

CBJ Docks and Harbors Board
REGULAR BOARD MEETING MINUTES
For Thursday, September 24th, 2015

I. Call to Order.

Mr. Donek called the Regular Board Meeting to order at 5:00p.m. in the CBJ Room 224.

II. Roll Call.

The following members were present: Bob Janes, Robert Mosher, Mike Peterson (via telephone), Budd Simpson, Tom Zaruba, and Tom Donek.

Absent: John Bush, David Lowell, and David Summers.

Also present were the following: Carl Uchytel – Port Director, David Borg-Harbormaster, Gary Gillette – Port Engineer, Jerry Nankervis – Assembly Liaison, and Chris Orman – CBJ Attorney (via telephone).

III. Approval of Agenda.

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

Motion was approved with no objection.

IV. Approval of August 27th, 2015 Meeting Minutes.

Tom Zaruba said he wanted the vote on the Douglas Harbor recorded with names and to also list who abstained.

Mr. Uchytel said he has some minor typo corrections.

MOTION By MR. SIMPSON: TO APPROVE THE AUGUST 27TH, 2015 MINUTES AS AMENDED AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

V. Public Participation on Non-Agenda Items – None

VI. Consent Agenda - None

VII. Unfinished Business

1. Public Hearing – Notice of Proposed Changes to Regulations

Amendment of Title 05, Chapter 20 (Small Boat Harbor Fees and Charges)

Mr. Uchytel said the regulation changes in the packet were approved by the Board in August and has been out for a 21 day posting period. This is posted in the Juneau Empire, the Libraries, the Clerks office, and all the Harbor offices. Today is the closing of that 21 day period and tonight is providing for any testimony on the regulation changes. Mr. Uchytel said he has not received any comments.

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Board Questions - None

Public Comment-

Tom Williams, Juneau, AK

Mr. Williams said he has some recommendations for the proposed changes. He said he was on the Harbor Board when the launch ramp fees were being established.

1. Making this an annual fee versus a calendar year fee will make it extremely difficult to keep track of and will be confusing.

Mr. Williams said when these fees were first established, it was not a popular thing. He said he is happy to see the fees are not being raised.

2. Launch ramp permits should be purchased per trailer. There is no reason a person should have a discount for having multiple boats.

Clarke Damon, Douglas, AK

Mr. Damon said he has multiple boats and objects to having to pay for all trailers. He said this year during the fishing derby he thought he had a boat ready for some relatives coming into town, but when he launched it, it wouldn't run, so he needed to go get another boat. He couldn't put that boat in because it was a different trailer. Why is Docks & Harbors so greedy? He asked for clarification on how he would get a permit if he buys another trailer in the middle of the year? He also asked if he was using his boat commercially would he need to purchase a \$250 Commercial Permit to be able to pull the boat to change a propeller?

Mr. Donek said the Board would address his questions.

Board Discussion/Action-

Mr. Uchytel said after the Board approves the regulation changes, he will send this to Law for review and they may change some of the words but not the intent.

Mr. Borg said using annual will be a problem unless put in parenthesis after it (January 1 to December 31).

Mr. Simpson said he agreed with that because the moorage fees go from July 1st to June 30th which is annual but not calendar year. This is confusing using the same term but for a different date schedule.

Mr. Zaruba asked if it would make sense to put all the fee structures on the same date schedule?

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Mr. Uchytel said the moorage fees are July to June because that is the fiscal year for all CBJ.

Mr. Borg said administratively that would not be a good idea because he would not have enough people. The fees timeline currently works.

Mr. Donek said to answer Mr. Damon's questions, the Commercial Launch ramp fee applies to Commercial users not someone who wants to pull their boat out one time. If you want to use the launch ramp one time, there is a \$15 daily use fee.

Mr. Damon asked if he could launch and retrieve several times on the same day.

Mr. Borg said yes if it is the same day.

Mr. Borg said to answer Mr. Damon's question on purchasing another trailer in the middle of the season, a person would need to bring in their registration and proof of purchase and that person would receive another permit.

Mr. Simpson said there has been a lot of time spent on multiple trailers in the same family. The proposed changes are an effort to try to curtail potential abuses but still recognize people that had different boats for different purposes when in fact they were only going to use one at a time.

Mr. Donek would like after annual "(January 1 to December 31)".

Mr. Orman said that sounded good.

MOTION By MR. SIMPSON: TO APPROVE THE PROPOSED REGULATION CHANGES TITLE 05, CHAPTER 20(SMALL BOAT HARBOR FEES AND CHARGES) RELATING TO THE LAUNCH RAMP FEES AND REFER TO THE ASSEMBLY FOR ACTION AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

2. Fritz Cove Beach Access Gate

Mr. Gillette said this has been discussed several time. The last directive was to install a gate but there was still a question on the grandfather rights issue. He said he did research and a "use" is grandfathered in if it is an established use at the time and it was legal in code. Mr. Gillette said there was testimony from an individual that remembered launching a boat when they were a young kid. Mr. Gillette said he is not sure that is now established as a legal use. He researched in the codes as far back as 1972, and there wasn't anything said about that. Mr. Gillette said there was also testimony that there wasn't an

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issue until the rocks that blocked the access were moved in 2005 when they started developing Spuhn Island. With that testimony he knows there was some period the access was blocked. If that use was abandoned for a year, you lose grandfather rights. He asked direction from the Board how they would like him to proceed.

Board Questions -

Mr. Zaruba asked why the Board is looking into this?

