

CBJ DOCKS & HARBORS BOARD
SUB COMMITTEE MINUTES
For Friday November 8th, 2013

I. Call to Order.

Mr. Spickler called the Sub Committee meeting to order at 12:30 p.m. in the Assembly Chambers.

II. Roll Call.

The following members were present: Michael Peterson, Tom Donek, and Scott Spickler.

Also Present Carl Uchytel – Port Director

III. Approval of Agenda

MOTION By MR. DONEK: TO APPROVE THE AGENDA AS PRESENTED AND ASK UNANIMOUS CONSENT.

Motion passed.

IV. Public Participation on Non-Agenda Items – None

V. Item for Action

1. Mr. Roberts Tram Appraisal Process

Mr. Uchytel said he would like to determine today what the committee's goals are, milestones, how to move forward with the greatest efficiency, and a solution all can live with. Docks & Harbors must follow the Open Meetings Act requirements. Goldbelt is in attendance and therefore we have an open and willing negotiator. There are currently two unrestricted appraisals that negotiations will be based on. The question is, "what is the best way to coordinate negotiations".

Committee Questions - none

Public Comments/Questions

Bob Loiselle, Golbelt Inc.

Mr. Loiselle said Goldbelt is open to whatever process the committee deems to be appropriate. He said they do understand the constraints to the Open Meetings Act, however, these meetings can be called into Executive Session for the purpose of negotiations on items that would not be appropriate to discuss in public. Mr. Loiselle said trying to negotiate in an open session would be just about impossible, if not impossible.

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Mr. Peterson asked if Docks & Harbors did decide to go into an Executive Session, could we do so without objection on Goldbelts part?

Mr. Loiselle said Goldbelt wouldn't object, but CBJ legal could decide if the Executive Session was appropriate. He said from their perspective, the productive way to proceed would be in a closed session all sitting around a table.

Mr. Spickler said in matters of personnel or finances, the different Boards can go into Executive Session for discussions.

Mr. Donek said CBJ legal did give direction that the sub-committee could only enter into Executive Session for finance and personnel discussion. If financial information needs to be discussed with Goldbelt, can the sub-committee enter into Executive Session with Goldbelt representatives?

Mr. Uchytel said he could call CBJ legal, but he does not believe so.

Mr. Donek said he would like Mr. Uchytel to find out for sure because he would like to be able to sit around a table and just discuss this issue.

Mr. Uchytel called Ms. Mead and she did not answer.

Mr. Peterson asked if the sub-committee could sit in a more relaxed setting to discuss negotiations with Goldbelt?

Mr. Donek said this is the format for the meetings.

Committee Discussion/Action

Mr. Peterson asked if there was anything more that needs to be added to the list in the letter dated October 8th, 2013?

Mr. Duncan said yes, it would be lack of legal access which would then be #8 discussion item.

Mr. Peterson read all of the discussion items on the letter dated October 8th;

1. Appraisal Methodology
2. Base Rent
3. Royalty Rent
4. Adjustment Period
5. Use of Premise
6. Public Restrooms
7. Effective Date of Rent Adjustment
8. Lack of Legal Access

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Mr. Loiselle said this agenda would not have to be strictly adhered to, but it was just a suggestion. Things could come up that neither side thought about previously. This is just a starting point.

Mr. Uchytel called Ms. Mead again, and she answered.

Mr. Uchytel asked Ms. Mead if it is appropriate for the sub-committee and Goldbelt to enter into Executive Session, or can the sub-committee ever move into Executive Session for the purpose of negotiating the Tram lease rent dollar amount?

Ms. Mead provided an explanation and said the sub-committee would not be allowed to enter into Executive Session following the Open Meetings Act.

Mr. Spickler said the sub-committee was trying to deformatize the negotiation process and just talk one on one about the issues in front of us.

Ms. Mead said there is nothing that prohibits one representative from Docks & Harbors to discuss the issues with Goldbelt and bring the discussions back to the sub-committee for full discussion.

Mr. Peterson asked if there were constraints if the sub-committee decided they wanted to dispense with the formalities of the Assembly settings and just sit around a table for discussions?

Ms. Mead said Docks & Harbors could have the meeting wherever, but it still needs to be publically noticed and follow the requirements of the Open Meetings Act.

Mr. Uchytel said the Assembly Chambers meets the ADA accessibility and the other advantage of being in the Assembly Chambers is the recording ability.

Mr. Duncan asked if it was possible for Mr. Uchytel and one member of the committee to meet with Goldbelt in a private setting and bring the discussion back to the sub-committee for full discussion.

Mr. Spickler said yes, and that may be the way to move forward. He said today he was hoping to identify an appraisal number and have discussions on that number. There has to be a number between Goldbelts appraisal and Docks & Harbors appraisal that would work with the art of compromise. Then the sub-committee could tackle the other items of the lease.

Ms. Mead was no longer needed for questions.

Mr. Donek said he would like Mr. Uchytel and one member of the sub-committee to meet with Goldbelt for negotiations and then bring the information back to the sub-committee for discussion.

