke free of their moorings and washed up on the rocks during Hurricane Henri. Harbormaster Skalubinski felt it was bad optics for the town to have boats washed up and hopefully TPG can take the necessary steps to prevent that situation from happening again. Chairman Banks interjected and asked if the boats that broke free last year were all on commercial moorings. Harbormaster Skalubinski stated that was the case and TPG has been working internally on their storm preparedness plan and are willing to listen to any input that he may have. Chairman Banks asked if commercial moorings also have to have their gear inspected every three years and that is the case for them as well as the permittees of town-owned moorings. Commissioner McCarthy asked what the working relationship was like with TPG and Harbormaster Skalubinski stated they have been very cooperative and responsive when he reaches out to TPG. He wants to have a good, collaborative relationship with them.

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

Executive Director Mello had nothing to report as it is only two months into the new fiscal year. He will have more information on last year's financials during the budget presentation.

VII. Sub-Committee Reports

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

Commissioner Raynes stated he and Commissioner Lexow met with Executive Director Mello and Harbor Clerk Joan Rich regarding the budget Executive Director Mello prepared for the fiscal year July, 2023 to June, 2024. The budget has an increase of approximately 3.3% over the current year's budget. Given the high inflationary environment the economy is currently experiencing, Commissioner Raynes thinks this is a good budget, and perhaps does not include enough of an increase. He also wanted to know when the budget has to be finalized and submitted to the Town Council. Executive Director Mello replied that in a perfect world the budget would be adopted tonight for submission to the Town Council so it can go through their process for approval. If there is discussion that requires changes to the budget, he would ask that a special meeting be scheduled for approval of the budget because he would not be comfortable waiting until the October meeting. Commissioner Lexow asked if the budget could be voted on and adopted tonight and Executive Director Mello responded that it can be voted on later because it is an agenda item.

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

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

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

Chairman Banks had nothing to report. Executive Director Mello wanted to point out that historically, it has been implied that the moorings are automatically renewed every year by the commercial mooring operators and that they are entitled to the same number of moorings each year. The number of moorings in use each year has never really been assessed before so a report will be prepared for the October meeting showing how many of the moorings are actually in use. For example, if a commercial mooring operator has 100 moorings and 60 of those are occupied, then the other 40 are used as transient moorings. The harbor staff don't know how many days those transient moorings are really used. The question is, if an operator has 100 moorings, how do they justify having 40 unused moorings? The commercial mooring operators must have some way to account for how many days the transient moorings are used, but they may not be forthcoming with that information.

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 had nothing new to report. The Gould Island Restoration Committee is still planning on meeting in November with the Army Corps of Engineers.

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 stated he could not discuss openly what took place at the Town Council's Executive Session on Tuesday about the ongoing discussions regarding the Jamestown Newport Ferry. Councilor White did say, however, that at both of the Town Council meetings that were held this summer, many of the same concerns were brought up to the Town Council that have been brought up at the Harbor Commission. He was glad to see that at the July 13 Harbor Committee meeting Executive Director Mello, Town Administrator Jamie Hainsworth, and Chairman Banks became the committee to negotiate with the operators of the Ferry. Speaking personally, Councilor White is disheartened that, although there is slight movement toward constructive discussion, after hearing the same thing at both the July Town Council and July Harbor Commission meeting, "who allowed you to put your sign up", "why doesn't it say public space", etc., it seems as though the Ferry operators went in the opposite direction and basically "commandeered" the dock after being advised there was a dispute over access to the dock, and instead of trying to work it out, put up a tent that gives the appearance that it is a private dock, and is way beyond the pale. Councilor White was also disturbed to learn that a sign stating "Coastal Queen" has been placed on the pumpout hose on the wood pile pier. He stated that at some point there has to be a serious reckoning and he remains optimistic that it will occur in time for next season.

Without being able to share information about the negotiations, one thing Councilor White did say is that at the September Town Council meeting it was decided that the Town Administrator and Executive Director Mello would be the official representatives of the Town Council for negotiating an agreement between the Town and the Ferry operators. The Town Council joins the Harbor Commission in making public access to the piers the primary objective.

Commissioner Bois asked, given the inappropriate behaviors (tent, claiming the pumpout, employees telling the public it is a private dock), what is preventing the Town Council from issuing a directive to the Ferry that until an agreement is reached, it will cease and desist claiming public space as private space? Councilor White stated that because the Town Council met in executive session the previous day he was precluded from answering Commissioner Bois' rhetorical question, but the Town Council is "on it".

