

# PORT OF BELLINGHAM

MAC (MARINA ADVISORY COMMITTEE) MEETING  
TUESDAY, APRIL 9, 2013  
SQUALICUM HARBOR OFFICE  
BELLINGHAM, WASHINGTON

## Minutes

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### Committee Members Present:

Elizabeth Kilanowski  
Ron Kleinknecht  
Jim Kyle  
Brian Pemberton  
Ian Puchlik  
Jerry Writer  
Jim Young

### Committee Members Absent:

Peter Border

### Port Representatives Present:

Dan Stahl  
Chris Tibbe  
Pam Taft  
Andy Peterson

### Committee Members Excused:

Bill Douglas  
Gene Knutson  
Doug Sterrett

### Visitors/Guests:

Commissioner Jim Jorgensen  
Bert Rubash  
Tim Gray  
Mike Camfield  
Kathy and Scott Seeman  
George Mundell  
Byron and Sue Richards  
Bob Tull  
Ken Culver

### Roll Call

The meeting was called to order at 6:00 pm.

### Public Comment

None.

### Update on Multiparty Boathouse Organizing Agreement

Bob Tull and Ken Culver, both owners of Multiparty Boathouses (condo style) and members of the MAC's subcommittee on boathouse issues, came to the MAC meeting to give an update on their efforts at drafting an Organizing Agreement that could be used by owners in the Multiparty Boathouses. Bob Tull reviewed the history of other agreements in the harbor

that may be useful in developing a new agreement. Bob has searched for other models and has come up with one from the state of New Hampshire that he thinks might be a useful model. Bob suggested that he may have a draft ready for review by other Multiparty Boathouse owners early next week. As there were many guests at the MAC meeting who were also Multiparty Boathouse owners, there was significant Q & A back and forth between Bob Tull and these various owners. Many people thanked Bob and Ken for their efforts in developing this agreement. All agreed that getting these Organizing Agreements executed will be potentially difficult and is overdue, but will yield benefits to all parties concerned.

### **Changes to Rules & Regulations for Boathouses**

With their update concluded, the MAC then moved into the next item – Changes to the Rules and Regulations for Boathouses. Ken Culver and Bob Tull both had some comments for this document and then departed as they had an engagement at another meeting across town. There was also substantial discussion and Q & A with other MAC members regarding the final draft of the 2013 Rules and Regs Boathouse Policy (attached to these minutes). There were two requested changes to the final draft document. The first was Section 2.3,(J), (1)( n): It was agreed to take the final sentence from this paragraph out that reads “Failure of the Boathouse Organization to comply with all the terms and conditions of the Boathouse Agreement will be considered a default in the moorage under any other lease or agreement that each Boathouse Owner has with the Port.” It was suggested that sentence be removed because the Boathouse Agreement has yet to be drafted.

The second item was Section 2.3 (J),(1)(o) (ii) on page 4. The language from the document (“Insurance for Multiparty Boathouses shall be maintained at a minimum of \$5 million for liability for property damage and death and/or bodily injury.”) was struck and replaced with the following language: “Insurance for Multiparty Boathouses shall be maintained at a number to be determined after Multiparty Boathouse Agreements have been approved by the Port.” Ken Culver had commented that he did not think that the \$5 million liability policy would be available in the market. Based on his concerns, the MAC agreed to put this temporary language in the document for now. Additional research will be needed to determine the appropriate level of insurance, and to also confirm that it is commercially available.

With those changes made to the final draft Jim Young moved for its approval and to be forwarded on the Port Commission of its consideration at the meeting on April 16. This motion was seconded by Jim Kyle and passed unanimously.

A letter was brought in by Mike and Teresa Camfield regarding boathouse ownership and they requested that the letter be made a part of the minutes. A copy of the letter is attached.

### **March 12, 2013 Minutes**

The March 12, 2013 minutes were approved unanimously. The motion to approve the minutes was made by Jim Young and seconded by Jerry Writer.

### **Dockside Feedback**

Ron Kleinknecht reported that he talked with his neighbor about marina operations and for the first time in a long time, this gentleman could come up with no complaints about anything in the marina which Ron thought was the epitome of high marks.