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Mr. Loiselle said Goldbelt would agree with that. If the requirement is to meet with the full committee in open session, it would be better to meet in room 224 with the large table setting.

Mr. Uchytel said there is a recorder in that room also, but was not available today.

Mr. Loiselle said Goldbelt learned about this meeting yesterday morning, and has not had enough time to prepare for formal negotiations. They would like more notice and be better prepared. He said when the two appraisers did their presentations of their appraisals, the point was raised that there is now a new comparable, the archipelago property sale. Mr. Loiselle said he asked his appraiser to incorporate that property sale into their appraisal, and that should be available soon for the sub-committee to review.

Mr. Peterson asked if Goldbelt or their appraiser thinks the archipelago property would make a difference in the appraisal on the value of your property?

Mr. Loiselle said he is not sure.

Mr. Spickler asked if Tuesday of next week would work for a meeting with Goldbelt with the updated appraisal?

Mr. Duncan said that the appraisal may not be completed by that time, but the other items in the letter could be discussed.

Mr. Spickler asked for a volunteer from the sub-committee to work with Mr. Uchytel and Goldbelt.

Mr. Peterson volunteered.

Mr. Spickler said now a meeting needs to be scheduled that is convenient for all in a one on one dialog. Discussions can be brought back to the sub-committee and then recommendations can be forwarded to the regular Board following the Open Meetings Act guidelines.

Mr. Peterson asked if it would be more productive to talk about the lease first and then the appraisals, or come up with a figure that is determined within the two appraisals and then work within whatever terms that are going to be renegotiated within the lease? The sub-committee needs to come up with an agreement on how that will be approached. He said to be conducive to success, he suggests to have an agreement that nothing discussed will be decided until everything is decided.

Mr. Loiselle said he would agree with nothing decided until everything is decided. The appraised value is only one component. There are other items that still will come into play like what is the appropriate percentage to apply to the appraised value to

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come up with the base rental. Does royalty rent still apply, and if so, how does it apply? Other items for discussion is access, retail space, bathrooms, the time between rent adjustments, and a number of other things that Goldbelt has asked for consideration. Coming up with a reasonable value for the property would be a good starting point.

Mr. Spickler said settling on an appraisal should be the priority. If there is not an agreement on a number, then there would be a third appraiser, and this could take a lot more time.

Mr. Loiselle said he agrees with that.

Mr. Peterson said he will be out of town until November 30th.

Mr. Spickler said to Goldbelt to let Mr. Uchytel know when the updated appraisal is completed with the new comparable, and another member could sit in on negotiations with Mr. Uchytel and Goldbelt to continue to move the process along.

Mr. Donek said by the time the updated appraisal is received and distributed, Mr. Peterson will probably be back.

Mr. Uchytel said one of the concerns from the full Board was with entering into negotiations, there needs to be a rational repeatable reason for negotiated changes, (ie; 10% to 8%). The reason is so nothing is subject to public scrutiny and other lease holders don't come back and want their lease renegotiated.

Mr. Donek said that is a concern of his as well. This needs to be handled the same as all the other leases.

Mr. Spickler said that is what Mr. Uchytel has been recommending to have consistency and a method for all the leases.

Mr. Uchytel said deliberating on the nine points to renegotiate the lease is going to take several Assembly actions and will be a long process and take a long time. If a lease rent could be negotiated today, that would complete the review process and then we could move into renegotiating the lease with amendments.

Mr. Donek said the sub-committee's direction is to negotiate the lease amendments mutually agreeable by Goldbelt. Docks & Harbors is looking out for their interest and Goldbelt is looking out for their interest. The amendments will then go to the Assembly and then it would be up to the Assembly to send to their various sub-committee's.

Mr. Uchytel said Docks & Harbors is still the manager of the lease and believes we will have to move the amendments through the various committee's.

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Mr. Loiselle said there is only one tram in town and he is not sure how much Goldbelt's lease has bearing on other leases in town. He would like the amendments to go to the Assembly for a final action so the changes can be permanent, and not like the changes made in 2006 that they thought were permanent but there wasn't the appropriate Assembly action to make them permanent. If both sides interests are protected, he doesn't see any problem with negotiations. Mr. Loiselle said Goldbelt has a broader view than just plugging new numbers in the existing lease because that is just not working for them anymore.

Mr. Peterson said this is only one lease, but ramifications would be throughout the Docks and Harbors leases. This needs to be a well thought out process to come up with a compromise and move forward.

Mr. Uchytel said his concern with the Assembly is there is nine people that would require a reason for a change in the lease. There needs to be a compelling reason why any action needs to be taken on this existing lease.

Mr. Peterson asked what date in December would work?

Mr. Loiselle said he will work on getting the updated appraisal and then work on a date to get together for discussion. He said Goldbelt would also like to get this moving forward and off dead center.

VI. Adjournment

The sub-committee meeting adjourned at 1:09 p.m. with no objection.