

# CITY OF BAYFIELD HARBOR COMMISSION

## Minutes of January 9, 2023, 4 p.m.

Amended 1-16-2023

**Call to Order – Roll Call:** Chairman Dougherty called the meeting to order at 4 p.m. at the Bayfield City Hall followed by roll call.

**Present:** Bauer, Dougherty, Jensen, Shrider, and Zawislak

**City Council:** Bryan, Beagan, Carrier and Mayor Ringberg

**City of Bayfield Representatives/Staff:** Attorney Max Lindsey, PWD Kovachevich and Clerk Hoopman

**Others:** Operator Peterson and Doreen Johnson, Scott Randall, Dave Morris, Doug Lowithian, Jerry Johnson, Ken and Mary Tyler, Mary Dougherty, Tom Bloom, Rich Maher, Vivien, Tom Genz, Phil, Charlie Garvis, Fred Clark, Craig Hoopman, South Shore Architect, R. Baker, dj, Joanne Cirillo, Bill Bland, Paula Scott, Scott Payne, Carol Fahrenkrog-Chamber, Jed, James Cragoe, Tim Dukken, KT, Todd and Beret EK, Kate Kitchell, Dede Eckels, Matson, Cyn Bloom, Jonathen Nowaczek, Richard Amsden, Gary Magnuson, Jim Austin, Rich Ryan, Larry Munch, TJ Bieganek, Kent Johnson, Dave Judd, Solveig Hadland, Dan Willenbering, Marcie Gephart, Skye Bingham, Ciara Hudson, MB, TZ, Sarah Szymaniak, Tom Iverson, D. Green, John DeMars, JDE, Callers 01, 02, 03 and 04, unidentified

**Agenda:** Shrider/Jensen moved to approve the agenda. Q&A to the attorney will be allowed but will be limited to the Commissioner's and Common Council members only. Carried.

**Review/Accept meeting minutes of December 5, 2022:** Shrider/Bauer made a motion to approve the minutes of December 5, 2022, as presented. Carried.

Harbor Commissioners were provided a copy of the **draft Common Council minutes of December 14, 2022**, informing them of concerns made by Councilors and the public regarding the motion made at the Harbor Commission's December Meeting to pursue the municipal managed marina model versus other consider options.

**Receive input from Attorney Max Lindsey.** Attorney Lindsey answered the following questions:

1. Why would the City choose to have a Harbor Commission?  
A Harbor Commission can make money, the City cannot.
2. Why is the Harbor Commission made up of unelected officials?  
There is one elected official on the board, and it is governed by Statute 30.37(3).
3. Does the HC have the authority to decide the fate of the Apostle Islands Marina and how it's operated.  
Yes.
4. Assuming the HC has the authority, the Statutes indicate they are not empowered to financially obligate the City in any way without Common Council's approval. Does this mean the HC could use its own revenues to pay its debt OR any time a loan is needed the City Council must approve.  
No.
5. The HC has had several closed session discussions of the marina lease, was the use of closed session appropriate for these matters?  
Yes. The notices were very specific in noting the lease expiration date, and they were considering management, opportunities, and negotiations strategies.

6. What information needs to be made public regarding the matters discussed in closed session, specifically regarding the Marina Study.

The Marina Study (redacted as needed) is in the packet.

His written responses are attached for reference.

Follow Up Questions:

- Councilor Bryan, referencing Statute 30.38(13)(c), asked for confirmation that that net revenue in excess of paying expenses for operating, maintaining, and improving be transferred to the General Fund. He confirmed that is correct.

State Statute 30.38(13)(c) states: **(c)** *At the end of each fiscal year, the board shall compute its net revenue, if any, after paying the costs of operating, maintaining and improving the harbor. Thereupon, the board shall certify the amount of such net revenue, if any, to the municipal treasurer who shall cause such amount to be transferred from the harbor fund to the general fund of the municipality.*

Hoopman added there is a difference between gross revenues and net revenues and the Harbor Commission lays this out when they submit a budget each year to the Council. They have to retain enough money to pay bills and other obligations, some of the money is restricted. Additionally, even on years when they don't have a fund balance, they still have paid their obligated amount to the City's General Fund.

- Councilor Carrier asked about the questions he sent, specifically regarding 30.38(5). Attorney Lindsey explained this statute is specific to improvements and the Plan Commission should review when new improvements or changes to a site are being made. Not necessary for repair work. Bidding laws must be followed.
- Councilor Carrier asked for clarification on slip fees. There is a difference between slip fees and leases. It was clarified the HC can enter into leases for seasonal slips, but if they were to move forward with a lease for operation of the Apostle Islands Marina, they also need Council's approval according to the code.
- Chairman Dougherty asked Attorney Lindsay about conflicts of interest. Attorney Lindsay noted in the examples provided there is not a direct pecuniary interest in either matter and having expertise on boards/commission is good.
- Councilor Carrier inquired about the Marina Study and why and when to keep it confidential. Attorney Lindsay noted that as long as negotiations are going on, that would be a reason to keep information in confidence and that is appropriate.

**General Information - Apostle Islands Marina, Chairman Ted Dougherty:**

Chairman Dougherty explained to the Harbor Commissioner and those in attendance what occurred at the last Council meeting, followed by some meeting guidelines and an overview of the materials provided. He noted the work done by the Harbor Commission and the positive outcomes. Finally, he reported on the marina management issue.

His written report is attached for reference.

Marina Information Provided in the Harbor Commission packet. Informational, no action required.

