

SUFFOLK COUNTY LEGISLATURE



Gail Vizzini
Director

BUDGET REVIEW OFFICE

May 21, 2012

Honorable William J. Lindsay, Presiding Officer, and
Members of the Suffolk County Legislature
William H. Rogers Legislature Building
725 Veterans Memorial Highway
Smithtown, New York 11787

Dear Legislators:

The enclosed report presents the Budget Review Office analysis of the planning and financial data presented by Hampton Jitney, Inc. D/B/A Peconic Bay Water Jitney in support of its petition for a franchise and license in 2012. Procedural Resolution No. 7-2012 authorizes the public hearings for the license approval, and if adopted, Introductory Resolution No. 1345-2011 would approve the license and requested rates.

The Budget Review Office conducted a thorough review of the planning and financial data provided by Hampton Jitney, Inc. The Petitioner desires to provide a new passenger ferry service for hire over and upon the waters of Peconic Bay doing business as Peconic Bay Water Jitney Inc. and has contracted with Response Marine Inc. for the purpose of said organization possessing relative practical and technical marine transportation experience.

The proposed service will connect and transport passengers between a Village owned dock of Greenport, NY and Long Wharf in the Village of Sag Harbor, NY utilizing a leased, Coast Guard inspected, 53 passenger, 33 gross registered ton, passenger vessel of the low wake catamaran design named "John Keith" Official No. 1143410. The petitioner requests to provide passenger ferry service for a duration of 100 days between the months of May and September 2012.

It appears that the primary policy issue for the Legislature to consider, with respect to this petition, is whether it should grant a license **prior** to the applicant securing all of the necessary approvals needed to operate this ferry service as proposed.

Based upon past ferry litigation, the Budget Review Office believes the Legislature cannot have confidence that the courts will uphold the granting of conditional approvals. Therefore, the Budget

Review Office proposes the following possible courses of action; 1) delay action on the approval of a franchise and license until all required documents, agreements, permits, and approvals are in place, 2) reject the application outright.

Our summary of findings highlights those areas we believe to be most relevant and necessary for legislative deliberation. My staff and I are available should you have questions regarding this report.

Very truly yours,

A handwritten signature in cursive script that reads "Gail Vizzini".

Gail Vizzini, Director
Budget Review Office

Review of
**Hampton Jitney, Inc. D/B/A
Peconic Bay Water Jitney**

**2012 Petition for
License**

May 21, 2012

**Prepared for the Suffolk County Legislature
by Robert Doering, Legislative Analyst**

**Budget Review Office
Suffolk County Legislature
Hauppauge, New York 11788**

Analysis of Hampton Jitney, Inc. D/B/A Peconic Bay Water Jitney

Petition for License

Summary of Findings

- The petition submitted by Hampton Jitney Inc., DBA Peconic Bay Water Jitney Inc. dated March 21, 2012 seeks to obtain a franchise and ferry license valid for a duration of five years, and the establishment of rates to operate ferry service between Greenport, NY and Sag Harbor, NY.
- The petitioner requests to provide passenger ferry service for a duration of 100 days as a “pilot program” between the months of May and September 2012.
- Should the Legislature grant a ferry license and franchise to the petitioner it may consider doing so for a shorter duration than requested, perhaps one year, in order to perform its own assessment of the “pilot program” operations with respect to the appropriateness of the approved rates.
- The fare rate schedule includes a one way fare per passenger of \$11.00 and a round-trip fare per passenger of \$20.00.
- Based upon the revenue and expense projections included within the petitioner’s business plan the operation will produce a return on investment (ROI) of 10.7% or \$40,600.
- The petition indicates that the landing site in Greenport is the Mitchell Park Pier owned by the Village of Greenport and in Sag Harbor is Long Wharf Pier owned by Suffolk County and leased by the Village of Sag Harbor. However, Long Wharf Pier is not currently leased and is solely controlled by Suffolk County at this point in time.
- The Petitioner possesses a letter of consent from Greenport Village only at this time. Currently no letter of consent from Sag Harbor Village or landing agreements has been provided.
- The requested rates and proposed cash controls appear to be reasonable and adequate based upon the underlying assumptions provided in the Petitioner’s proposed business plan.
- Based upon past ferry litigation, the Budget Review Office believes the legislature cannot have confidence that the courts will uphold the granting of conditional approvals. Therefore, we propose the following possible courses of action: 1) delay action on the approval of a franchise and license until all required documents, agreements, permits, and approvals are in place, or 2) reject the application outright.

