

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES
For Thursday, July 28th, 2022
In CBJ Room 224 and Zoom Meeting

I. Call to Order - Mr. Etheridge called the July 28th meeting to order at 5:00 p.m. in CBJ Room 224 and via zoom.

II. Roll Call- The following members were in attendance in CBJ Room 224 or via zoom meeting, Lacey Derr, Paul Grant, David Larkin, Matthew Leither, Mark Ridgway, Annette Smith, Debbie Hart, James Becker and Don Etheridge.

Also in attendance – Carl Uchytíl – Port Director, Erich Schaal – Port Engineer, Matthew Creswell – Harbormaster, Cierra Kendrick – Administrative Assistant III, Benjamin Brown – CBJ attorney, and Teena Larson – Administrative Officer

III. Approval of Agenda

Mr. Uchytíl proposed under New Business item #1 move to #4. He pointed out the Hansen & Gress item has been crossed off for tonight. There was a letter from Tyler Gress added to the packet that was sent to the Harbor Board.

MOTION By MR. RIDGWAY: TO APPROVE THE AGENDA AS AMENDED AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

IV. Election of Docks & Harbor Board Chair, Vice-Chair and other such officers as the Board shall deem necessary.

Mr. Ridgway nominated Mr. Etheridge as Board Chair. No other nominations or objections.

Mr. Etheridge accepted.

The other positions were appointed later in the meeting.

V. Approval of June 30th Board minutes –

There was one correction on page six of the packet for “site” to “cite”.

Hearing no objection the minutes were approved as amended.

VI. Special Order of Business – Mr. Uchytíl recognized Cierra Kendrick for the Employee of the Quarter.

VII. Public Participation on Non-Agenda Items - None

VIII. Consent Agenda –

A. Public Requests for Consent Agenda Changes – None

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- B. Board Members Requests for Consent Agenda Changes - None
- C. Items for Action

- 1. Clean Vessel Act (CVA) – Amending Cooperative Agreement with ADFG
Presentation by Port Engineer

RECOMMENATION: TO AMEND EXISTING COOPERATIVE AGREEMENT WITH ADFG TO RECEIVE AN ADDITIONAL \$9,562.63 IN CLEAN VESSEL ACT GRANT FUNDING FOR THE STATTER HARBOR PUMP OUT PROJECT.

- 2. Resolution 2997 in Support of Juneau District Heating
Presentation by Port Director

RECOMMENDATION: FOR THE ASSEMBLY TO ADOPT RESOLUTION 2997 SUPPORTING THE OPERATIONAL NEEDS OF THE JUNEAU DISTRICT HEATING PROPOSAL IN THE DOWNTOWN VICINITY.

MOTION By MS. DERR: TO APPROVE THE CONSENT AGENDA AS PRESENTED AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

IX. New Business

- 1. Proposed Change to 85.02.063 – Docks & Harbors Land Management Plan
Mr. Uchytel said Mr. Brown provided the hand out which is to replace what is in the packet. The only change is to give deference with the general powers in 85.02.060.

Mr. Brown said under 85.02.060 (c) there is a reference to the land management plan that does not exist. This just lets that subsection of 85.02.060 (c) refer to what 85.02.063 would look like if that section of this ordinance passes. It is not a land management plan but a set of guiding principles and guidelines that the Docks & Harbors Board is using.

Board Questions - None

Public Comment - None

Board Discussion/Action

MOTION By MS DERR: TO DIRECT STAFF TO COMMENCE PUBLIC NOTICE FOR PROPOSED ORDINANCE CHANGES; AND TO SET THE DATE OF AUGUST 25TH FOR PUBLIC HEARING AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

- 2. Omnibus Regulations Changes

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Mr. Uchytel said this starts on page 33 in the packet and he went over all the regulation changes.

05 CBJAC 07.010 Inactive Vessel Management – The substantive change is to include the National Guard Dock as one of the areas designated for a non-moving vessel. At the last meeting Mr. Larkin suggested to remove the descriptions, but CBJ Law recommended to leave it in because of the word “include” this takes nothing away.

Board Questions – None

05 CBJAC 15.035 Reservation Charge Policy – The big change here is if someone is making a long term reservation they need to pay for seven days in advance and not just one day of a long term reservation.

Board Questions –
Mr. Ridgway asked about the change.

Mr. Creswell said our previous policy was that the first nights moorage needed to be paid in advance to guarantee the reservation. That opened up yachts making reservations for 30 days and only needed to pay for one day and then could stay as long as they wanted and cancelled the rest of their stay. The past two years through internal memos, he made an internal policy that any reservation greater than seven days would be paid for in advance. Staff is just taking the language in the memo and adding to the regulation.

Mr. Ridgway asked if it was required to do seven days in advance.

Mr. Creswell said no.

Mr. Grant asked if this has solved the problem.

Mr. Creswell said yes.

05 CBJAC 20.050 Residence Surcharge – The change here is to dissuade BRBO (Boat Rental by Order) type of arrangements with vessels in our Harbors.