- Draft Common Council Minutes of December 14, 2022
- Bayfield Taking Over Marina Operations – Ashland Daily Press 12/27/2022
- Current Lease 2018-2023
- Simply Marina – Apostle Islands Marina Sales Listing
- 2017/2018 Summary of Minutes (Previous Lease Discussions)
- Marina History
- Marina Study w/Jon Kukuk Resume (redacted as needed)
- Criteria Development Evaluation of Marina Management Plans, UW-Madison Extension, Kelly Pederson, Community Development Educator Summary and Score Card
- Non-Disclosure Agreement – Bayfield Harbor Commission Members & BD Marine, Inc.
- Summary of WI Municipal Marinas
- Memo to Citizens of the City of Bayfield – December 28, 2022, Michelle Shrider, Harbor Commission Member

**Input / Comments from Council and Commission Members:**

Councilor Bryan noted the previous Harbor Commission spent a great deal of time reviewing the figures during the last lease negotiations and noted the good work done by them.

Commissioner Bauer noted they likely didn't have enough time to pursue another model then, but this time the Harbor Commission agonized over the process and they double/triple checked the data before coming forward with a decision.

Mayor Ringberg provided information on other municipal marinas and the various management styles. Most are run by either the City or County, are overseen by a Harbor Commission and have Harbor Masters.

Shrider reiterated the Bayfield Harbor Commission does not have any control over B.D. Marine's Service operations. It was hopeful that portion of their business would stay in place or opportunities would be available to bring in services by another party/independent contractor.

Shrider further noted that Harbor Commission's generally never provide input in public on such topics, and especially not a year in advance of a lease expiration.

Mayor Ringberg noted BD Marina's employees could be hired by the City.

Councilor Beagan expressed concern about the City not finding a Harbor Master.

Councilor Bryan questioned if we really can run a municipal managed marina, its tough. It would be easier to lease it out and have others be responsible.

Commissioners Shrider and Bauer noted that none of this is easy, but it was determined to meet the most goals and objectives and provides the best financial outcome.

Carrier lamented on the use of closed session and the trust issues we have among parties.

Commission Shrider agreed to "carry the flag" on the communication piece going forward.

Commissioner Zawislak was wowed by all the input. He noted that hard decisions had to be made and now we need to continue moving forward. If we don't, we will be in the same position again in the future.

Commissioner Jensen said we are doing the best we can, and all Commissioners have only had the best of intentions for our community in mind. She hopes we can positively move forward.

Public Input on Agenda Items:

Scott M. Payne provided a written letter indicating there will be long-term negative effects on the City of Bayfield moving forward with a municipal management marina. Copies were provided.

Doreen Johnson, read a portion of a pre-written statement about business profitability. It was noted they pay one of the highest percentages with respect to other municipal owned marinas, and now she sees the profitability is directly tied to wages. She noted her and Bill are disappointed to be where they are at with this issue.

Joanne Cirillo, who brought a bag of popcorn to share, noted she was a business owner, a past City Councilor and now lives in the Town of Bayfield. She thanked the committee for their hard work and noted the difficult time she experienced while being on the parking committee. She supported the work done by the Harbor Commission.

Craig Hoopman, talked about sustainability and how the bills would be paid knowing the referendum to raise the levy was recently voted down. Aren't the Harbor Commission and City of Bayfield together? Aren't we all talking about the same thing and working toward the same goals?

Operator Peterson, add that part of the revenues stems from the labor providing winterization.

Bill Bland noted he was happy to learn about the reason to have a Harbor Commission from Attorney Lindsay.

Tim Dokken said he was present today because he received a letter from the City of Bayfield and the yacht club. He was considering purchasing a larger boat but now has concerns about working with new staff; he trusts the current marina staff.

R. Baker introduced himself as a marina resident. He likes continuity and said providing service is important.

Joanne Cirillo said she hopes we are forward thinking and don't lock into a particular land use that might not allow for a new idea.

Doreen Johnson thanked the Harbor Commission for their work and said it would be less impacting if it didn't all come from labor.

Zawislak/Shrider moved to close the public input session and continue with the remaining agenda items. Carried. (5:33 p.m. )

## **Marina**

1. Marina Management: No further discussion ensued. A unanimous decision was made at the last meeting. Commission plans to continue work on implementation plan.
2. Marina Lessee November Fees Report – Informational, no action required.
3. Marina Lessee - Issues/Concerns/Updates: Doreen Johnson said they have openings in the marina. Some are because of the marina management decision and uncertainty. She is hoping they will be filled this Spring.
4. Public Works Director Report: Issues/Concerns/Updates: PWD Kovachevich said the bubblers are on and are working great.

## **Other/ Business/Concerns**

1. Viking Cruise Line Letter was received informing the HC they will not be stopping in Bayfield in 2023; issues with the Passenger Safety Act which applies to foreign vessels.
2. Cruise Ship Sails on Past Bayfield – Ashland Daily Press 12/30/2022 – Informational, no action required.
3. Schedule Next Meeting(s): February 6 and March 6, 2023, 4 p.m.

Clerk Hoopman asked for a moment. Earlier in the meeting issues were noted about relationships between Commissioners and the Council. She noted there is a third piece and that is regarding the increasing number of negative comments about City Employees by the public. The comments being made are false and unwarranted. Kindly think about where your Public Works Employees were on Christmas morning? How are we to recruit and retain employees with this type of harassment? She also noted she has worked here for 29 years and has gone over an above her job duties and will continue to do so. This is OUR community; we love it and are committed to its success. She asked that our boards and council be advocates for us and urged people to call and ask questions before making judgements that are not deserved and untrue.

**Adjourn:** Zawislak/Jensen moved to adjourn. Carried. (6:02 p.m.)

A quorum of the City of Bayfield Common Council was present, but no direct action was taken by them.

Minutes by Billie L. Hoopman, Clerk