

# **Minutes of Bay St. Louis Municipal Harbor Commission**

**Date:** Tuesday, October 22, 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:**

Ken Barbor

Charles LaFleur

Chet LeBlanc

Rod Ward

Mike Hemsley, (alternate)

**City Staff Present:**

Buz Olsen

Don Rafferty, City Attorney

Paula Fairconnetue

**Absent:** Lee Seal, Chairman, J.P. Compretta, Chris Roth

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The meeting was called to order by Buz Olsen, in the absence of Commission Chair Seal.

## **ELECTION OF VICE CHAIR**

The first order of business was to nominate a vice chairman of the board.

Commissioner Ken Barbor was nominated to the position of vice chairman by commissioner Rod Ward, seconded by Commissioner LaFleur. There were no other nominations from the floor.

A VOTE WAS CALLED FOR WITH THE FOLLOWING RESPONSE:

VOTING YEA: LaFleur, LeBlanc, Ward, and Barbor

VOTING NAY: None                      ABSENT: Seal, Compretta and Roth

## **APPROVAL OF MINUTES**

### **OCTOBER 15, 2013**

Commissioner LaFleur moved, seconded by Commissioner Barbor, to approve the minutes of the October 15<sup>th</sup> meeting, as presented.

A VOTE WAS CALLED FOR WITH THE FOLLOWING RESPONSE:

VOTING YEA: LaFleur, LeBlanc, Ward and Barbor

VOTING NAY: None                      ABSENT: Seal, Compretta and Roth

## **WATERWAYS ORDINANCE DISCUSSION AND RECOMMENDED CHANGES**

During discussion, the Harbor Commission recommended the following changes to the waterways ordinance.

**Sec. 18-32. Area division and assignment of municipal harbor.**

Commissioner LaFleur compiled a rough draft of definitions and division of the harbor. The commissioners agreed to use this information as a working document for recommended changes. Paula will email document to the board for review and they will bring input to the next meeting.

**Sec. 18-33. Office of harbor master.**

For the purpose of this article, the office of the harbormaster/harbor management for the city is created; and the harbor master is vested with full power and authority to enforce all the rules and regulations provided for in this article, fixing the rental charged for space. He shall be recommended by the Harbor Commission and appointed subject to the jurisdiction of the mayor and city council.

**Sec.18-34. Enforcement by harbor master. (no changes)**

- (a) The harbor master is empowered and authorized to make affidavits or complaints before the municipal court in the enforcement of this article and any and all other municipal ordinance of the city or laws of the state the violation of which occurs within the confines or boundaries of the municipal harbor.
- (b) Within the boundaries of the harbor, the harbor master shall exercise arrest and police power or authority concurrently with the member of the police department. In exercising limited jurisdiction, the harbor master shall not be construed to be a member of the police department; but the harbor master shall continue to report and be accountable to the mayor and city council. In the enforcement of this article, if any need or necessity arises that requires the assistance of the police department, the department shall respond at the request of the harbor master.
- (c) In exercising his duties, the harbor patrol shall be required to wear badges and clothing identifying him as city harbor personnel. If the harbor master shall undergo the basic firearms training course for police officers and receives authority to do so by the mayor and city council, the harbor master shall be authorized to carry a firearm in the course and scope of his employment and solely within the confines of the harbor. Any harbor master authorized to carry a firearm shall be required to obtain a recertification from continued training at least twice a year. The harbor master's vehicle shall be clearly marked and equipped with a city radio to provide easy communication with the police department.

**Sec. 18-35. Reports, registration upon arrival. (no changes)**

The master or owner of all incoming watercraft shall immediately report the arrival of the watercraft to the harbor master and arrange for berthing facilities or space for the watercraft.

**Sec. 18-36. Overnight berthing. (no changes)**

If the master or owner of an incoming watercraft shall desire overnight berthing, the harbor master shall, if space is available, upon the report of the arrival of the watercraft, assign berthing facilities to the watercraft at the rate provided for in this division.

**Sec. 18-37. Application for berth or slip required; rental contract.**

- (a) Before being assigned berthing or slip facilities or space for watercraft, except as provided for in section 18-36, the owner, lessee or master of the watercraft or other duly authorized agent of the owner or lessee of the watercraft shall make application in writing, on the form provided by the city for berthing or slip facilities or space; and before the owner or lessee and/or master or agent in charge of any watercraft shall permit any watercraft to occupy any berth, slip, space or docking facilities, there must

have first been executed a rental contract on the form provided by the city; however, commercial watercraft wishing to dock sporadically or on occasion for the sole purpose of picking up or discharging passenger or their seafood catch may be permitted to do so upon request to and on permission being given by the harbor master.