Board Questions – None

05 CBJAC 20.060 Recreational Boat Launch Fees – We are adding Statter Harbor as a free kayak launch facility in addition to Amalga.

Board Questions – None

05CBJAC20.090 Statter Boat Harbor Lower Parking Lot Permit Fee – This is just cleaning up the language by removing the term “Lower” Parking.

Board Questions – None

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05 CBJAC 20.110 Crane Use Fees – This change acknowledges we went to a key fob type system for our cranes.

Board Questions – None

05 CBJAC 20.130 Storage Fees – There is a lot of time and effort from the Admin staff for charging and Harbor Officers maintaining and staff believes removing this fee will keep it simpler and a better policy.

Board Questions – None

05 CBJAC 20.160 Parking Lot Fees – This is primarily at Statter Harbor. There was the discussion a few meetings ago about fairness and how discounted portions were devised and staff believes it is such a high demand to just remove it all together.

Board Questions –

Mr. Leither asked if the October 1 to April 30, the off season monthly fee shall be \$50.00, should be removed as well?

Mr. Creswell said he thought it was good to leave that in. Our Deputy Harbormaster has indicated he will not be handing out winter parking passes this winter due to the issues it causes for snow plowing. He would like this in just in case there is a need to add that back.

Mr. Leither commented he would advocate removing the off-season wording because it adds confusion and we are trying to update the rules for what is actually happening. We can add it back later if we wanted.

Ms. Hart recommended changing the word “shall” to “may” so the Harbormaster has the discretion. With Juneau being a Hub, would Docks & Harbors want to establish a “regional parking area” for people that live out of town and a special permit for long term parking?

Mr. Creswell said we can do the will of the Board but anytime we have had long term parking we have increased theft and vandalism and that then involves a lot of time researching camera footage.

Mr. Grant said that would still cause snow removal issues. He said if we are not going to do this it will be confusing to leave it in. He supports removing it.

Ms. Derr said she is in support of changing “shall” to “may”.

Mr. Larkin asked if the intent to leave it as is and each season to make a statement if you elect to charge or not for that season.

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Mr. Creswell said that is a possibility.

MOTION By MR. GRANT: MOVE TO STRIKE “FROM OCTOBER 1 THROUGH APRIL 30, THE OFF-SEASON MONTHLY FEE SHALL BE \$50.00 PER CALENDAR MONTH OR PORTION THEREOF”.

Mr. Ridgway objected for discussion. With this struck, does that mean there will be no fees assessed outside of May 1st through September 30th for the parking.

Mr. Creswell said that is correct.

Mr. Ridgway removed his objection.

Ms. Hart objected for discussion. If this is removed we are not allowing the Harbor staff to deal with a complicated winter parking issue if it comes up. She would like it worded differently.

Ms. Derr asked looking forward to the construction to come at Statter Harbor, would this be needed?

Mr. Schaal said the next phase is the bus staging parking area and any parking would be up to Mr. Creswell.

Mr. Ridgway asked if he parked a vehicle in the lot at Statter in October and it is forgotten for over three months, is there other regulations in place that staff could still address this vehicle?

Mr. Creswell said yes, there are several ways.

Ms. Smith asked if the moving of vehicles in Statter Harbor is a big issue like the moving of vessels?

Mr. Creswell said no. We usually call when the snow is piling up and we need the vehicle moved.

Mr. Larkin said he is opposed to changing “shall” to “may”. The Harbormaster could just waive it which would make it easier.

Ms. Hart did not remove her objection

Mr. Leither objected for clarification if this is all we are voting on is to remove the off-season wording.

Mr. Etheridge said yes.

Mr. Leither removed his objection

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Roll Call Vote-
Lacey Derr – N
Paul Grant - Y
David Larkin - Y
Matthew Leither - Y
Mark Ridgway - Y
Annette Smith -N
Debbie Hart -N
James Becker -Y
Don Etheridge – N

Yes - 5
No - 4

Motion passed.

05 CBJAC 20.190 Auke Bay Loading Facility Drive Down Float Fee – This is requested to be removed because it was never used as intended.

Board Questions – None

05 CBJAC25.060 Summer Management - The change is trying to encourage greater turnover of transient vessels. We added at the last Operations meeting the first underlined sentence and fixed the spelling on “assessed”.

Board Questions –

Ms. Smith said all the people she spoke with at Statter Harbor none of them thought this was going to do anything because the penalties are not stiff enough. Has there been any thought on a progressive rate if someone still does not move.

Mr. Creswell said there has been talk of surcharges and graduated scales but staff thought to start smaller and Harbor staff believes this is a good enough penalty to get boats moving and this is a step in the right direction.

Mr. Ridgway asked what the penalty will be.

Mr. Creswell said anything over seven days downtown is cheaper to pay the monthly rate and at Statter anything over 13 days is cheaper to pay the monthly rate so it is a significant amount more.

05CBJAC25.080 Winter Management – This change is to better manage winter assignments at Statter Harbor.

Board Questions –

Mr. Leither asked why is this being moved forward to September from August.