Jim Young thanked the staff for work on the inner harbor refurbishments. He has been able to move his vessel back to his berth and he said things look very ship shape: Kudos to the crew for a job well done.

Elizabeth Kilanowski had an issue on Gate 12 parking. Chris recounted his work with real estate staff to address the issue. Signage has been changed in the loading/unloading zone for Gate 12 boaters. Staff is monitoring this and issuing yellow tags to offending vehicles. License plates are being logged and calls will be made if violations persist.

### **Rules of Order**

Dan presented a draft update to the Rules of Order. This was discussed and eventually moved for approval by Ian Puchlik and seconded by Ron Kleinknecht. The update was then approved unanimously. This document is also attached to the minutes.

### **Update to Pay Phones**

Chris provided an update from the discussion at the last meeting. Chris had data to support the earlier discussions that the phones are significantly under used and expensive. His suggestion is to reduce a number of these and install in their place safety phones for 911 use. The next step for Chris will be take this idea to the Port Safety Committee for formal recommendation. Chris will then loop that back to the MAC at a future date. This met with approval and appreciation by the MAC.

### **Staff Updates**

Chris encouraged the MAC members to look at the next issue of the newsletter as there are a lot of things going on in the harbor as we move toward boating season, Opening Day and CharterFest.

With no further business, the meeting was adjourned at 8:00 pm.

# Harbors' Rules, Regulations, and Procedures

## FINAL DRAFT - Boathouse Policy

April 9, 2013

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### 1. INTRODUCTION

#### 1.3 DEFINITIONS

- D. Boathouse, Individual Boathouse and Multiparty Boathouse: A Boathouse is a privately owned floating structure consisting of floats, walls, and a roof, which is capable of being moved on water and is connected to a Port float system and covers or encloses a Slip or Slips. An Individual Boathouse covers or encloses only one Slip. A Multiparty Boathouse is a Boathouse that covers or encloses multiple Slips.

(It is noted that in the City of Bellingham Ordinance # 2012.09.044, Section 4502, 'Definitions,' the term "Condominium Boathouse" is used instead of "Multiparty Boathouse." The reference "Condominium Boathouse" in City of Bellingham Ordinance #2012.09.044 shall mean a "Multiparty Boathouse" as used herein.)

- E. Boathouse Organization: A legal entity properly registered in the State of Washington that owns a Multiparty Boathouse.
1. Multiparty Boathouse Agreement: An agreement (which is separate from a moorage agreement) that is between the Boathouse Organization and the Port of Bellingham.
- F. Boathouse Owner(s): The Owner of an Individual Boathouse or the collective Owners of a Multiparty Boathouse. The Boathouse Owners of a Multiparty Boathouse must be a Boathouse Organization (as defined herein) duly registered in the State of Washington.
- G. Float: A floating structure normally used as a point of transfer for passengers and goods, or both, and for mooring purposes.

#### 2.3 MOORAGE & FACILITIES

J. **Boathouse Moorage:**

1. Boathouses (Individual and Multiparty)
  - a. Boathouses (Individual and Multiparty) are billed pursuant to Moorage Tariff No. 1.

- b. Moorage Agreements are required for every vessel mooring inside a Boathouse.
- c. Boathouses must be kept in a reasonable state of repair (as solely determined by the Port); consistent with all applicable federal, state, city and Harbors' Rules Regulations and Procedures.
- d. Boathouses will comply with all applicable building and fire codes and Harbors' Rules, Regulations, and Procedures.

At Squalicum Harbor, it is the responsibility of the Boathouse Owners to comply with Bellingham Municipal Code 4501 adopted by the City of Bellingham on September 24, 2012.

