

Minutes of Bay St. Louis Municipal Harbor Commission

Date: Tuesday, November 5, 2013

Location: Bay St. Louis Central Fire Station Training Room, 543 Main Street, Bay St. Louis

The meeting of the Bay St. Louis Municipal Harbor Commission convened at 3:00 p.m.

Commissioners Present:

J.P. Compretta

Charles LaFleur

Chet LeBlanc

Chris Roth

Rod Ward

Ken Barbor

Mike Hemsley, (alternate)

Lee Seal, Chairman

City Staff Present:

Buz Olsen

Don Rafferty, City Attorney

Paula Fairconnetue

Guest:

Jason Chiniche, BMA

The meeting was called to order by Chairman Lee Seal.

APPROVAL OF MINUTES

RE: OCTOBER 29, 2013

Commissioner Roth pointed out that discussion on live aboards and resale of electricity was left out of the October 29th minutes. Paula will add this information to the minutes.

Commissioner LeBlanc moved, seconded by Commissioner Barbor, to approve the minutes of the Harbor Commission meeting held October 29th with corrections.

A vote was called for with the following response:

VOTING YEA: LeBlanc, Barbor, Compretta, LaFleur, Roth, Ward and Seal

VOTING NAY: None

Guest: Jason Chiniche

Live Aboard Discussion

Jason stated that the permit issued by the Department of Marine Resources states that long term live aboard are not allowed at the Harbor based on issues with vagrants. The facility does not have a pump out system, or other amenities designed for long term live aboard situation. However; DMR will allow visitors who want to come in and stay for short periods of time.

Commissioner Roth inquired about enforcement and penalties for violation of DMR's live aboard restrictions. He was considering an appropriate length of stay that would be within the restrictive time frame.

Jason stated that if long term live aboard were allowed, it would place the city in violation of its permit with DMR, and would probably disqualify the city for any additional or future funding from DMR. The permit is reviewed every three to five years to make sure everything is in order. He stated that the live aboard restriction may be modified if there's justification for it.

Chairman Seal stated that some harbors have lease agreements where you can stay 14 days and move on for a period of four days before returning. He said that when applying for certain grant funds for the harbor you're required to provide a percentage of transient slips; in our case we have to provide at least 8% of the slips, which is twelve slips, have to be setup for transients. Fishery and Wildlife's definition of transient stay is seven or ten days. It's not highly regulated, but they want to make sure no one is staying on a permanent basis. We have to decide what is considered long term.

Finger Pier Lengths Discussion

The design of the facility was to have half-length finger piers Throughout the different layouts we were looking at in the earlier phase. We actually had full length finger piers, but during the estimate phase of the project we realized that cost had increased and we were looking for ways to cut cost. One thing we looked at was shortening the finger piers. We looked at other facilities on the Coast including Pass Christian and Long Beach Harbors. They have a mixture of full length and half-length piers. We decided to go with half-length finger piers on each slip for our facility, except for the 60' slips.

Jason stated that Pier One has full length finger piers on the 60' slips. The contractor installed all the finger piers on pier two the same length. The 50' slips on the west side and 45' slips on the east side of Pier Two have 20' finger piers. The finger piers should have been 25' long for the 50' slips, and 22 ½' long for the 45' slips.

Jason stated that we have a couple of options available to us: Option one would be to stay with the length of the finger piers, as installed, and we would see a savings of approximately \$8,200; we are 82.5 feet short of the lengths we had estimated. He recommended against moving the finger piers and placing them where they should have been, because the piles would only need to be moved a couple of feet and may cause the plies to slide back into the original opening, creating cause to worry about the stability of the piles. He recommended leaving the piles where they are.

Option two would be to ask for flexibility to pier two and we could take the \$8,200 savings and pay for six finger pier extensions. We could actually add 10 ft. to six of the finger piers on Pier Two, which would give us six piers at 30 ft. long and the rest would be 20 ft. long. This would give us flexibility in docking.

During discussion, the commissioners agreed that it would be feasible to extend six of the finger piers on Pier Two on the 50' slips on the pier in, extending the pier alternately. Every other finger pier would be extended.

MOTION TO RECOMMEND APPROVAL

RE: Finger Pier Extensions on Pier Two

Commissioner LaFleur moved, seconded by Commissioner Compretta, to recommend that the Bay St. Louis City Council approve the extension of six finger piers on the 50' slips of Pier Two. Finger Piers will be extended in an alternate manner, beginning with the first pier and preceding to piers 3, 5, 7, 9 and 11.

A vote was called for with the following response:

VOTING YEA: LeBlanc, Barbor, Compretta, LaFleur, Roth, Ward and Seal

VOTING NAY: None

OLD BUSINESS

Review Sec. 18-47. Charges for utilities and auxiliary uses.