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Mr. Creswell said in his time it has always been September 1st.
Mr. Ridgway asked what replaces the lottery?

Mr. Creswell said vessels are assigned based on the order of sign up.

Mr. Leither asked if he signed up on September 1st and someone else signed up on September 30th, would we both have the same standing? Is there any reason to sign up early?

Mr. Creswell said yes there is a reason to sign up early because we work down the list based on when someone signs up.

Mr. Leither said this to him reads he has until the end of September to sign up and it could be confusing for people.

Mr. Creswell said staff allows people to sign up at any time and if something opens up we could go to the next person on the list but the big change here is the order is when they are received.

Mr. Uchytel said tonight the Board will or will not direct staff to go out with a public notice process. This is the last direction for changes. At the public comments hearing, the Board can still make changes at that time. The last approval will be by the Assembly. The next items on the Agenda are Ordinance changes and that is at the realm of the Assembly to do the work. When an Ordinance goes to the Assembly they post that as an introduction and then they come back at a later Assembly meeting to take action. It will be good to follow the 21 day notice period for both Regulation and Ordinance changes.

Mr. Brown said this is more than adequate for providing public transparency and providing for public input.

Mr. Grant asked if we are not required to have a public hearing for the Ordinances like the Regulations?

Mr. Brown said that is correct.

Mr. Grant asked if we should include the Ordinances in our public hearings or leave it for the Assembly to do that?

Mr. Brown said that is a policy decision but there is no harm to do that other than the time involved.

Mr. Etheridge commented that it has been brought to the Board from the Assembly that we need more public process.

Public Comment - None

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Board Discussion/Action

Mr. Uchytel said the Board would hold a Special Board meeting ahead of the Regular Board meeting on August 25th.

Ms. Smith said she would like to remove 05CBJAC20.050 the Residence Surcharge because she cannot support the change. She believes this is trying to solve bad behaviors in the Harbors. Regulating what a person does with their private property is not the Harbor's business. The Harbors business is the behavior of the person on the boat. Right now anyone can walk through the Harbors unrestricted and they do not even need to have a boat unless their behavior warrants their removal. She believes the behavior problem should be addressed and not what individuals do with their personal property.

Mr. Leither agrees with Ms. Smith's reasoning.

MOTION By MS. SMITH: TO REMOVE THE RESIDENCE SURCHARGE AND ASK UNANIMOUS CONSENT.

Ms. Derr objected for the purpose of discussion. She understand what Ms. Smith is saying but the issues are the short term rentals and not having anything in writing. We are looking for more in writing for Harbor staff to address the bad actors. BRBO's are springing up more and more and she is in favor of leaving this in.

Mr. Ridgway said this will come back to the Board and we have an opportunity to vote on this again. He would like this to move forward to hear what the public thinks about this.

Mr. Grant commented being in Cities in Europe that are overrun by BRBO's, that has made cities unaffordable and unusable for local residence. He believes the short term rental properties need to be restricted. People will find a boat they can park in the Harbor and it will never move and be rented out and a profit center for the individual and the slip will not turn over. This could have potential problems and he does not support it.

Mr. Larkin asked where the six months came from?

Mr. Creswell said someone that is renting a boat for six month or more is invested in it and is no longer short term.

Ms. Woll said the Assembly has expressed interest in a process to regulate short term rentals. The Assembly is moving forward to allocate funding to hire an outside contractor to get more information on current rentals in Juneau. This is something to keep in mind.

Mr. Brown said he may be responsible for the six month number. It is a policy call to have a limit on a rental. A limit could be nothing less than three months. The status quo does not limit short term rental in Harbors at all. It is not uncommon to have a time limit.

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Ms. Kendrick said without adequate time frames for renters on vessels safety becomes an issue because we have no way of identifying people on that vessel.

Mr. Ridgway said there should be more discussion on this. There are two sides to look at. He would like to get this out to the public and hear from the public.

Mr. Grant wanted Ms. Woll to pass this on to the Assembly.

Yes means we can remove the Residence Surcharge Language and a No means we will leave it in.

Roll Call Vote -

Lacey Derr - N

Paul Grant - N

David Larkin - N

Matthew Leither -N

Mark Ridgway-N

Annette Smith -Y

Debbie Hart- N

James Becker - N

Don Etheridge- N

Motion failed.

MOTION By MS DERR: TO DIRECT STAFF TO COMMENCE 21-DAY PUBLIC NOTICE PERIOD FOR PROPOSED REGULATION CHANGES; AND TO SET THE DATE OF AUGUST 25TH FOR PUBLIC HEARING AND ASK UNANIMOUS CONSENT.

Ms. Smith objected.

Roll Call Vote -

Lacey Derr - Y

Paul Grant - Y

David Larkin - Y

Matthew Leither -Y

Mark Ridgway-Y

Annette Smith -N

Debbie Hart- Y

James Becker - Y

Don Etheridge- Y

Motion passed

3. An Ordinance Amending Prohibited Acts within the Boat Harbor Related to Dogs and Other Domestic Animals.

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Mr. Uchtyl said page 39 in the packet is the best and final language. Added was the level of effort to clean up urine and staff also included other areas of the Harbor including the parking lots which came from the last Operations Committee.