IX. Old Business

A. Rules for Fishing on Town Docks

Executive Director Mello stated that this item was left on the agenda but it may not need to be addressed further than what is under new business in the rules and regulation guidebook. He and Harbormaster Skalubinski have heard from boaters and others using the docks, and their own observations at East Ferry, that the occupation of the dock by fishermen was becoming a

little bit unmanageable and it did not appear that the dock is open to boaters. It is a never-ending question of how to balance the use of the dock by boaters and fishermen. The issue can be deferred to the rulebook discussion to see if there is some language that addresses the issue. The intent is to get that codified and tighten up the rulebook. Chairman Banks stated he was down at East Ferry a few times later in the season and the situation did not seem to be that bad but earlier in the season it was a little out of control, depending upon what type of fish were running. Commissioner McCarthy suggested that some type of parameter be set for how much space fishermen can take up. When the fishermen set up camp chairs they can sometimes take up three quarters of the dock, making it difficult for others to get by. Executive Director Mello stated that should be covered in the rulebook, whatever rules the Commission chooses to adopt. He is also hopeful that signs will be posted at the beginning of the dock and at the east end of the dock that indicate it is a public pier. Over the years signs have been added, signs have been vandalized, and they have become too complicated for people to follow. The intent is to have the rules codified in the guidebook and then have clear, consistent signs. Sometimes enforcement is a challenge but most times people are compliant when asked to be more considerate of others.

X. Correspondence

There was no correspondence.

XI. New Business

A. Rules for Houseboats in Marinas

Marion Falla addressed the Harbor Commission during the open forum in the July meeting and, at that time, presented a letter, that was entered into the record, to the Harbor Commission as well as the Town Council regarding the use of houseboats. Some marinas have begun to market themselves as resorts and are using houseboats as rental properties as an alternative to a hotel. It is not currently the norm but it is a growing trend in the industry. There is some concern, given the corporate takeover of some of the local marinas, that it could happen in Jamestown. Executive Director Mello stated that there is some loose language in the Town Ordinances that permit houseboats, however, they must be tied in to a fixed marina pumpout facility. TPG Marina is the only marina that has a pumpout that would allow a houseboat to tie into it. The Town of Jamestown owns that pumpout and at some point the marina was allowed to use it. There is no MOU in place that regulates the use of the pumpout, and while the town doesn't want to prohibit TPG from pumping out vessels, it does not want to allow houseboats or other large vessels from tying in to it. Executive Director Mello would like to see the language regulating houseboats be more definitive and he believes this is something that should be addressed sooner rather than later. Vice-Chairman Junge asked how one would differentiate between a houseboat and a live-aboard. He also stated that he was okay with the language the way it is because, as was pointed out, there is only one place a houseboat could tie in. The solution, if the Harbor Commission does not want to pursue an ordinance, would be to enact an MOU between the Town and TPG that would define the parameters that TPG could use the pumpout. They would be allowed to use the pumpout to service their customers but would not be able to have any boat tie into it. Executive Director Mello stated the MOU would be the simplest solution and wouldn't require an ordinance change. Chairman Banks made a

motion to explore a Memorandum of Understanding and Commissioner Junge and Commissioner McCarthy seconded. Executive Director Mello asked Commissioner Bois what type of waters the marinas are located in as he has not been able to determine that yet. Executive Director Mello cited the Army Corps of Engineer's Red Book that prohibits houseboats and floating businesses in coastal ponds and in all Type I and Type II waters, so they may be prohibited already, he just needs to verify the type of water in which the marina is located. The motion was voted upon, so voted: 6 ayes, 0 nays; the motion was carried.

B. Review of Harbor Guidebook

The harbor guidebook is about five years old. The copy in the meeting packet is a draft that Executive Director Mello has made some updates to and it gives the Commission an idea of some of the areas that may need to be regulated and, if it is needed as an enforcement measure, will be brought to the Town Council for their ratification. The guidebook describes the process to renew, who gets moorings first, how tackle is transferred from one mooring holder to another, whose responsibility it is, the use of town owned docks; so included in the guidebook could be fishing and the wording of any regulation that would apply; it talks about the use of the dinghy docks, and on the last page are topics that are not included but could be considered. There is no regulation of outhauls. For example, does the Commission want to allow commercial vessels to use outhauls, and what would the definition of commercial be? Would the Commission allow someone to put a 20-foot boat on an outhaul and operate a launch service? Would the commission allow an oysterman or a commercial fisherman to put a boat on the outhaul? Outhauls are not regulated the same way as moorings are by CRMC, they are an offshoot of Town property that is being leased. Other examples that may need to be addressed are: it is not clear who is responsible for the tackle on a mooring; swim floats are not regulated. Perhaps there should be a section on anchoring, a section on boat owners, a section on the relationship between marinas and the Town; what marinas can and cannot do, etc. Commissioner Bois wanted to know who the intended audience for the guidebook would be, for the Town, for visiting boaters? More discussion ensued. No action was taken on these issues but the guidebook should be addressed at the October or November meeting.

