

**PEASE DEVELOPMENT AUTHORITY
PORT COMMITTEE MEETING
MINUTES**

Thursday April 6, 2023

Presiding: Neil Levesque, Committee Chair

Present: Steve Fournier, Committee Member
Karen Conard, Committee Member

Attending: Geno J. Marconi, Division of Ports and Harbors Director;
Paul Brean, PDA Executive Director;
Anthony Blenkinsop, PDA General Counsel

I. Call to Order

Director Levesque, Committee Chair, called the meeting to order at **8:30 a.m.** in the boardroom of the Pease Development Authority at 55 International Dr. Portsmouth, NH.

II. Acceptance of Committee Meeting Minutes: April 14, 2022

Director Fournier **moved** the **motion** and Director Conard **seconded** that the Pease Development Authority Port Committee accept the Minutes of the **April 14, 2022** Port Committee meeting.

Discussion: Director Conard indicated under adjournment, the reference of Director Anderson should be changed to reflect Director Conard; no other changes.

Disposition: Resolved by **unanimous** vote for; motion **carried**.

III. Public Comment:

Brad Cook– Vice Chair of Port Advisory Council (“PAC”) – With respect to the draft Rights of Entry (“ROE”) which have recently been provided to ROE holders (particularly the passenger boats in Hampton and Rye), asked if there were plans for a means for the operators to discuss the contents of the draft ROE proposed. Cook indicated there have been significant changes as well as a financial change. Cook spoke to previous changes in fees or rules have gone to public hearing and stated there should be some form of discussion available for individuals who may have concerns relative to the changes. Some of the vessel operators have been tenants for decades and they fill the parking lots at Hampton and Rye Harbors on a regular / daily basis with there being a financial component to all of this. At this time Cook has not seen any venue where the ROE tenants would have any discourse with the PDA Board or governing authority who has control over the ROE.

Levesque indicated if an inquiry is received from any of the ROE holders a response will be provided.

Deputy Director / General Counsel Anthony I. Blenkinsop (“Blenkinsop”) stated for clarity that in the drafts which were sent out, the fee for the first season of the ROE remains the same at \$1,000.00 and the second year it is increased to \$1,250.00. When reviewed by former Assistant Director of Ports and Harbors Grant Nichols it was determined that the pricing had not changed in years; the increase was also contained in the draft ROE which was included in the Board packet of March.

Cook indicated there were other provisions such as parking and considerable expansion of the boilerplate in the ROE and the concerns may not just be financial.

Levesque indicated there have definitely been changes.

IV. Old Business:

a. Update on Hampton Floats

Director of Ports and Harbors (“DPH”) Geno Marconi (“Marconi”) spoke to this being a project that was started two years ago as DPH received ARPA funds from the State. During the first year some of the floating docks on the south end of the bulkhead were replaced. Over the winter, the same contractor, replaced the floats along the bulkhead where the fuel dispensers are. The dogleg that is part of the skiff flows was completed in coordination with DPH staff when the rest of the floats were put in around March 15th. Riverside Pickering Marine installed and adjusted the new floats so all of the floats down in Hampton are either brand new or a year old.

Marconi indicated the floats were installed early this year as the National Fishery Service opened the Haddock season on April 1st and all of the party / charter boats were booked with passengers. So for the safety of the ingress and egress of passengers the floats were installed earlier than usual.

b. Storm Damage Update

Marconi provided Committee members with several photos of the Rye Harbor wall prior to the December storm, during the storm, after the storm and subsequent repairs. Marconi indicated the fuel lines that go to the sump and then out onto the recreational docks with the original fuel line going along the top of the bulkhead / riprap and the crushed stone would wash away after storms. Recently added crushed stone and armor stone over the top as well as concrete blocks in an effort to minimize movement of the crushed stone. The fuel lines were not exposed and DPH did not have to obtain permits from DES; where the storm happened in December had to do something to put things back. As it is understood, the way the rules work, if repairs are made within a certain period of time after a storm a DES permit is not required.