Board Questions

Mr. Leither commented that on the signs at Statter that state you need to clean up after your dog or else, are the fines listed in ordinance somewhere?

Mr. Creswell said it is. There is a table that references the fine and what ordinance it is for.

Mr. Leither asked if there is a lot of complaints about the dog urine?

Mr. Creswell said not as much for the dog urine but for the dog defecation.

Ms. Smith said there is nothing worse than going down to untie your mooring lines and a dog has defecated on them.

Mr. Grant asked if there is any reason to contact animal control about this?

Mr. Creswell said staff works closely with animal control and they are always willing to help with recurring pet issues.

Mr. Leither asked why the urine is included in this Ordinance?

Mr. Grant said it is a good idea because if one dog urinates, all the dogs will come and urinate in that same spot.

Mr. Brown said he canvassed language from other municipalities and seemed to be the medium approach. When you have a lot of rain it is not an issue but when you have a 14 day hot stretch it will degrade the integrity of the dock surface. With a lot of rain this may not be enforced a great deal.

Ms. Hart said it seems to her the fecal matter is the bigger issue. Would defecation be a better word?

Ms. Smith said being in the Harbors a lot it can get pretty stinky when you're around an area a dog urinates on a lot and it smells.

Mr. Larkin said defecation is the act of and feces would be the proper term.

Public Comment -

Ms. Cierra Kendrick, Juneau, AK

Ms. Kendrick commented in regards to animals urinating. During dry times the chemical proteins in dog urine does break down mooring lines and the treatments on the dock and does create other structural integrity issues over time.

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Board Discussion/Action

Ms. Smith said what happens if you do not clean up after your dog?

Mr. Creswell said we have a fine schedule and we can write a ticket. We engage animal control when it is needed.

Mr. Uchytel said the principal reason for looking at this ordinance was to amend that only boat owner dogs could be on the docks.

MOTION By MR. RIDGWAY: TO DIRECT STAFF TO COMMENCE PUBLIC NOTICE FOR PROPOSED ORDINANCE CHANGES; AND TO SET THE DATE OF AUGUST 25TH FOR PUBLIC HEARING AND ASK UNANIMOUS CONSENT.

Ms. Derr objected for clarification. Did we also need the 21 day public notice in this motion?

Mr. Uchytel said this is not required to go through the 21 day notice period but it will still be at the August 25th public hearing meeting.

Ms. Derr removed her objection

Motion passed.

4. An Ordinance Amending Boat Harbor Regulations Relating to Vessel Identification
Mr. Uchytel said on page 41 in the packet is the language being proposed.

Board Questions

Mr. Leither said how would this work if someone came from France and had no identification on this vessel.

Mr. Uchytel said that could be a stateless vessel. This is saying you have to put some name on your vessel.

Mr. Ridgway asked why there is an “or” between display a current state registration “or” display a vessel’s name. Should they both be required?

Mr. Uchytel said this is saying have a State registration or hailing port.

Mr. Ridgway asked if there could be a 40’ boat show up with only registration numbers and that would be okay?

Mr. Uchytel said yes.

Mr. Larkin said the “All” Vessels needs to be defined better.

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Mr. Uchytel said the intent of this is so Harbor Officers while doing a dock check can know whose vessel this is. He suggested to remove “all” before vessels.

Ms. Smith recommended to remove “if it is a federally documented vessel”.

Mr. Larkin recommended to have that it needs to be State registered or a permanently affixed name and contact number.

Mr. Creswell asked if that would read, All vessels shall be required to display a current state registration or display the vessel’s name and hailing port if it is a federally documented vessel, or a permanently affixed name and contact number if the vessel is not required to be state registered or federally documented.

Public Comment - None

Board Discussion/Action

Ms. Kendrick indicated this would help even if it was a name and contact written with a sharpie is better than how it is now. There are several vessels with no information and staff is not able to charge because they are unknown. She said she would even provide a sticker to have them put their information on, to put on their vessel.

Mr. Larkin said the Coast Guard Auxiliary will provide a stack of stickers.

MOTION By MR. RIDGWAY - ALL VESSELS SHALL BE REQUIRED TO DISPLAY A CURRENT STATE REGISTRATION OR DISPLAY THE VESSEL’S NAME AND HAILING PORT IF IT IS A FEDERALLY DOCUMENTED VESSEL, OR A PERMANENTLY AFFIXED NAME AND CONTACT NUMBER IF THE VESSEL IS NOT REQUIRED TO BE STATE REGISTERED OR FEDERALLY DOCUMENTED AND ASK UNANIMOUS CONSENT.

Motion passed with no objection

MOTION By MS DERR: TO DIRECT STAFF TO COMMENCE PUBLIC NOTICE FOR PROPOSED ORDINANCE CHANGES; AND TO SET THE DATE OF AUGUST 25TH FOR PUBLIC HEARING AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

~~5. Hansen-Gress Building Improvement Challenges
—Presentation by the Port Director~~

~~Board Questions~~

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~~Public Comment~~

~~Board Discussion/Action~~

~~MOTION: TBD~~

X. Items for Information/Discussion

1. Open Meetings Act - Primer

CBJ Attorney Ben Brown provided a power point which are attached to these minutes.