- e. The Port will furnish electricity and potable water to the outside of each Boathouse, at which point the Individual Boathouse Owner or the Boathouse Organization will be responsible for obtaining proper permits to connect to it and maintaining all systems from the point of connection inward to the Boathouse. The temporary interruption of these services shall not be the basis of any claim against the Port.
- f. The Port may disconnect electrical service to any Boathouse where the Port, in its sole discretion, determines that continued connection may be unsafe or where the electrical system in the Boathouse may not be in compliance with applicable code. Any damage resulting from the disconnection will be at the sole risk and expense of the Boathouse Owner(s). The Port has no duty to inspect any electrical service of any boathouse or make any determination as to the safety or compliance of the electrical system. The Port may, in its sole discretion and without liability, require that the Boathouse Owner(s) obtain an electrical inspection prior to reconnecting service.
- g. All Vessels must fit within its respective Boathouse. Vessels will be allowed to overhang out to the piling if permission is granted in writing by the Harbormaster.
- h. Modifications to a Boathouse must be approved in advance, and in writing by the Port. Each Boathouse Owner(s) or Boathouse Organization must follow all applicable permitting requirements.
- i. Liveboards are prohibited from living on a vessel inside a Boathouse.

- j. To prevent hazards created from snow and/or ice, removal of snow build-up from rooftops of boathouses will be the responsibility of the Boathouse Owner(s).
- k. Boathouse Owners and Boathouse Organizations, upon request, will provide access to their boathouses for the purpose of emergency access as well as fire, safety, and environmental inspections. The Port may require that a key for each Boathouse be provided to the Port. However, the Port has no duty to inspect the Boathouses or to respond to any emergency.
- l. Should a Boathouse, through any method or means, cause destruction or damage to any other boathouse, vessel, and person or other properties in the marina, the Boathouse Owner(s) shall bear sole responsibility and liability for resulting damages.
- m. In the event of damage to or destruction of any Boathouse by fire or other casualty which renders the Boathouse unusable or unsafe (as determined by the Port), the Boathouse Owner(s) shall, at the direction of the Port, either (i) promptly remove the Boathouse and all personal property, or (ii) be responsible for all costs incurred by the Port to remove the Boathouse and all personal property. In the event of such an occurrence, the Port will endeavor to, but not obligated to, provide regular non-covered alternate moorage for the tenant's boat for a period of time reasonably determined by the Port.
- n. Failure of a Boathouse Owner(s) to abide by the terms and conditions of these Rules, Regulations, and Procedures, or failure to pay moorage fees, storage rental fees or any other fee charged by the Port by the due date shall constitute a default under the terms of this Assignment. A default under this Assignment shall constitute a default under any other lease or agreement Moorage Tenant has with the Port. Failure of the Boathouse Organization to comply with all the terms and conditions of the Boathouse Agreement will be considered a default in the moorage under any other lease or agreement that each Boathouse Owner has with the Port.
- o. The Port requires that all Boathouse Owner(s) carry and maintain liability insurance on the boathouse structure. All Boathouse Owners and Boathouse Organizations are required to provide evidence of insurance by submitting a certificate of insurance. It is the responsibility of the Boathouse Owner and Boathouse Organization to supply the Harbor Office with a current insurance certificate each year.

- i. Insurance for Individual Boathouses shall be maintained at a minimum of \$1 million for liability for property damage and death and/or bodily injury.
  - ii. Insurance for Multiparty Boathouses shall be maintained at a minimum of \$5 million for liability for property damage and death and/or bodily injury.
- p. Prior to transferring any interest in a Boathouse or a Multiparty Boathouse, the new Boathouse Owner must fully execute a moorage agreement with the Harbor Office. Moorage charges will remain with the Moorage Tenant until such time the Port receives proof of ownership transfer with a signed Bill of Sale or other legal document of title transfer, proof of insurance, and a current copy of vessel registration/documentation.

For Multiparty Boathouses the Moorage Agreement will not be changed until the Port receives proof of the transfer of interest in the Boathouse Organization.

- q. Boathouse Owners may sub-assign their Boathouses or space inside a Multiparty Boathouse as follows:
- i. The sub-assignee must fill out a moorage agreement with the Port of Bellingham and provide current vessel registration and a certificate of vessel insurance which meets the Port's insurance requirement.
  - ii. The Boathouse Owner(s) will ensure the vessel carries insurance pursuant to the Rules, Regulations and Procedures.
  - iii. All applicable moorage fees shall remain the responsibility of the Boathouse Owner.
  - iv. The Boathouse Owner ensures the sub-assignment abides by all Harbor Rules, Regulations and Procedures.