Scope of Report

All ferry service operators who transport passengers and/or freight across bodies of water within the boundaries of Suffolk County are required to obtain a license and rate approval from the Suffolk County Legislature in accordance with Chapter 455 of the Suffolk County Code as authorized by Section 131-g of the New York Highway Law, Article 8 of the New York Navigation Law and Section 71 of the New York Transportation Corporations Law.

Hampton Jitney, Inc. DBA Peconic Bay Water Jitney submitted a petition dated March 21, 2012 to the Suffolk County Legislature seeking to obtain a license to operate ferry service between Greenport, NY and Sag Harbor, NY and to establish rates and a schedule for this service. The County Legislature is the governmental agency responsible for action on this request. The Budget Review Office is responsible for reviewing the application and presenting its findings in a report to the Legislature for their consideration.

The intent of the Suffolk County Ferry Law is to assure “continuous and adequate ferry service in Suffolk County”. The license granted by the County is not exclusive; non-exclusive licenses may be granted to as many service providers as it deems necessary.

Pursuant to Chapter 455 of the Suffolk County Code, applicants must submit audited financial statements for the previous two years of operation. Hampton Jitney Inc. has submitted audited financial statements pertaining to operations occurring from January 1, 2009 through December 31, 2011. The financial information presented is for the bus service that the applicant operates. The applicant has decided to operate the ferry business under the umbrella of this corporation. Whether or not there could be any legal impediment to this is not for us to determine but it is an issue which may be addressed by counsel to the petitioner. Konner, Harbus and Schwartz, P.C. is the accounting firm that audited the financial statements. We are in receipt of documentation indicating that they have been peer reviewed within the last five years, in accordance with sub-section 455-3 (D) of the Suffolk County Code.

Audited financial statements are intended to provide an independent, competent, and objective presentation of operations. This ferry business has not operated therefore, none of the financial activity, assets, and liabilities reported for Hampton Jitney, Inc. relate to ferry operations. Any financial forecasts presented in this report are based upon assumptions of future events and should not be construed as facts.

The methodology used in our review includes an evaluation of the assumptions used in the applicant’s forecast of revenue and expenses pertaining to proposed ferry operations in conjunction with the petitioner’s proposed business plan.

Analysis of Hampton Jitney Inc., DBA Peconic Bay Water Jitney Inc.

The findings presented here are intended to aid the Legislature in its deliberations on the licensing and rate setting functions requested by Hampton Jitney Inc., DBA Peconic Bay Water Jitney.

The Petition Seeking a Ferry License and Franchise

The petition submitted by Hampton Jitney Inc., DBA Peconic Bay Water Jitney Inc., dated March 21, 2012 seeks to obtain a franchise and ferry license valid for a duration of five years, and the establishment of rates to operate ferry service between Greenport, NY and Sag Harbor, NY. The petition indicates that the company is a Motor Coach Corporation that has been organized under the Transportation Corporation Law of the State of New York located at 395 County Road 39A, Southampton, NY 11968 for the general purposes of carrying passengers, baggage, and transportable matter for hire between New York City and Montauk Point. The Petitioner desires to provide a new passenger ferry service for hire over and upon the waters of Peconic Bay doing business as Peconic Bay Water Jitney Inc. and has contracted with Response Marine Inc. for the purpose of said organization possessing relative practical and technical marine transportation experience.

