

October 1, 2015

Via E-mail/Hand-Delivery

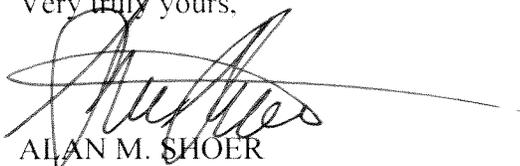
Ms. Luly Massaro
Division Clerk
Division of Public Utilities and Carriers
89 Jefferson Boulevard
Warwick, Rhode Island 02888

In re: Rhode Island Fast Ferry, Inc. – Docket No. D-13-51

Dear Luly:

On behalf of Rhode Island Fast Ferry, Inc. (“RIFF”), please find an original and four (4) copies of the enclosed Motion to Modify Procedural Schedule to Allow Limited Additional Discovery from the Town of New Shoreham for filing in the above docket.

Very truly yours,



ALAN M. SHOER
ashoer@apslaw.com

Enclosures

STATE OF RHODE ISLAND

DIVISION OF PUBLIC UTILITIES AND CARRIERS

IN RE: RHODE ISLAND FAST FERRY, INC.:

Docket No.: D-13-51

**RIFF'S MOTION TO MODIFY PROCEDURAL SCHEDULE TO ALLOW LIMITED
ADDITIONAL DISCOVERY FROM THE TOWN OF NEW SHOREHAM**

Rhode Island Fast Ferry, Inc. "RIFF" hereby moves that it be allowed the equal opportunity to conduct limited additional discovery from the Town, on the limited issues within the scope of the new scheduling Order issued by the Division on September 21, 2015 (Order No. 22103) and in relation to new information identified in the Town's filings with the Division, and in recent public statements concerning control and authority over certain areas of the Old Harbor on New Shoreham.

In the Division's September 21, 2015 Order (No. 22103) the Town was authorized to conduct additional discovery "as described in its Motion" as relates to the veracity and basis for the factual representations made to the Division in RIFF's September 11, 2015 Declaration and the supporting Affidavit of Paul Filippi submitted in support thereof. However, in further support of its Motion for additional discovery the Town made a number of specific allegations, also quoted in the Division's Order, including the representation that "[t]he right to 'wharf out' at the Northerly Ell of the stone jetty at the Inner Basin does not belong to Bluewater, but rather is held by the Town through a fifty-year lease agreement dated April 1, 2013 between the Town and the Coastal Resources Management Council." Town's September 16, 2015 response at pg. 2, quoted in the Division's Order No. 22103, at pp 6-7.

Specifically, RIFF should be allowed to conduct discovery to elucidate the veracity and basis for these factual representations, including, but not limited to the claim that the Town is the

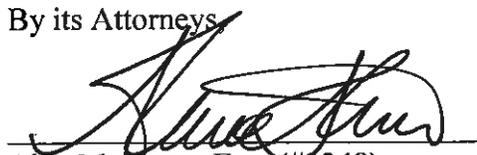
legal owner of the right to wharf out at the Northerly Ell of the stone jetty at the Inner Basin, which RIFF notes the Town provided no documentary proof of in its Response with the Division.

Additionally, in an article recently published in the Block Island Times, on September 26, 2015, a copy of which is attached hereto as Exhibit "A", the Town is quoted to make other claims, not addressed in the Town's Response, including the claim that there is in fact no right of public access to the area of the Eastern sea wall formerly known as the Mount Hope pier.¹ RIFF should be allowed to take discovery from the Town as to those additional issues as well in order to be able to fully present its case in support of this licensing application, and on the issues identified by the Division in its Order, as relates to landing and docks for the RIFF proposed high speed ferry service.

For these reasons, RIFF files this Motion with the Division for the opportunity to conduct this additional limited discovery of the Town to be completed by November 16, 2015.

Respectfully submitted,

RHODE ISLAND FAST FERRY, INC.,
By its Attorneys



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Dated: October 1, 2015

¹ It would appear from that article that the reporter who wrote it had a copy of the purported lease relied upon by the representative of the Town, in statements to the press, and by the Town in its previously filed Response, a copy of which, as we note, was not provided to the Division or RIFF.

CERTIFICATE OF SERVICE

I hereby certify that on October 1st, 2015, I delivered a true copy of the foregoing document via electronic mail to the parties on the attached service list.



A handwritten signature in black ink is written over a horizontal line. The signature is cursive and appears to read "Kurt J. ...".

A

TASTE OF BLOCK ISLAND IS THIS WEEKEND! SEE PAGE 27.