- (b) Berths or slips shall be assigned by order of application date, with property tax paying residents of the **City of Bay St. Louis** receiving first priority, followed thereafter by **county residents** then other residents of the state and then by all other applications. An application from a **city resident** shall be given priority over the priority granted to an out-of-county former lessee under the sale-transfer option set forth in section 18-42. The time allowed for an applicant to accept or reject an offered lease contract shall be 48 hours from time of personal notice by telephone or 72 hours from date of postal notification to address shown upon application. If an applicant refuses or rejects a berth or slip offered in a lease contract or fails to accept an offered lease or rent contract within the time allowed, the application shall be dropped to the bottom of the priority or waiting list, or the application shall be placed in the inactive file. Applications for a berth or slip shall remain upon the active list for a period of six months, and if not renewed for an additional six-month period they shall be passed to the inactive file. If an application is filed with intention to later acquire or purchase a watercraft, a period of 180 days from date of notice to applicant of an available berth or slip will be allowed the applicant to consummate the purchase of the watercraft and present evidence of such purchase. However, the applicant shall make a nonrefundable deposit for one month's rent for the privilege of preempting the rental of the berth or slip to another applicant. **The rental option may be extended for additional 30-day periods upon a showing the lessee of just cause for the delay in the delivery of the new or different watercraft.**
- (c) **Application for multiple slips will be handled on an individual basis by the harbor master.**
- (d) **Prior violation** of this article shall bar the filing of an application for a period of six months from the date of conviction.

**Jason Chiniche, BMA**

**RE: Pump-out Station Submittal**

Jason explained that the Harbor Project was designed with the intent of having two fixed permanent mount pump-out stations that would be mounted at the fuel dock. We started looking at other facilities, and thought that it would be beneficial to the Bay Harbor to switch to two (2) portable units. The units would be mounted be on carts and pushed around to service the boats. The portable units can be hauled off during a storm. Ideally, during a storm the units could be loaded in the comfort station and hauled off together. The permanent mounts cost approximately \$26,000 each. We would have more flexibility with the portable units. A cleanout and discharge hydrant would be installed at the fuel dock. The downside is that the portable tanks hold only 55 gallons. The project was designed based around a widget and the contractor has to submit to us product data for the different line items, so we've gotten over 100 submittals on the project to review. The contractor is allowed to substitute different manufacturers, makes and models for bid items. We have to make sure that what the contractor submit meets qualifications. This submittal for the portable tanks is from a reputable manufacturer, and we've checked to make sure that the unit was compatible. This system that's being used at the Pass Christian harbor and it's working well for them. . The portable stations cost less than a fixed unit, so we're anticipating a credit from the original bid.

Commissioner Ward inquired if custody and control of the portable unit would be turned over to the user.

Jason stated that was a decision for the city to make, but Clean Marina recommends or requires that the facility manages the pump-out stations.

Commissioner LaFleur stated that a training session could be done through the harbor master's office to authorize deckhands to handle the portable unit.

After a lengthy discussion on the pros and cons of having a portable unit, Commissioner LeBlanc inquired if Jason needed a recommendation from the commission regarding the portable unit.

Jason stated that he was primarily giving the Commission information.

Commissioner LaFleur inquired if the project was at the process where a decision needed to be made about using a fixed or portable unit.

Jason stated that once the submittal is sent back to the contractor, it means he would move forward with the portable unit.

Commissioner Ward stated that the portable station could serve as a fixed unit simply by putting it in a position and not moving it.

### **Construction Update**

Jason stated that another pile cap was poured today on the breakwater wall on the east side. We have two (2) more pours and that long wall will be complete. The octagon area is taking a little longer, but the contractor should be finished with the entire wall within two to three weeks. Piles are going in for the finger piers and framing is going in on some of the other piers. Pier 4 framing is complete. Dredging will start next week along the bulkhead wall. The wall needed support on each side before it was tied in, so we required the contractor to move sand along the wall so it would stand up. Now that the wall is tied in and anchored, they will dredge along the wall and redeposit sand on the outside base along the Rutherford Pier on the north side and on the outside of the breakwater wall on the south side.

The contractor over dredged earlier to start construction on the cylinder piles. Because this is a huge operation, he needed to over dredge to get the barge and crane in position. Now he's ready to take the sand and put it back to fill in the areas until it levels off.

### **Sec. 18-38. Fees, rates and charges.**

The rates and fees for dockage, mooring space, slips, berthing or anchoring, or other use of the facilities of the municipal harbor shall **be recommended by the Commission** and approved by the mayor and city council from time to time and on file in the office of the city clerk.

### **Sec. 18-39. Rent contracts not assignable; lending or subletting prohibited.** (last sentence deleted)

The rent contract as provided for in section 18-37 shall not be assignable; and the space, berth or slip rented may not be loaned, sublet or used by any watercraft other than the watercraft described in the rent contract (except as provided in section 18-44) while owned by the person shown in the contract to be the owner or lessee. Absence from or on the vacation of a berth, slip or space longer than a period of seven days shall require notification to the harbor master, with the harbor master being advised of the return date of the watercraft. As part of the consideration of the rent contract, the city reserves the right to use or temporarily assign the berth, slip or space during the absence of the watercraft.