Discussion on Electrical Usage

Jason explained to the commission that there is one master meter at the facility platform of the harbor and the individual pedestals have a small inner log meter. His understanding from the power company is that we can't resell the power. The city can't read a meter and tell the boat owner how much kilowatts he use per month, or how much he has to pay in electrical use. The cost has to be estimated out in the lease agreement depending on generators or power being used on a particular boat. The city would be allowed one annual adjustment. If a boat owner is using more electricity than anticipated, you can't make monthly adjustments, but you can try to recoup some of the cost on an annual basis.

Commissioner Ward stated that the electrical cost has to be factored into the linear foot of the boat. Ms Power could provide us with an estimation of power usage, if we give them some criteria.

During a lengthy discussion, the commissioners inquired if it would be against the law to include in the lease that we're going to monitor the boaters' electricity usage. The commission also discussed adjusting the lease rental agreement by the size of the generator on the boat. The matter will be discussed in detail when the board begins setting rates for the slip rental agreement.

Buz Olsen suggested monitoring the electricity use during the first year and adjustments could be made afterwards according to usage.

RECOMMENDED CHANGES

Sec. 18-47. Charges for utilities and auxiliary uses.

The rates and charges set forth in this section are adopted and prescribed and are to be paid to the city for the use of the municipal harbor and/or anchorage facilities and/or services in addition to the regular rates or charges prescribed and provided for under this article, with prorate deduction for the time the watercraft vacates the berth or ship.

- 1.) *Watercraft used as living quarters.* An additional charge shall be made to any watercraft owner or lessee who uses such watercraft as living quarters, being defined as continuous occupancy overnight for more than the space of 14 days within any 30 day period.
- 2.) *Advance payment; minimum term.* All rent shall be payable in advance, and no berth, slip or space shall be rented for less than one month, except for transient berthing.
- 3.) *Utility charge.* Where utility service is available, an additional charge for any watercraft or vessel shall be paid in addition to the monthly rental charge. If the watercraft uses or requires water or electrical services in excessive amounts in the opinion of the harbor master, the city shall have the right to discontinue such services until the watercraft owner agrees to pay a reasonable amount established by the harbor master for his excessive usage.

NEW BUSINESS

WATERWAYS ORDINANCE REVIEW & RECOMMENDED CHANGES

(SEE ATTACHMENT)

Sec. 18-57. Misdemeanors or unlawful acts within harbor confines.

- (a) Any person violating any of the following rules, regulations, and provisions shall be guilty of a misdemeanor and, upon conviction thereof by the municipal or city court, shall be subject to section 1-12:
 - 1) *Reckless operation.* No person shall operate any boat or watercraft in the Bay St. Louis harbor in a reckless or dangerous manner so as to endanger the lives or property of others.

- 2) *Speeding.* No person shall operate any boat or watercraft in the Bay St. Louis harbor at a speed greater than three miles per hour, or a speed leaving a noticeable wake, whichever is lesser.
- 3) *Drinking intoxicating liquor or using any legal or illegal drugs that affect the ability to operate a boat or watercraft.* No person shall operate a boat or watercraft while under the influence of intoxicating liquor or drugs within the Bay St. Louis harbor.
- 4) *Swimming, etc.* No swimming, diving, jumping, or water skiing shall be allowed in the waters of the municipal harbor except for in-water maintenance approved by the Harbormaster.
- 5) *Vehicles.* No bicycles, motorcycles, or other vehicles are allowed on any piers or walks within the Bay St. Louis harbor with the following exceptions:
 - a. Bicycles may be ridden in a safe manner on the breakwater.
 - b. Boat owners or their designated representatives may ride bicycles and golf carts to the foot of the pier where their boat is moored. Bicycles may be walked by the boat owners or their designated owners on the pier to their designated slip.
- 6) *Transporting gasoline or other fuels by closed container.* No person shall transport and no owner or operator of a watercraft or boat shall permit to be transported for use of his watercraft any gasoline or other fuel to or from any watercraft or dock except in a closed container, and in no event shall gasoline or other fuel be transported in open buckets; and no gasoline or other fuel shall be, in any manner, placed or stored on any dock or wharf except for immediate transfer into a watercraft or vessel moored or berthed at the dock or wharf.
- 7) *Shrimping, fishing, and crabbing prohibited.* Shrimping, fishing, and crabbing **by pole, line, net or seine** are prohibited from all piers within the Bay St. Louis harbor except along the north side and east end of the Rutherford Pier.
- 8) *Fires, fuel dock area, smoking, and open flames.* No person shall smoke tobacco products nor start a fire or allow a fire to continue that has open flames in or around the fuel dock area or within any boat or watercraft alongside the fuel dock area.
- 9) *Animals.* No person shall bring unleashed dogs, cats, or any other animals or pets within the Bay St. Louis harbor or on any wharf, pier, berth, or slip in the harbor.
- 10) *Disorderly conduct, profanity.* No person shall engage in profanity, obscene actions, public drunkenness, or disorderly conduct (unnecessary noise or disturbances) aboard any watercraft or boat within the confines of the Bay St. Louis harbor.
- 11) *Trespass upon watercraft or leased area.* No person, other than the owner or lessee, shall enter or board a leased area or watercraft or boat without the lessee's or owner's permission or authority communicated verbally or in writing to the Harbormaster. Such failure to obtain permission shall constitute trespass.
- 12) *Connecting special electrical equipment without authority or permission.* No person shall connect any spotlight, floodlight, engine room heater, or other special electrical equipment to the Bay St. Louis harbor's electrical system without the special authority or permission of the Harbormaster.
- 13) *Mooring to the breakwater or Rutherford Pier.* No person, owner, master, and/or operator shall be permitted to moor or tie up to the breakwater or the Rutherford Pier.
- 14) *Berth or slip occupancy before contract execution and assignment; removal of boat or watercraft after lien attached.* No person shall berth or moor a boat or watercraft without prior rental contract execution and assignment of a berth or slip as provided in section 18-43. No person shall remove a watercraft or boat from the harbor after a lien has attached for nonpayment of rent as provided by section 18-43.
- 15) *Harbor cleanliness; littering and polluting.* No person shall throw or deposit any litter, refuse, or waste material in, on, or about the Bay St. Louis Harbor or otherwise pollute the water of the harbor as provided in section 18-48.