C. 2023/2024 Budget

Chairman Banks asked if anyone had any issues with the budget and Commissioner Junge made a motion to accept the budget and Chairman Banks seconded. Commissioner Raynes had some comments relating to increases in the budget from 2021-2023, that they were all labor and maintenance related, and he was wondering if the budget increases are enough to cover expenses, given that labor costs are through the roof? Executive Director Mello stated that traditionally the budget is supposed to be a zero-based budget, that revenues are supposed to equal expenses and that is how the budget is developed. For the fiscal year that just ended there is a surplus, so if individual line items go over budget the Commission will be fine as far as the bottom line, but the budget is developed based on history and the numbers can be adjusted going forward. Typically, the budget is supported by the revenues unless there is some catastrophic event. Commissioner Raynes questioned who is responsible for damage to the West Ferry dock or the Fort Getty dock in the event of a severe storm with major damage?

Executive Director Mello stated that both of those assets are covered under the Town's insurance policy, and anything not covered by insurance would come out of the Harbor Commission budget or its capital reserve fund. The reserve fund is funded through any surplus from the operating budget. It is a restricted fund that does not revert back to the Town's operating funds. There is a line item in the budget for capital expenses for replacing the boats the harbormaster uses, and Commissioner Raynes wondered how often the boats need to be replaced. One of the boats was purchased about six years ago, and the next boat to be replaced is the Ribcraft boat, which is about twenty years old, however, the motors will probably be replaced before the actual vessels are. There was a motion on the floor to approve the budget, so voted: 6 ayes, 0 nays; the motion carried and the budget was approved.

D. 2023 Harbor Permit Rates

Two years ago the Harbor Commission considered raising the rates on the West Ferry and Fort Getty outhauls an incremental amount over a three year period. The last time the residential, non-residential, and commercial mooring rates were raised was seven or eight years ago. Executive Director Mello stated that he and Commissioner Raynes discussed the mooring rates at the budget meeting and if it is decided to raise the mooring rates, the discussion should begin in November for a rate increase for the 2024 season. It will be a lengthy process due the high public interest in raising the rates. Chairman Banks asked that the discussion about increasing the mooring rates be placed on the November agenda. Commissioner McCarthy asked if there is also public interest in raising the commercial rates and there is, due to the substantial difference in commercial rates from the town rates, and Commissioner Junge stated the difference is due to the level of service provided by the marinas/commercial mooring operators.

When the rates were increased seven or eight years ago, the conversations centered around the question of "why" is the additional revenue needed, because clearly the revenues are supporting the expenses. The budget does support the expenses, but beginning July 1, the Harbor Commission will be "charged back" for town services. For example, the Public Works Department invested approximately one hundred hours in building the new steps at West Ferry and it didn't cost the Harbor Commission anything. Chairman Banks also brought up the need to address repairs to the Fort Getty pier and asked if a fund can be built up over a few years to begin that project. Executive Director Mello asked what level of investment the Commission wants to invest in that project, because it could be a million-dollar repair to bring it back to the military specs in place when it was built. That is obviously unnecessary for the town's needs and the commercial shellfishing operation at Fort Getty is very limited, so the question becomes what does the Harbor Commission want to do there? Commissioner Raynes asked Councilor White if the Town has a capital fund for infrastructure, for example, to replace a pier or replace a road that goes along the waterfront? The Town does not have a "rainy day fund". Anything that comes out of the approximately \$1.2 million dollar capital budget either has to be built into it or has to be a bond issue. If the figure was significantly lower for a less ambitious project, there could be some scraping, begging or borrowing to cover the cost. Chairman Banks asked if there is grant money available, and it would probably depend upon the nature of the

project. Chairman Banks made a motion to approve the mooring rates for this year and Commissioner Junge seconded. So voted: 6 ayes, 0 nay; the motion was carried.

Chairman Banks stated he would like to have the issue of the crane parked on the TPG gas dock at East Ferry put on the agenda for October because the crane does not need to be parked there all summer. It is an eyesore.

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

Commissioner McCarthy had a general maintenance observation. She has noticed that some of the bumpers on the brackets around the pilings on the wood pile pier at East Ferry are very worn and was wondering if they should be replaced. Executive Director Mello stated that when the floating docks are pulled at the end of each season the hardware is inspected and, if necessary, replaced, due to the wear and tear on them throughout the season.

XIII. Adjournment

There being no further business, Chairman Banks moved to adjourn and Commissioner Junge seconded. So voted: 6 ayes, 0 nay; the motion was carried, and the meeting was adjourned at 6:09 p.m.

Respectfully submitted,



Joan Rich,
Harbor Clerk