## 2. Multiparty Boathouse

- a. Multiparty Boathouse Owners must form and maintain a Boathouse Organization acceptable to the Port (i.e. partnership, association, LLC, etc.), and submit evidence, in the form of a certificate of registration and evidence of annual renewal from the Washington Secretary of State.

Persons with an interest in Multiparty Boathouses will be given until January 15, 2014 to meet these requirements.

- b. Each Boathouse Organization must formally appoint one person to act as the contact person for the Port to address Port related issues pertaining to the Multiparty Boathouse.
- c. Each Boathouse Organization must provide an address where notice from the Port can be mailed and agree that posting of notice on the entrance point of the Multiparty Boathouse together with mailing to the specified address and to each Moorage Tenant in the Multiparty Boathouse constitutes notice to the Boathouse Organization and the Multiparty Boathouse owners.
- d. Each Boathouse Organization is required to execute a Boathouse Agreement with the Port.

We view boating as a family recreation and want it to remain so. We have a concern that we are going to be priced out of the ability to remain participants in the boating community.

We have a boathouse that shares space with others and our concerns are:

1. Requirements for new codes to apply to existing structures, ie sprinkler requirements. Appreciate the Port initiating a study on how to provide water to these structures. This becomes difficult since boathouses move on the water. Since our belief that part of our moorage rate includes fire protection and there is no water provided from port to our location, water availability for public safety is vital.

Concerned with cost of sprinkling system, can price us out of market easily.

2. Must be better solution rather than requiring all shared space boathouses to band together and form legal entities. These boathouses can house different levels of boats, ie half million dollar boats versus older and smaller boats. This becomes legal nightmare on allocation of costs, etc.

Upon checking with insurance carrier, we have had no difficulty having our boathouse insured sharing common walls. However, we have been made aware that we are fortunate to have existing coverage as we would have a more difficult time securing coverage in present market. A LLC or other legal entity would force us to get one policy, doesn't work when our boat is definitely at the end of the valuation scale.

We appreciate the removal of the personal guaranty language. We support this. We also support that insurance coverage must be provided to the port for their liability purposes, HOWEVER, it must be monitored by the port for compliance. This is important. As an additional insured, it would provide the port coverage. We prefer this approach. We individually have coverage for our boathouse, our boat and pollution liability. This is responsible boating for us and our fellow boaters.

There is so much that is being directed solely at the boathouse owners. We believe we are the only ones in our boating group that still own a boathouse. This is very sad and unfortunate. Please do not have boathouse owners that pay property taxes on their

structures thereby benefiting the port and the city budgets the brunt of all of these requirements. Many boathouses are already empty. It is so sad for the boating community and us personally.

Thank you.

*Mike & Teresa Campbell*

*Mike Campbell*

## **Rules of Order for the MAC**

### **Purpose**

The purpose of this document is to supplement Resolution # 1144 of the Port of Bellingham, dated January 4<sup>th</sup>, 2001, which calls for the MAC to “develop rules of order and basic procedures.” Although MAC meetings will be run by loosely following Roberts Rules of Order (see Action paragraph below), the MAC is dedicated to holding meetings in such a way that encourages candid public input, and that all recommendations are made in a transparent manner that is respectful of all the members of the MAC, the public and port staff.

### **Chair and Vice Chair**

The MAC shall elect a chair and vice chair, who shall serve at the discretion of the body.

### **Action**

- For the MAC to take action there needs to be a motion from the floor, along with a second. Motions pass, provided that a quorum is present, with a simple majority of the voting members present. A quorum will be defined as five members (per Resolution 1144 the minimum number of voting members shall be 10).
- In the event of a tie vote, the Chair shall be given a second vote. Any recommendations to the Port Commission using this vote shall be fully disclosed.
- Actions to the Port Commission should be coordinated thru the Chair, in such a way that a written summary is routed to the Port Commissioners consistent with the development of their normal agenda.

### **Attendance**

Should any MAC member miss three meetings in a calendar year without an approved absence (as defined by a direct contact with the Chair or Port staff), he or she will be removed from the committee.

*This document replaces previous editions and drafts of supplements to Resolution #1144*

**Passed by motion of the MAC on 09 April 2013**

MAC Chair

  
Brian Pemberton

MAC Vice Chair

  
Jim Young