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Vol. XIV No. 38 | September 26, 2015

Town disputes RIFF dockage claim

By Cassius Shuman

The town of New Shoreham is not buying the idea that the owner of Rhode Island Fast Ferry (RIFF) has found space to dock a proposed fast ferry from Quonset to Block Island.

The Rhode Island Division of Public Utilities and Carriers handed down an order on Monday, Sept. 21, that gave the town until Nov. 16, 2015 "to conduct additional discovery" to further bolster its case that RIFF had not secured dockage in Old Harbor.

This was in response to an earlier motion by the Division, which gave RIFF until Sept. 11 to name where it would dock a fast ferry coming in from Quonset. RIFF filed its response on the final day of the deadline, Sept. 11, stating that dockage had been secured in Old Harbor, near a section identified, in testimony before the PUC, as the "Red Brookwater," on property owned by Paul Filippi, who is doing business as Bluewater LLC.

The town quickly responded to that filing.

On Sept. 14, the town served a notice of Deposition and a subpoena on Paul Filippi and "requested that he appear at the offices of the Town's attorney in satisfaction of said subpoena." Also on Sept. 14, the town and Interstate Navigation... "also a party in the instant case, filed a motion to modify the procedural schedule in order to afford the town and Interstate an opportunity to conduct additional discovery related to RIFF's September 11, 2015 declaration of dock availability," according to language in the PUC filing. The town asked for 30 days of discovery and asked that meetings that had been scheduled between the town and RIFF on Oct. 7 and 8 be cancelled until 2016.

The Division approved those requests. The Town also filed a motion with the Division on Sept. 21 objecting to Paul Filippi's motion to quash the subpoena, which would require him to produce documentation of riparian rights at Old Harbor and appear at a deposition at a time and place to be designated by the town.

Riparian rights grant usage of waterways to those who own land near the water's path.

Donadio, in his Sept. 11 filing, stated that RIFF had secured dockage through a lease agreement with Bluewater LLC

See RIFF Claims, Page 16



"September Sunset, North Light" by Malcolm Greeraway. Taken on Sept. 11, 2015.

A moment with Father Protano

As the Pope visits the United States

Pope Francis made a historic visit to Cuba this week, and then landed in Washington, DC, on Wednesday, Sept. 23, where he was greeted by President Barack Obama. The pontiff is one of the most popular religious leaders in recent memory, despite -- or perhaps because of -- speaking out on a variety of social, economic and environmental issues. In light of that, we thought we would check in with Father Joseph Protano of St. Andrew Church here on Block Island to get a few of his thoughts. Clearly happy to be talking about Pope Francis, Father Protano laughed often during our brief chat. *Larry Trudson*

Q: What do you think the message of the Pope is, and why is he appealing to people who aren't Catholic?

A: I think he is so basic in his humanity that it appeals to every human being on the face of the earth. His basic message is that we are to literally care for

See Father Protano Page 17

Planning Board discusses beach access stairways

By Gloria S. Redlich

Two items comprised the agenda of the Planning Board's most recent meeting: review of an application for the expansion of an inn on Corn Neck Road, and on the planning and management of private beach access, with a view to assessing its impact on Block Island's landscape and natural resources.

Town Planner Alison Ring said she was raising the issue of beach access, held over from an earlier discussion, "concerning the proliferation of staircases [from private properties] around the periphery of the island." She noted the town had the right to act on these structural accesses to beaches.

"There are natural areas afforded protection. The town could petition that other areas be designated in the same way," Ring said. Member John Spicer cautioned

See Planning Board Page 9

Sam Bird hired as Facilities Manager

Clears Ethics review

By Cassius Shuman

Town Manager Nancy Dodge informed The Block Island Times on Tuesday, Sept. 22 that Sam Bird had been hired as the Town of New Shoreham's new Facilities Manager. The Facilities Manager is a position noted in the town's charter and is designed to serve as a "fleet manager" in overseeing the town's large capital assets. Per the town charter, the Facilities Manager reports to, and falls under the jurisdiction of, the Town Manager.

Dodge had named Bird, who is a former member of the Large Capital Asset Strategy Committee (LCAS), to the position at the Aug. 19 Town Council meeting pending an Ethics Commission review. The Town Manager said that Bird is a great choice for the position and was glad that he was cleared by the Ethics Commission review. It was the Large Capital Asset Strategy Committee that created the position Bird

See New Manager, Page 14

TIME FOR FOOD
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RIFF Claim

Continued from Page 1



The section of dock being called the Red Breakwater, seen above, is at the center of a dispute between New Shoreham, Rhode Island Fast Ferry and Bluewater LLC. Photo by Cassia Shaw

at lot 158, plat 6, which comprises a small section of the dock in the location adjacent to the red breakwater. Five days later, on Sept. 16, Paul Filippi produced a document that stated T&C Holdings LLC, owned by his mother Marion Filippi, had signed over riparian rights in Old Harbor. "This agreement is between Bluewater LLC and T&C Holdings LLC. In exchange for valuable consideration, T&C Holdings LLC assigns Bluewater LLC the riparian rights of lot 158 plat 6 in the Town of New Shoreham to build docks and wharf out into Old Harbor. This agreement is effective as of 9/16/2015." The document was signed by Marion Filippi and Paul Filippi.