16) *Towing of vessels.* No person shall tow any vessel or watercraft (except a lifeboat or auxiliary craft) behind another vessel into or out of the confines of the Bay St. Louis harbor; however, a vessel will be allowed to tow a self-propelled vessel which has become disabled and cannot operate on its own power.

- (b) In addition to the fine and/or imprisonment provided for, if the offender or person charged and convicted of the offenses or misdemeanors named in this section, as well as any other rules, regulations, or offenses set for in this article, is the owner or lessee holding a valid lease for a berth, slip or mooring or docking space, the municipal or city court may as further punishment for such offense or violation order the cancellation of the lease agreement, with an appropriate refund of any unearned rent; and thereafter, the owner, lessee, or master shall remove his boat or watercraft from the Bay St. Louis harbor within ten days from the date of the order by the judge.

Sec. 18-58. Department of Marine Resources.

The harbor master shall assign a berth, slip or mooring space for one boat or watercraft owned by the **Department of Marine Resources**; and this berth, slip or mooring space shall be free of any charges to **DMR**.

Sec. 18-59. Charter Service

The harbor master shall assign slips or mooring spaces for the operation of a commercial charter service, for passengers, fishermen or otherwise, to be operated at times and upon rules and regulations to be determined by the harbor master and to be approved by the mayor and **city council**; and these berths, slips or mooring spaces shall be charged to the owner or lessee at a rate to be established by the mayor and **city council** at time of application.

Sec. 18-60. – Reserved

Sec. 18-61. Boat or watercraft brokers (no changes)

No berth, slip or mooring space shall be leased or rented to a person for the sole purpose of displaying boats, watercraft or related merchandise for sale or lease to the general public, except upon application to and permission granted by the mayor and city council; but nothing contained in this section shall prohibit an owner, lessee or master from placing a for-sale sign upon a boat or watercraft situated in a berth, slip or mooring space leased by the owner, lessee or master.

Sec. 18-62. Numbering of watercraft required; exceptions (deleted MCA 1972, 59-21-7, (c))

- (a) *Documented watercraft.* The registration or ownership document furnished by the U.S. Coast Guard or a copy of the document shall be furnished to the harbor clerk at the time application is made for assignment of a berth or slip, all pertinent information contained on the document shall be furnished in memo form to the harbor clerk.
- (b) *Undocumented watercraft.* Registered per state law.

- (1) MCA 1972, § 59-21-5 states:

Numbering of undocumented vessels required:

Exceptions: Every undocumented vessel equipped with propulsion machines, whether or not such machinery is the principal source of propulsion, using the territorial and navigable waters of the State of Mississippi, and every such vessel owned in the State of Mississippi and using the high seas shall be numbered in accordance with this chapter, except:

- (1) Foreign vessels temporarily using the navigable waters of the State of Mississippi;
- (2) Public vessels of the United States;
- (3) State and municipal vessels used solely for official business and displaying proper visual identification on its hull;
- (4) Ships' lifeboats;
- (5) Vessels designated by the appropriate federal authority;
- (6) Undocumented vessels used exclusively for racing;
- (7) Undocumented vessels operating under valid temporary certificates of number;
- (8) Vessels already covered by a number in full force and effort awarded pursuant to federal law, or a federally approved numbering system of another state; provided, that such vessel upon the request of the owner.