The proposed service will connect and transport passengers between a Village owned dock of Greenport, NY and Long Wharf in the Village of Sag Harbor, NY utilizing a leased, Coast Guard inspected, 53 passenger, 33 gross registered ton, passenger vessel of the low wake catamaran design named "John Keith" Official No. 1143410. The petitioner requests to provide passenger ferry service for a duration of 100 days between the months of May and September 2012. The petitioner has entered into an agreement to hire the John Keith for a period of 100 days. The petition includes a daily departure schedule which includes seven departure times Sunday through Thursday and nine departure times on Friday and Saturday to be posted at each location (exhibit A). A fare rate schedule for passenger ferry service between Greenport and Sag Harbor is included with the petition (exhibit B). The fare rate schedule includes a one way fare per passenger of \$11.00 and a round-trip fare per passenger of \$20.00. The petitioner indicates that the fare rate schedule will be posted at each location.

Analysis of Proposed Rates and Cash Controls

The following table illustrates the proposed ferry fares and rates as included in the current petition.

PROPOSED FARES	
Fare Category	Proposed Rate
PASSENGER	
One Way	\$11.00
Round Trip	\$20.00

The proposed business plan provided by the petitioner estimates ridership of 210 round trip passengers daily resulting in projected daily gross revenue of \$4,200. Daily operating expenses of \$3,794 are projected resulting in a net projected profit of \$406 daily. The operating expenses provided by the petitioner fail to include any expenses which may be charged for the use of landing sites in Sag Harbor or Greenport or compensation to any employees other than the Captain, one Deckhand, and one Shuttle Bus Driver. Utilizing the revenue and expense projections included within the petitioner's business plan, in which expenses may be understated as detailed above, the operation will produce a return on investment (ROI) of 10.7% or \$40,600. Again, we must emphasize that any financial forecasts presented in this report are based upon assumptions of future events and should not be construed as facts.

The petitioner has indicated that they will use the same on board ticketing/fare collection system employed on the motor coaches of Hampton Jitney. An employee on the ferry will utilize a Symbol Technology trip computer to collect passenger information and process transactions allowing passengers to book a trip in advance or on a "walk on" basis. The Symbol Technology ticketing/fare collection system will allow Peconic Bay Water Jitney Inc. to accept cash, pre-paid tickets, or credit/debit cards for payment on board the ferry. A receipt will be issued to each passenger upon payment and a transferrable open return ticket with no expiration will be issued to each passenger purchasing a round trip.

Each one-way trip will generate a trip manifest that includes passenger names and payment information which is stored electronically by the trip computer until the unit is downloaded during a shift change or at the end of the day at either the Greenport or Southampton office. Cash and prepaid tickets collected on board will be deposited and secured at either office as well so that Hampton Jitney's Accounting Department can reconcile the revenues and trip manifests. Upon commencement of passenger ferry service, daily summary of sales reports will be generated by the Hampton Jitney Accounting Office based on sales receipts generated from the previous day of vessel and shuttle bus operations.

The proposed rates appear reasonable based upon projected expenditures provided within the petitioner's business plan. The Budget Review Office is unable to offer an opinion on the underlying assumptions employed in the petitioner's business plan with respect to ridership levels and the affiliated revenues due to the fact that there are no existing companies offering a similar service at this time.

The primary purpose for the requirement of an adequate ticketing/fare collection system is to establish an auditable accounting system which provides verifiable information pertaining to the number of passengers carried and revenues received. This verifiable information can be used as the basis for the establishment of an equitable fare structure moving forward. The ticketing/fare collection system proposed by the petitioner does appear to meet the criteria of the ability to provide independently verifiable financial information to the County.

Landing Sites for Ferry Service

The petition indicates that the landing site in Greenport is the Mitchell Park Pier owned by the Village of Greenport and in Sag Harbor is Long Wharf Pier owned by Suffolk County and leased by the Village of Sag Harbor. The Sag Harbor Village Board of Trustees passed Local Law No. 2 of 2012 on May 8, 2012 which authorized the Board of Trustees to issue a temporary special permit for a passenger ferry terminal within the waterfront zone. The permit may be granted only for a period between May 1, 2012 and October 31, 2012. As of May 18, 2012 no permit had been issued and correspondence with the Sag Harbor Village Clerk indicated there is an application for a landing agreement pending which will be discussed at the next Sag Harbor Village Board of Trustees meeting being held on June 12, 2012.