Marconi indicated the Federal government declared a disaster in the State of New Hampshire, but it didn’t cover Rockingham County. However, Nichols informed DPH of other grant money which is out there and are in the process of obtaining that money to pay for this work. This is not finished as the other component is to repair the parking lot and for the work that has been completed is approximately \$80,000.

c. Update on Rights of Entry and Concession Agreements

Marconi deferred to Blenkinsop and Executive Director Paul Brean (“Brean”) on this matter.

Blenkinsop indicated the Rye Harbor ROEs and Concession Agreements were sent out on April 5, 2023. There had been some further edits from the drafts in the March Board packets with the expectation that those interested could have them on the April and / or May Board agendas for approval. Blenkinsop indicated the ROEs are similar to the ROEs that have been in place for years. Additional changes, aside from the rental fee, is that it has been structured as a two season ROE, ending in Spring 2025, so that the ROEs can be on a schedule that is more conducive to the operations at the facility. There is new language regarding dogs at the facility, loading and unloading parameters, separate concession agreements for ready to eat items, employee parking (pursuant to Administrative Rules), abiding by parking regulations and storage behind the facilities. Many of these items are an attempt to address issues that have developed over the years.

The Concession Agreement has been distributed to two entities of Rye and this also establishes a 10% fee on gross revenues payable on a monthly basis with a minimum payment of \$1,000. This rate was consistent with the rate charged by the State at Parks for concession agreements.

d. Update on Rye Harbor Fuel System Replacement

Marconi indicated this was brought before the Board of Directors last year indicating DPH (certified staff) had gone through the yearly inspection with DES and after replacement of the sump and lines on the commercial side everything passed inspection. A few weeks later it was determined there was a leak in the connections to the collection sump in the dispenser under the recreational dock and therefore that service has been shut down. Cannot just replace the fittings as they are integral to line itself so the whole line needs to be replaced. A proposal has been received and approved by the Board. However, the payment was to have come out of the Harbor Pier Dredge Maintenance funds but these funds cannot be expended without prior approval of the Capital Budget Overview Committee (“CBOC”) which did not meet until the 1st of March. Where funding approval was just recently received, the contract has been signed. Engineers are working on the design and there will be a need for a little excavation. Marconi indicated the DES shoreline permit previously received is good until 2027 so will need to amend permit and provided additional information which outlines the work to the recreational side.

Will be replacing an old wooden enclosure which is rotting with a metal enclosure so plans and specifications are being prepared so this project can be bid out.

Levesque asked when someone would be able to pump gas; Marconi indicated that has not yet been determined, but there is a fuel pump on the commercial side which can be utilized. Anticipates it (recreational pumps) will be up and running this summer. Marconi indicated anyone can get gas on the commercial side, the pier use permit is for someone to conduct commercial activities at the facility.

V. Press Questions

There were no members of the press present.

Mike Donahue (“Donahue”), a member of PAC, asked for an opportunity to review the ROE and provide any comments which may be appropriate based on its experience. Where the ROE is trying to be integrated with the administrative rules the PAC has a role in the rulemaking function.

Blenkinsop indicated the ROE could be provided. Also indicated a prompt response would be appreciated as there may be entities looking to get its item on the April agenda and the packet will be closing next week. Otherwise, would be looking to place ROEs on the May agenda.

Donahue indicated the next PAC meeting is scheduled for April 19th; Blenkinsop indicated the Board meeting is on the 20th. Donahue indicated there may not be any comments after review.

Brean stated there are not any radical changes; Donahue stated PAC’s purview would be limited.

Levesque indicated Brean will make a decision on how and when that will happen.

VI. Adjournment

Director Conard **moved** the **motion** and Director Fournier **seconded** to adjourn the Port Committee meeting. Meeting adjourned at **8:54 a.m.**

VII. Consultation with Counsel (RSA 91-A:2, I (b))