Town Manager Nancy Dodge then claimed that the lease agreement between RIFF and Paul Filippi's Bluewater LLC citing the scouring of dockage at the inner basin at Old Harbor was a "sham."

Dodge told *The Block Island Times* that Bluewater LLC doesn't have the right to build a dock, or docks, at the red breakwater section at Old Harbor. "They don't have any ownership in the red breakwater. They don't have any authority. And they don't have the lease agreement that we have. We have a lease that allows us to dock and create docks" at the red breakwater.

"They had until Friday (Sept. 11) to designate a dock," explained Dodge of RIFF. "But the PUC bought our argument that we shouldn't have to go through this whole rignarole unless there was a location for dockage, because that's part of what we want to discuss."

Dodge noted that the dock location was "the old Mount Hope dock, along the breakwater by Ballard's. And if you look at the plan that they proposed, between the

Mount Hope dock, and the Army Corps' east dock, it's the town's bait dock," said Dodge. "So, they'd have to come to us for permission to get there. And the town is opposed to the fast ferry, so why would we grant approval?"

Dodge also said RIFF would have "to go through permitting with the Army Corps of Engineers" to build a dock in that location at Old Harbor. "The dock's got to be connected to something," noted Dodge. "There's all sorts of issues with the Mount Hope dock there. How do people get from the dock to the land? You can't get there, is the main issue. It really wasn't thought out."

Dodge said the town's 50-year lease agreement with the Coastal Resources Management Council (CRMC), dated April 1, 2012, prohibits RIFF from the right to secure dockage at the Red Breakwater in Old Harbor.

"So it's a sham in that it has no real basis for happening," she said. "And it looks as though the PUC is saying that you can't just toss something out the last day that we required you to do this. There has to be some potential for actually building that dock."

Dodge noted that negotiating the lease agreement with the CRMC "took a lot of time and effort, back when we were doing the Old Harbor. And there was a question as to whether we had to have authority to build our west dock, which is alongside the red breakwater. So we had to track down who owned the red breakwater. It was ultimately given to the State of Rhode Island, and in that same discussion the CRMC said they would lease it to the town, because they didn't want it. And we thought we should have it."

The agreement between the town and the CRMC stipulates that the State of Rhode Island agrees to lease to the Town of New Shoreham the property known as the Red Breakwater at Old Harbor from April 1, 2012 to April 1, 2062 at a cost of \$1.00 per year.

Under Mutual Covenants, the agreement states that "the Town shall have the right to erect such signs, docks and other structures on or near the breakwater at its own expense as the Town shall deem desirable in accordance with applicable laws and regulations, and shall maintain all such structures in good order and repair"

The agreement also says that "the Town shall peaceably and quietly have, hold and enjoy the red breakwater for the term aforesaid."

In response to the Division's order, Donadio said, "It was expected that the hearing officer would postpone the hearing dates to allow additional discovery on the Town's behalf. The Division's Order also banned Interstate Navigation from participating in any of the discovery. Once the discovery process is complete, we are confident that the facts will show that Bluewater LLC and Mr. Paul Filippi have the legal right to pursue building a new dock in Old Harbor for this ferry service."

"At this point in time I cannot comment on the Town's legal opinion/claim, but it is worth noting it was not backed up with any submission of documentation that supported their claim that Bluewater could not wharf out," noted Donadio. "It is very clear that Town Manager Nancy Dodge has taken a personal issue with my company, and island residents should be concerned about the back room ferry politics that the Town does not give equal consideration to new ferry services."

It is with my sincerest gratitude and sadness that I am announcing the closing of FROOZIES Juice Bar & Café after 21 years of doing business on Block Island.

Our final day will be Sunday, Sept. 27, 2015. Please stop by and sign our guest book and reminisce.

Many thanks to my daughter Kaila, who put up with my long summer hours; my mother, who supported me and sometimes could be seen behind the counter; my grandfather, who I would not be where I am without him; ALL my extended family and friends. Last but not least all my customers, employees, and the Block Island community for supporting FROOZIES.

Thank you for a wonderful 21 years, and on to the next adventure! FROOZIES of the National goes National... Stay tuned.