In the recent past the Village of Sag Harbor leased Long Wharf Pier from Suffolk County. Legislative Counsel has informed the Budget Review Office that the lease has since expired and that Suffolk County is once again in control of Long Wharf Pier. Correspondence between the County Attorney, the Commissioner of the Department of Public Works, and the Budget Review Office has resulted in our understanding that the Suffolk County Legislature may approve a permit or license allowing the petitioner to utilize Long Wharf Pier as their ferry landing site. The agreement would

need to be supported by fair and adequate consideration, allocate liability to the Petitioner, require proper insurance, and be subject to engineering and safety standards approved by the Department of Public Works. The issuance of said permit or license is a policy decision which lies with the Legislature.

The Greenport Village Board of Trustees conducted a special meeting on May 10, 2012 where they approved the application of Peconic Bay Water Jitney for a temporary permit to provide passenger ferry service between Greenport, NY and Sag Harbor, NY on a "pilot program" basis for the Summer of 2012. On May 18, 2012 the petitioner received a letter of consent from Mayor David Nyce of Greenport Village which states the application was approved, Mitchell Park Marina has been designated as the landing site, and that the details of the landing agreement are being worked on. No landing agreement has been executed between the Village and Petitioner at the time of this writing.

Procedural Resolution No. 7-2012

Procedural Resolution No. 7-2012 was laid on the table March 27, 2012 to set a public hearing regarding the authorization of a ferry license and the setting of rates for Hampton Jitney Inc. D/B/A Peconic Bay Water Jitney at the regular meeting of the Legislature April 24, 2012 at 2:30 p.m. at the Maxine S. Postal Auditorium at the Riverhead County Center. This public hearing did take place and was recessed until May 8, 2012 when the public hearing was reopened and recessed once again to June 5, 2012.

Conclusion and Recommendation

As detailed in our report, the start-up of a ferry business is no simple task. In addition to securing boats and landing agreements, a number of requirements from regulatory agencies and local governments, in addition to the County licensing requirements, must be met. All necessary agreements, permits, and licenses should be in place prior to beginning operations.

The petitioner has provided us with plans for the operation of a ferry service between Greenport, NY and Sag Harbor, NY. The requested rates and proposed cash controls appear to be reasonable and adequate based upon the underlying assumptions provided in the Petitioner's proposed business plan.

The petition requests the Legislature grant the Petitioner a ferry license and franchise for five years however; the Petitioner's intent is to operate the proposed passenger ferry service for the 2012 summer season on a "pilot program" basis for a period of 100 days. The Petitioner has indicated service and operational effectiveness will be evaluated to determine future operations beyond the 2012 summer season. Should the Legislature grant a ferry license and franchise to the Petitioner, it may consider doing so for a shorter duration than requested, perhaps one year, in order to perform its own assessment of the "pilot program" operations with respect to the appropriateness of the approved rates.

It appears that the primary policy issue for the Legislature to consider, with respect to this petition, is whether it should grant a license **prior** to the applicant securing all of the necessary approvals needed to operate this ferry service as proposed. The granting of a ferry license should not be treated as a pro forma resolution since it involves significant legal consequences. Based upon past ferry litigation, the Budget Review Office believes the legislature cannot have confidence that the courts will uphold the granting of conditional approvals. Therefore we propose the following

possible courses of action: 1) delay action on the approval of a franchise and license until all required documents, agreements, permits, and approvals are in place, 2) reject the application outright.

* * *

Exhibit "A"

Daily Departure Schedule to be Posted at Each Location along with Fare Rate Schedule For Passenger Service

Greenport, NY

Sag Harbor, NY

7:00 AM

9:00 AM

11:00 AM

1:00 PM

3:00 PM

5:00 PM

7:00 PM

9:00 PM*

11:00 PM*

8:00 AM

10:00 AM

12:00 PM

2:00 PM

4:00 PM

6:00 PM

8:00 PM

10:00 PM*

11:45 PM*

(*) Denotes Friday and Saturday Evenings Only

Exhibit "B"

**Passenger Ferry Service Between the Incorporated Villages of
Greenport, NY and Sag Harbor, NY**

One Way Fare Per Passenger: \$11.00

Round-Trip Fare Per Passenger: \$20.00