Board Discussion

Mr. Grant commented that it does not make sense that a Board member is not able to put thoughts down in writing and send them out to the Board from a quiet place of sitting and thinking about an issue. Having to save everything for the in-meeting context contributes to making decisions on the fly and reconsideration later. It should be clear that we can communicate with the entire Board between meetings as long as it becomes part of the discussion.

Mr. Brown said slide six of the presentation is an example of the Law not being caught up with technology. Electronic communications that are like in-person meetings is disfavored because at a minimum it violates the act.

Mr. Leither said he has misunderstood this act. He believed if he sent out an email to the whole Board that is discoverable and goes in the packet that meets the criteria for the Open Meetings Act and everything is more transparent. Are we being told that is a violation of the Act?

Mr. Brown said the difference is someone needs to go look and find that email was sent or go to the minutes and read the minutes. That is different from someone attending a meeting on a topic of interest and it is discovered in the minutes what was already discussed. This is a technical violation and it deprives the public of being present during the discussion.

Mr. Ridgway asked if these discussions were public and real time on our website, would that suffice the Opens Meeting Act.

Mr. Brown said that would go a long way but he is not sure IT would want to set something like that up. This is a balancing act. There are ways to make sure the law is not being violated but it comes to preference.

Mr. Ridgway asked if staff were to make a spot and label a folder for Board public discussion. The discussion was defined as an inter Board discussion with staff that anyone could log onto our website and see. The reason he is asking is when there is a lack of discussion sometime leads to quick decision making where the decisions could be better thought out if discussed more.

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Mr. Brown said we would not know until it was litigated because the Open Meetings Act does not envision these hypothesis. If this was a request to do this for a certain land proposal he would suggest to not tempt fate and abide by current case law interpretations of the Opens Meetings Acts are which is that when three or members or a majority are present whichever is less they cannot consider a topic that the Board is empowered to act upon. Whether it is electronic or not.

Ms. Derr recommended that if someone has something to say to send an email to Ms. Larson and that is not violating the Open Meetings Act. Staff can decide if it needs to go in the packet or distributed without violating the Open Meetings Act. She asked Mr. Brown what happens if a Board member blatantly violates the open meetings act and has private communications outside our CBJ emails and those are not admissible in court and or on the record because they are privileged information.

Mr. Brown said there are a lot of layers to that and would not like to answer. There could be consequences for the individual and for the individual for the continued service on the Board. This question is too complex to answer.

Mr. Grant commented that making a decision on the fly is bad practice. We could do what Ms. Derr recommended and send to staff and add to the packet but then the packets get bigger and people still do not have time to make the decision at their leisure. Why is Mr. Gress' ten page letter to the Board any different than his email in terms to considering a topic that the Board is empowered to act upon?

Mr. Brown said there are reasons to change the state's statutory regime which applies to us here at the City and Borough of Juneau. The Board needs to error on the side of not doing what is currently illegal under the law.

Ms. Hart commented that she keeps hearing that the Board needs an additional tool so the Board can still talk and continue to bring in more information. She suggested to create a special topics committee so items that come up could go there and have a meeting scheduled so we could comply with the open meetings act and bring the relevant information and have a discussion.

Mr. Etheridge said we can do that.

Mr. Ridgway asked if only relevant information to a specific topic was sent from a Board member through staff with no opinions, would that be a violation?

Mr. Brown said this goes back to what is a meeting? If that was a meeting that is a problem. If a Board member sends an email and copies one other member, that is not a problem. Sending an email out to all the Board members is a problem. Sending an email to the Port Director and the Port Director sending out an email to the whole Board recommending discussion on the item in the email he received is not a problem.

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Mr. Schaal commented that the deliberation is to be in front of the public so they can weigh in on the topic and the decision is not already made before public input.

Mr. Larkin asked if we could publically notice a zoom working session and be compliant?

Mr. Brown said as long as you comply with the notice requirement there will be no violation.

Mr. Grant asked why his emails sent to the Board are any different than Mr. Gress's letter?

Mr. Brown said Mr. Gress is not a member of the Board and is not subject to the Open Meetings Act.

Ms. Smith asked if you want to talk about something that happened in the Harbor and there are accusation against staff, is the best way to discuss this in a meeting under executive session.

Mr. Brown said if something like this happens to talk to the Port Director, the Board chair, or him directly and voice your concern. We all could direct you on the correct course of action.

