

## **Newburyport Harbor Commission**

Online Meeting

March 3, 2021

Minutes

### **1. Call to Order**

Chair Andrew Casson called an on-line meeting of the Newburyport Harbor Commission to order at 7:00 p.m. In attendance were Andrew Casson, Bob Dow, Justin Dutcher, Jamie Knapp, George Sass, Adam Armstrong, Chris Kealey and Jay Lesynski. Ron Thurlow was absent. Harbormaster Paul Hogg was also in attendance.

### **2. Minutes**

Justin Dutcher moved to approve the minutes of the February 3, 2021, meeting as submitted. Jamie Knapp seconded the motion. The motion was approved by a 7-0 vote (Andrew Casson, yes; Bob Dow, yes; Justin Dutcher, yes; Jamie Knapp, yes; Adam Armstrong, yes; George Sass, yes; Chris Kealey, yes; Jay Lesynski, abstain).

### **3. Waterfront Trust Lease**

A 1992 amendment to the Trust document gave the Trustees the right to collect money for the use of the bulkhead. With the disposition of the NRA land, the City and the Waterfront Trust became joint owners of the submerged tidelands east of the embayment. The Harbor Commission has received a draft lease for attaching the docks to the bulkhead and revenue sharing. Mayor Holaday is urging the Commission to sign the document.

The Commission members would not be opposed to paying \$5,000 for tying the docks to the bulkhead. They would want the lease agreement to include a provision for the winter storage of the docks on Waterfront Trust property. They are not in favor of revenue sharing. One point of contention has been that the revenue sharing would be based on gross, rather than net, income. The Commission members are also not in favor of the requirement for prior written approval for special events. They are opposed to assuming responsibility for the maintenance and repair of the bulkhead.

The members discussed their concerns about the document. If the Commission were to agree to revenue sharing, the term must be better defined. The members were opposed to the section that would place the responsibility for the maintenance of the entire bulkhead on the Harbor Commission. The bulkhead is in poor condition and its repair could cost millions of dollars. Paul Hogg recommended that the bulkhead be inspected before any document is signed. Jamie Knapp pointed out that in Section 5, there are no defined figures associated with the revenue growth plan. George Sass said the indemnification described in Section 8 should be mutual. He added that the elements of the document are outside the scope of a standard lease. Justin Dustin said any revenue sharing should be tied to operations and not based on an arbitrary number. He is also concerned about the figure being increased at the end of the lease in three years. Bob Dow commented the fees collected from boaters should not be used for a revenue shortfall for landside property. He said it would be difficult for the Harbormaster to continue operating the central waterfront docks in the same way as he has been doing. He recommended that the City Attorney review the document before it is signed.

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The members reviewed the document section by section and made the changes to it they deem would be necessary. The changes included, but were not limited to the following:

- The reference to the Waterfront Trust owning 50% of the submerged tidelands was changed to the read that the Waterfront Trust and the City of Newburyport each own 50% of the submerged tidelands.
- Section 6, which would require prior written consent from Trust for the use of the leased area during special events and could make them subject to additional payments and conditions, was deleted.
- The section that would make the Harbor Commission responsible for the repair and maintenance of the bulkhead was deleted.
- The section on revenue sharing was deleted.
- The winter storage of the docks on Waterfront Trust property was added.
- The lease agreement was amended to read that its purpose would be to provide public access and promote maritime activities within the river, rather than for the charitable, maritime and recreational purposes of the Waterfront Trust.
- The section on the revenue growth plan was deleted.
- The requirement for written consent for the posting of signs was stricken.
- The reference to indemnification was changed to apply to all parties, not just the Trustees.
- The lease would begin on July 1, 2021 rather than May 1, 2021.

#### **4. Committee Reports**

##### **a) Dredging**

Jay Lesynski and Paul Hogg attended a meeting with Senator Bruce Tarr, Representative Diana DiZoglio, Representative Lenny Mirra and Representative Jim Kelcourse. The topic of conversation was the surveying and potential dredging of the area between the dogleg of the north jetty towards marker #2 and across to the federal channel. The Army Corp will only dredge the federal channel. Senator Tarr agreed the extended area should be tied to the project. Paul Hogg read a letter signed by the Senator and Representatives and addressed to Lt. General Scott Spellman of the Army Corp and Kathleen Theoharides, Secretary of the Executive Office of Energy and Environmental Affairs. The letter states that there is a second area of shoaling along the north jetty. The lane is the primary route used by both recreational and safety vessels and is hazardous during low tide. The letter recommended that this element of maintaining the navigability of the Merrimack River should be included in the scope of work if it could be accomplished without delaying or jeopardizing the dredging project. The expanded scope would yield extra sand to nourish the beach near Reservation Terrace, where the erosion is the more severe. The Army Corp equipment is now at Cashman Park and work on the survey has begun. Dredging is also needed at the fish pier and the embayment, but would not be included in this project.

##### **b) Coast Guard City**

The committee must prepare for the renewal of the Coast Guard City designation. The application materials must be submitted by June 30.

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**c) Public Relations/Community Outreach/Marketing**

The committee will meet to work on the revisions to the website.

**5. Harbormaster's Report**

Paul Hogg reported:

- he is getting ready for the beginning of the season.
- he sent out the excise tax demand letters.
- City Council is expected to vote to approve the firm selected to design the park at its March 8 meeting.
- Mayor Holaday has expressed a preference for having lifeguards on duty on weekends and by the sandbar at a minimum.
- a budget meeting is scheduled for March 11.

**6. Other Business**

**a) Ordinance and Fees**

At the February meeting, members of the public expressed concerns about the draft ordinance to regulate kayaking. It is likely the proposal would not be approved as written. The Commission members discussed reducing the size of the area in which kayaking would be prohibited. The area could be expanded in the future if kayakers do not adhere to the ordinance. Paul Hogg pointed out that the ordinance is already in place and could be expanded to include kayaks. He said he would like the change to be in place before the beginning of the season. The discussion was tabled to a meeting at which Ron Thurlow would be in attendance.

**7. Adjournment**

Bow Dow moved to adjourn the meeting at 8:55 p.m. George Sass seconded the motion. The motion was unanimously approved. The next meeting of the Harbor Commission will be scheduled for April 7, 2021.