Sec. 18-63. Responsibility and liability. (no changes)

The city shall not be liable or responsible for any pecuniary loss or damage to a lessee of a berth, slip or mooring space which may have been caused by vandalism, public disorder, fire, inclement weather such as storm, wind, rain or abnormal tides, all of which will be at the full liability of the owner or lessee of the watercraft. The harbor master will attempt to notify the owner or lessee of these distress problems and may render as much emergency on-site assistance as possible without thereby assuming any responsibility or liability whatsoever for a pecuniary loss or damage of or to a lessee's property. Boat equipment, vehicles or other property stored on watercraft, parked in vehicular parking areas, or otherwise located within the confines or boundaries of the harbor shall be at the sole risk, liability and expense of the owner or lessee; and the city shall have no liability whatsoever for any loss, injury or damage to the owner or lessee of any boat or vehicle, or the owner of any property, his agents, servants, employees or guests, from any cause whatsoever.

Sec. 18-64. – Reserved.

Discussion on Flexibility of Using 60' Slips for Two Smaller Boats

The commission previously discussed removing three or more pilings from the 60' slips to allow easy mooring for boat owners with two 25' vessels.

Chairman Seal distributed pictures of a mooring beam system to the Commission that is being used in Florida. He stated that the boats could be securely moored without piles, and the system could be a good solution to mooring boats in the 60' slips that would not have piles. The boat owner of smaller crafts would pay the full cost of the 60' slip, and allowing two smaller crafts to moor in the slips would give us flexibility on usage of the larger slips. This option would also give our harbor something that no one else has on the Coast.

Jason stated that the piles are \$1,000 each and there would be a savings of \$6,000 if six piles are removed.

During discussion Chairman Seal stated that if the slips are not utilized by smaller watercrafts the larger boats could still moor there. The commission agreed to recommend removal of six piles from pier one on slips one and two.

RECOMMENDATION TO REMOVE SIX PILES ON PIER ONE

RE: Allow mooring of two smaller watercrafts in 60' slips

Commissioner Compretta moved, seconded by Commissioner LaFleur, to recommend that the Bay St. Louis City Council approve removal of six piles from Pier One on slips one and two for the option of allowing boat owners of two smaller watercrafts to moor in the same slip. Boat owners of smaller crafts would pay full cost to utilize the 60' slips.

A vote was called for with the following response:

VOTING YEA: LeBlanc, Barbor, Compretta, LaFleur, Roth, Ward and Seal

VOTING NAY: None

Beach Front Property Lease Agreement Discussion

Don Rafferty, City Attorney issued rough draft copies of a resolution authorizing the mayor to enter into a lease agreement with beach front property owners of public lands that the city leased from the Secretary of State. He stated that resolution is not set in stone, but just a beginning point.

Mr. Rafferty explained that the mayor asked him to present to the commission a proposal of a resolution of the mayor and city council on what to be done with the property space between the landowners and seawall as a development of part of the harbor. The mayor wanted the commission to review this resolution and he's asking the commission to come up with a proposal on how the city wants to lease the area between the adjoining property owners and the old sea wall and new seawall.

The resolution includes a *Ground Lease Area*: A particular property owner could lease a certain area that would not exceed 40% of the whole area to the water front and their property, which would leave 60% open for public access. The second area is the *Exclusive Licensed Area*: A property owner would pay an additional fee to prevent someone else from selling or merchandising, public access allowed. *Open Space*: Balcony or air space. How would we charge for this usage? *Public Access space*: Includes all other areas.

Mr. Rafferty explained that the lease the city has with the Secretary of State specifically states that we have a right to lease this area subject to the Secretary of State's approval.

The mayor is asking the Harbor Commission to review the document, come up with ideas and make a recommendation to him and the council at some point between now and mid January, so the city can go back to the Secretary of State with a proposal.

Chairman Seal requested that the resolution be placed on the agenda for review.

Chairman Seal passed out information from the Moffat & Nichol Study for the commission to review.

MOTION TO ADJOURN

Commissioner LeBlanc moved, seconded by Commissioner LaFleur, to adjourn the Oct. 22nd meeting, there being no further business to discuss.

A VOTE WAS CALLED FOR WITH THE FOLLOWING RESPONSE:

VOTING YEA: LaFleur, LeBlanc, Ward, and Barbor

VOTING NAY: None ABSENT: Seal, Compretta and Roth

Lee Seal, Chairman