Public Comment – None

Break 7:13pm - 7:20pm

2. Aurora Harbor Phase III – Proposed Layout

Mr. Schaal said this was discussed at the Operations Committee last week. We have been waiting for the DOT money for three years and we just got the letter that said to get started. We are unique that we have the in-house talent to design this ourselves but we are not a full blown drafting center so this will be a slightly slower process. We are trying to match schedule with procurement with in house design with a super tight budget so there are four things stacked against this project. Mr. Schaal said on page three of the plan, the first phase will involve H ramp and that is the location of the existing electrical for the Harbor. He went on to talk more in depth for the different power for the different spaces and the Electrical Engineer is confident we have sufficient available power to plan for the full build out. Mr. Schaal said there was discussion at last week's meeting to provide a list of items to make this area a high end Harbor. Staff would like to have more specifics on what those items are but he noted there is a connected nexus for uplands facilities like bathrooms and lighting but we do not have any portion of the \$4M identified for uplands improvements. If there is an agreement that the uplands is one of the items that makes this a high end Harbor, we do not have a balance in the current budget to afford this. It may be better to include uplands improvements in the new Harbormaster building plans.

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Mr. Uchytel said another point is this money can only be used on specific things and cannot be used for uplands parking.

Board Questions

Mr. Etheridge commented that if we can get the 1% sales tax money and the \$5M State DOT money that would help a long way in the N. Aurora project.

Mr. Ridgway was wanting to make sure the Board was not bound to the 2015 plan and we did not use that when requesting funds because now our plans have changed.

Mr. Uchytel said those were conceptual plans in 2015. We now need to decide what phase III is going to look like but we want to do no harm with planning for future phases.

Mr. Schaal commented that this has been approved by the Board so planning could move forward but things have changed so the plans have changed. In the grant application to DOT staff needs to show them a \$4M project and explain we thought it through and there are tweaks from even when it was submitted a year ago which is less fingers and more head float.

Mr. Grant asked if this money cannot be used on the uplands restrooms and gangway?

Mr. Schaal said yes.

Mr. Grant suggested to look into a rowing float and facility. That activity might expand the use of the Harbor.

Mr. Uchytel said the Rowing club owns the float currently.

Mr. Grant would like the Rowing activities considered. He would like this on a future agenda.

Ms. Smith commented that this is being designed for people on the waitlist. It seems the easiest way to find out what we should build is from the people on the waitlist.

Mr. Creswell said prior to this meeting staff sent an email to all individuals on the waitlist and informed them about this meeting.

Ms. Hart commented that she hears a lot of requests for a downtown drive down float which would be helpful to many users.

Mr. Etheridge said we are still applying for grants for that type facility.

Mr. Leither commented that his concern is that you will have a lot of electrical that certain boats would not be able to plug into.

Mr. Schaal said as long as they have the correct extension cord they can plug in.

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Mr. Grant asked if mooring buoys have been considered until the floats are installed?

Mr. Schaal said the basin is too small for that.

Mr. Uchytel commented that our Electrical design contractor is confident the electrical portion should last over 50 years. We only have \$4M for this project at this time.

Ms. Hart asked about having electrical capabilities in the upland for future charging stations for electric cars?

Mr. Schaal said the uplands electrical is fine to support that. There is a charging station currently being installed at the Harris Harbor parking lot.

Mr. Uchytel asked when the Board wants to see this again?

Ms. Hart asked what the public outreach is?

Mr. Schaal said our meeting minutes that we share on Facebook is our public outreach. He did want to point out that our electrical components require such long lead times that we are anticipating to bring this back to the Board soon for approval.

Public Comment - None

3. Proposed Condominiums on Auke Bay Harbor Road

Mr. Uchytel said on page 77 in the packet is a permit application from Mitch Falk. On page 83 in the packet is what Mr. Falk is asking. Under agency review, this was sent to Docks & Harbors for comment on what has been submitted and we have until August 8th to provide that feedback to CDD but we could ask for more time. Staff does not have concerns with the Statter Harbor parking lot being the right of way for the egress access to the proposed up to 21 condominiums at the Bayhouse Properties.

Board Discussion

Ms. Derr said she is speaking in opposition of this and listed several things that is concerning. This is setting us up for failure in the future.

Mr. Larkin said the easement exists and this is just a different user using it. He said he supports this and does not see a real change.

Mr. Grant said he shares Ms. Derr concerns running a residential development through an aging parking lot. There could be a traffic study done which is a more formal set of professionals looking at what this traffic development will do. The Planning Department should require a traffic study. He is also not convinced they have explored alternative access points.

Ms. Smith asked even if we oppose this, can we stop it from happening?

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Mr. Uchytel said he is not sure what Docks & Harbors can do?

Mr. Grant commented that he knows two access points are required for a certain size development. Would that be applicable for this building?

Ms. Hart agreed to recommend a traffic study and to explore options for a second access. She asked how that request would come from the Board?

Mr. Uchytel said he can take comments and put them in a document and send it off. If the Board wants to reconvene before August 8th so we could tease out what the Board wants to move forward.

Mr. Schaal said Mr. Falk is applying for a conditional use permit so there are conditions that can be put on this type of permit. If the Board decides they want the Planning Department to consider certain things, that should be talked about.

Mr. Etheridge commented he is hearing the Board would like CDD to do a traffic study, is there any objection to that?

Mr. Uchytel asked what we want the traffic study to solve?

Mr. Schaal said if we go from a parking lot to an access, it could require us to upgrade our parking lots.