### **Sec. 18-40. Rental to delinquent lessee prohibited.** (no change)

No berth, slip or space shall be rented to any person who has failed to pay the city all rental charges or fees for any berth, slip or space upon any watercraft previously berthed, moored or

docked in the municipal harbor. Upon full payment of all delinquent rental charges or fees, the applicant may be considered for assignment of a berth or slip.

**Sec. 18-41. Payment of rent.**

All berth, slip or dockage space rent shall be payable in advance at the harbor clerk's office; and no watercraft shall occupy or utilize any berth, slip or dockage space until the rental has been paid pursuant to the rent contract, nor continue to use such space after the period for the rent has been paid, nor after the expiration of the term of the rent contract or as otherwise provided in this section; except a 15-day grace period is granted unto the lessee of such berth, slip or dockage space, within which to bring current the lease or rent payments due under the rent contract. Failure to bring rent current shall immediately cancel the lease or rent contract, and the lessee shall have seven days in which to remove his watercraft from the municipal harbor. A moving fee shall be charged if the harbor master is required to remove the watercraft from the harbor after the expiration of the seven days allowed for the removal. Commercial watercraft sporadically or on occasion picking up and/or discharging passengers without having regular dock or other space allotted or rented shall, upon assignment of space by the harbor master as provided in section 18-35, pay, in advance, to the harbor master's office or at city hall, the proper charges for such space, which charges shall be adjusted prior to such craft's leaving the dock.

**Sec. 18-42. Watercraft sold or leased rent canceled.**

Upon the sale, lease or transfer of title of any watercraft shall immediately cancel the rent contract, upon which a berth, slip or space has been assigned for such watercraft; the lessee shall have a 180 day option for leasing or renting the berth or slip to negotiate for an acquire another watercraft of same size and category and to show evidence of its acquisition to the harbor master. If the lessee should acquire a smaller or larger craft and/or different category, the lessee's option shall apply only to an appropriate size slip and/or the appropriate category, with the date of his original application to determine his place on the waiting list. The rental option may be extended for additional 30-day periods upon a showing by the lessee of just cause for the delay in the delivery of the new or different watercraft. The rental charge for the berth slip shall be prepaid during this rental period; but if the lessee fails to acquire a new or different watercraft during that period or unable to produce evidence of acquisition, such options shall be cancelled and the prepaid rent shall not be refunded to the lessee. Such vacated berth or slip shall be assigned to the next applicant in line or order upon the priority list kept and maintained by the harbor clerk. It shall be necessary for the new owner of the watercraft previously assigned to the berth or slip to make an application for a berth or slip and to be placed upon the waiting or priority list. The new owner of the watercraft shall have no longer than 15 days upon satisfactory arrangement between the former lessee and the harbor master to remove the watercraft from the berth or slip.

**Sec. 18-43. Lien; watercraft; rent declared.**

- (a) If any watercraft occupies any berth, slip, dock, wharf or mooring space at any pier, wharf or dock in the municipal harbor without there first having been made an application for such slip, berth or space, and space having been allotted through execution of a rent contract, or if the rental is not paid on expiration of the original term or any renewal term of a rent contract, there shall be a lien that is not in lieu, but shall be in addition to the lien, as provided by MCA 1972, 85-7-9 et seq. on the watercraft occupying such berth, slip or mooring space for not less than one month's rental regardless of the time such space is so occupied, in the sum provided by this division; and it shall be the duty of the harbor master to promptly proceed with the enforcement of the lien.
- (b) The removal of the watercraft from the municipal harbor after the lien has attached shall constitute a misdemeanor; and the person responsible for removal upon conviction by the

municipal or city court shall be subject to fine and/or imprisonment, all as provided under section 18-57.

**Sec. 18-44. Changing berths prohibited** (last sentence deleted)

No person, owner, master, lessee and/or operator shall transfer any watercraft from one berth, slip, or mooring or docking space to another, except in a temporary emergency upon order or authorization of the harbor master.

**Sec. 18-45. Occupancy of only assigned berths; impoundment of watercraft.**

No watercraft may occupy any berth, slip, or mooring or docking space other than the one assigned it, except as otherwise provided for in this division; and if any watercraft is found occupying any berth, slip, or mooring or docking space other than the one assigned to it or if any violation of the provisions of this article by the improper berthing of any watercraft within the confines of the municipal harbor is committed, the harbor master, or his designee may impound such watercraft and remove it to a safe place to be determined by him; and any watercraft so impounded shall remain in the custody of the harbor master until all fines, penalties, charges or liens levied against the watercraft or the owner, lessee or master have been paid in full.

**MOTION TO ADJOURN**

Commissioner LeBlanc moved, seconded by Commissioner LaFleur, to adjourn the Oct. 22<sup>nd</sup> 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

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Lee Seal, Chairman