Mr. Smith wanted it in the permit that they would need to pay for upgrades to our parking lot if that was needed.

Mr. Grant said he has concerns with the traffic being backed up and safety concerns.

Mr. Larkin suggested to find out what the legal description of the easement is because we may not have a lot of options.

Mr. Grant indicated he would want to know if CDD has examined the restrictions on the use of the easement to this property.

Ms. Derr pointed to page 91 to 93 in the packet. This was tried before and staff recommended at that time this was not a good idea to do. Here we are in 2022 with more cars and this is even more of a bad idea to do.

Mr. Uchytel said he can ask for an extension or send out a letter to the Board and have them all respond just to me.

Mr. Grant asked Mr. Uchytel to ask for an extension and write the letter and bring it back to the next operations meeting.

Mr. Uchytel said he can ask for an extension to the day after the next Operations Committee meeting.

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)
For Thursday, July 28th, 2022

Public Comment - None

4. Dock Electrification Study - Update

Mr. Schaal said we are still on the schedule to go before the Assembly Committee of the Whole on August 8th. The plan is to bundle the study with the public comment matrix that shows the areas we made updates. For this to move forward the Assembly would need to provide more funds and approve our funding proposal.

Mr. Uchytel said he is drafting a letter with the history of this project with recommendations so the Assembly can see it all in one memo and move it forward or veto it.

Board Discussion - None

Public Comment - None

5. Statter Harbor Phase IIIC – Plan Update

Mr. Schaal said in the packet on page 123 are new architectural drawings. We are still working to figure out how to structurally support the waiting area. The plans seen last week were changed slightly trying to make it work operational.

Board Discussion - None

Public Comment - None

6. Appointment of Liaisons & Committees

Mr. Etheridge appointed - Board Chair

Mr. Ridgway as the Operations-Planning Chair and he accepted

Ms. Derr as the Board Vice-Chair and she accepted

Mr. Larkin as the Operations Vice-Chair and he accepted

Ms. Derr as the Lands Liaison and she accepted

Ms. Smith and Mr. Becker to the South Douglas/West Juneau Liaison and they accepted

Mr. Leither to the Auke Bay Neighborhood Liaison and he accepted.

Mr. Etheridge suggested to wait until next meeting for assignments for the sub-committees.

Board Discussion - None

Public Comment - None

XI. Committee and Member Reports

1. Operations/Planning Committee Meeting- Wednesday, July 20th, 2022

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)

For Thursday, July 28th, 2022

Mr. Ridgway reported everything on tonight's agenda was discussed at the last meeting. The two items that were also presented at the last Operations Meeting but not on tonight's agenda was the presentation from Goldbelt on the proposal for the Seadrome area and the Hansen & Gress property.

2. Member Reports

Mr. Etheridge said he and Mr. Grant met with the Director of CDD to talk about the Hansen & Gress property to hear Board options. The CDD director was not able to answer the question on options for appeals. She will talk to the City Attorney. She also commented that the Assembly has authority. Mr. Etheridge said he asked if additional area on the water side of the building was leased, could they move forward with the deck, and she did not have a good answer. That question will also be taken to the City Attorney. Mr. Etheridge said right now Hansen & Gress can spend up to 75% of the assessed value of the building in remodeling without having to worry about a variance.

Mr. Grant commented that CDD is in the same place we are. CDD staff has rules they feel they have to follow that conflict with our dictate of disposing of tidelands. He came away with that we should ask the developer to go through the process. Get an answer from the Planning Commission and the Assembly whether they would be allowed to do this. Whether the Board says yes or no at this point, it is not the end of discussion. The real discussion will be at the Planning Commission and the developer needs to go through that process before we consider the sale.

3. Assembly Lands Committee Liaison Report – No Report

4. Auke Bay Neighborhood Association Liaison Report – No Report

5. South Douglas/West Juneau Liaison Report – No Report

XII. Port Engineer's Report –

Mr. Schaal said his report is in the packet and will answer questions.

There were no questions.

XIII. Harbormaster's Report –

- There were two vessels that sank last week
- Three of the abandoned vehicles in N. Aurora are gone
- Army divers show up end of August
- Installation of safety ladders continue with Harris complete and Douglas nearly complete
- The Port is running well. Some of the PTL's are ending their season already and heading back to school. We are confident we will make it through the season.
- Staff is repairing the concrete on the Fisheries Terminal Float by the crane dock
- There is a crew going to Taku Harbor next week to do another repair to the floats
- Hot Berthing in Statter Harbor is ongoing
- Liveaboard numbers are being assembled for Ms. Derr

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES (CONTINUED)

For Thursday, July 28th, 2022

- Salmon Derby is coming in two weeks. The big change is the weigh in station will be at the Auke Bay Loading Facility this year and all three mornings of the Derby are going to be at minus tides and will affect the loading floats.

XIV. Port Director's Report

- Mr. Uchytel said we are working with Marine Exchange to add a weather station in Auke Bay.
- We hosted the Army Corps of Engineers for the Statter Harbor Breakwater project. It is still their number one project but that does not mean it will move forward. They still need funding from Congress. Our Federal lobbyist in DC is working to push this forward.
- The Juneau District Heating Resolution will go before the Assembly on Monday. Moving the NOAA property forward is Senator Sullivan's number one priority.
- The \$6.5M from the 1% sales tax money has been introduced to the Assembly and the Assembly will act on that on Monday.

XV. Assembly Liaison Report

Ms. Woll reported –

- The Assembly will vote on three potential ballot question on Monday
 - City Hall
 - Bond Parks & Rec package
 - 1% sales tax with the Harbors projects are included on the list

She has not heard anything that might indicate this will be removed.

XVI. Board Administrative Matters

- a. Finance Sub-Committee Meeting – Wednesday, August 10th, and 24th, 2022 - Cancelled
- b. Ops/Planning Committee Meeting – Wednesday, August 17th, 2022
- c. Board Meeting – Thursday, August 25th, 2022

We are planning to have a Special Board meeting before the Regular Board.

XVII. Adjournment – The meeting adjourned at 9:13pm.

Docks & Harbors Board Training

CBJ LAW DEPARTMENT



Public Trust

- Board Authority
- Open Meetings Act
- Public Records Act
- Conflict of Interest
- Quasi-Judicial Process



CBJ Law Dept.: Why & Where

- Why:
 - CBJ Charter 3.13 (shall appoint Municipal Atty)
 - CBJ 03.15.010 (Muni. Atty shall provide legal services to municipality)
 - CBJ 11.20.030 (Defend employees/municipal officers engaged in course of CBJ business)
- Where:
 - SEALASKA, 2nd Floor
 - Please come visit. You are always welcome.



D&H Board Authority

- Created by CBJ Charter 3.21
- Established in 1984 by voters
- Authority granted and limited by CBJ Title 85
 - “exercise all powers necessary and incidental to operation of all port and harbor facilities in the public interest and in a sound business manner”
 - CBJ 85.02.060 provides the general powers of the Board
 - 9 members on Board of Directors



Open Meetings Act

- ❖ All meetings to be public
- ❖ Public have an opportunity to comment at regular and special meetings
- ❖ Executive session (generally for deliberation only)

Authority: A.S. 29.20.020, A.S. 44.62.310, Charter 3.12(d)



OMA: What is a Meeting?

- ❖ Decision-making or Policy-making board
 - (a) When more than 3 members or a majority, whichever is less, are present and (b) consider a topic that the board is empowered to act upon.
- ❖ Advisory-only board (i.e. subcommittee)
 - (a) a prearranged gathering of board members (b) for the purpose of considering a topic that the body is empowered to act upon



OMA: Best Practices

- ❖ OMA purpose is to ensure deliberations of a board are done in public.
- ❖ Minimize private Board member discussions.
- ❖ “Serial” meetings: Avoid using “reply all” in email.
- ❖ Reasonable notice of meeting.
 - *24 hrs. min., more notice for complex issues*
- ❖ Make sure agendas include location and time.
- ❖ Cure by completely redoing illegal action.



Public Records Act

- **A.S. 40.25.110, Charter 15.7, CBJ 01.70**
- Two big rules:
 - 1) Every person has the right to inspect public record unless an exception applies.
 - 2) Strong presumption in favor of disclosure
- Applies to CBJ emails, texts, documents, even if on your personal devices
- **Best Practice: keep work at work, keep work on work devices, and don't use text messages for substance**



Conflict of Interest (CBJC 01.45)

You are a municipal officer

You are prohibited from using your position to:

- ❖ Gain a benefit
- ❖ Secure employment or contracts
- ❖ Take or withhold action if you have P/F interest
- ❖ Use CBJ time or equipment for P/F interest
- ❖ Vote or deliberate if you have a P/F interest

Violations are generally B misdemeanors



Conflict of Interest

❖ Financial conflict of interest

- Any interest held by the municipal officer or an immediate family member from which the person has received w/in 3yrs or expects to receive compensation (business, property, relationship)

❖ Personal conflict of interest

- Not a financial interest but includes any material exchange of promise, service, privilege, exemption, patronage, or advancement



Conflict of Interest: Best Practice

- ❖ If in doubt, contact your attorney
 - **Shield:** If you act consistent with attorney advice, then you are immune from personal liability
- ❖ Close calls, disclose in meeting
- ❖ Public Trust=legal conflict of interest code + political conflict of interest



Quasi-Judicial/Appeals

❖ No ex-parte contact with parties

- When sitting as a judge, you cannot have discussion with one side without the other side present.
- Grocery store, school events, etc.

❖ Need to clearly articulate reasons for decision



Public Trust

- Be Fair, Transparent, and Act in the Public Interest
- 70% of Americans express confidence in local government



Resources

- ❖ **Department staff/liaison**
- ❖ **City Clerk**
 - ❖ Beth McEwen (586-0203)
- ❖ **Law Department**
 - ❖ Benjamin Brown (586-0275)
 - ❖ Rob Palmer (586-0909)