Mr. Donek said some of the people that live on Fritz Cove road don't like that area being used as a launch ramp and others have come in and said they like it and use it. It was also a surprise for the Board that Docks & Harbors manages this area. The Board needs to decide if this needs to be blocked off with rocks or a gate that can be opened to allow access for people taking supplies to Spuhn Island. Even with a gate, there will still be adequate kayak access and a parking area.

Mr. Mosher asked if there was an option to just leave it as is?

Mr. Simpson said it is in our jurisdiction and with competing interests in play, Docks & Harbors Board is forced into a position to decide what to do. Leaving it like it is would be one option. The Board decided over quite a bit of testimony that a good compromise would be to install a gate. This would not be permanently blocking this off and still allow foot traffic and kayak use. It would also allow some boats that would need to use this area get an access key from the Harbormaster.

Mr. Gillette said launch ramps are not allowed in that zone. Also, when someone comes and complains to the Board it is the Boards responsibility to address the situation.

Mr. Janes said he does not like the situation the Board has been put in. He said he would like to just leave it alone. It hasn't been a problem and people use it. However, the Board is put into a situation that something needs to be done. He recommends;

1. Leave alone for a year and see what happens.
2. Do the minimum restrictions so kayaks and small skiffs still have access.

Mr. Donek said the Board needs to decide because this is an illegal boat launch ramp that is not allowed to be there. Mr. Borg has a problem if it is open, he will need to manage that area. The gate was an attempt to give Mr. Borg something to work with instead of just an open area.

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Mr. Zaruba recommended to put a gate in and revisit this issue in a year to see how it worked.

Mr. Simpson said that is what has been proposed and someone can come back at any time and say that solution is no good and the Board can revisit this issue at that time.

Mr. Zaruba said he would like this revisited in a year just to see what it looks like.

Public Comment

Tom Williams, Juneau, AK

He said he does launch his kayaks from that launch ramp. He said leaving it alone would be a good approach, however, if it is inconsistent with the use from CBJ, he doesn't understand why there is a compromise? You can either use it or you can't. If you can't use this to launch boats, than you shouldn't put a gate in that still allows some people to be able to launch. He said he would object to putting a gate there. He recommends to block off this area with rocks and revisit this issue in a year. He also recommended to put signs up in the parking area stating this is Harbor parking. He said this is Harbor owned so the Harbormaster will still need to do enforcement there.

Board Discussion/Action -

Mr. Donek said if this was left open, it will remain a launch ramp. As soon as a gate was installed, it was no longer a boat launch ramp and would be taken out of the CBJ code issue and would be a controlled use beach access.

Mr. Simpson said the access would be given for emergency situations and not intended for a public launch ramp ever again.

Mr. Donek said staff has been given direction to put up signage.

Mr. Gillette said CDD did say emergency situations would be an allowable use.

Mr. Janes asked if large boulders could be placed there and see what happens.

Mr. Gillette said there were boulders blocking the access and the contractors working on Spuhn Island moved them.

Mr. Janes said he launches his kayaks with a trailer and so if this is blocked off there would be discrimination toward certain kayak users.

MOTION By MR.SIMPSON: TO DIRECT STAFF TO PLACE A LOCKABLE LOCKED GATE AT THE FRITZ COVE BEACH ACCESS POINT SUFFICIENT TO PREVENT BOATS ON TRAILERS FROM GOING DOWN THE RAMP AND

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INSTALL SIGNAGE IN DEPARTMENT CONTROLLED PARKING AREAS IN THAT LOCATION AND GATE ACCESS ONLY BE OPEN FOR EMERGENCIES AND ASK UNANIMOUS CONSENT.

Mr. Janes objected.

Mr. Donek called for a vote.

Bob Janes – No

Robert Mosher – No

Mike Peterson – No

Budd Simpson – Yes

Tom Zaruba – No

Tom Donek - Yes

Motion did not pass and Mr. Donek will send this back to the Ops/Planning meeting for more review

VIII. New Business

1. Boatyard Lease Amendment

Mr. Uchtyl said this is a lease amendment for Harri's Commercial Marine to relocate to the Auke Bay Loading Facility. At the Board's Strategic planning meeting in March, the Board prioritized that they wanted to move the Boatyard for Docks & Harbors plans to better manage the master planning of Statter Harbor. Moving the boat yard out of Statter Harbor will allow building Statter Harbor to it's best and highest use. Within the existing lease, which was formerly known as Juneau Marine Services, and currently known as Harri's Commercial Marine, the lease will be for a term of 10 years or until such time as a new boat haul out facility is constructed at Auke Bay. In the event the new boat haul out facility is constructed, the lessee has the right of first refusal. The need for a RFP is not in question. Harri's Commercial Marine has that within the contract of the lease. Mr. Uchtyl said he consulted with CBJ Law on how to move the boat yard in an expedited manner. In August an MOA was crafted on how to move forward with the goal of having Harri's Commercial Marine operating by September 1st. CBJ Law will need to put together a lease amendment that would be brought back to this Board next month. This will essentially be the existing lease at the new location with a new lease rent proposed at \$27,000 which is a lease rent established by Horan & Company our term contractor for appraisals.

Board Questions –

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Mr. Simpson said the appraiser determines a value of the property and under CBJ code, the Board was constrained to set a lease rate based on a percentage of eight to ten percent of the property value. This appraisal is based off the appraisers opinion on what a fair rent would be without regard to the value of the property being leased. He would like to make sure that this lease rent determination can be used per CBJ ordinance.

Mr. Uchytel said most of Docks & Harbors tideland leases are for raw land. When this lease was signed, they didn't look at raw land they looked at lease property, equipment and improvements.

Mr. Orman said he doesn't see a problem. This is a unique lease because it is a small portion of a main property and will need to accept best guesses because this is temporary for two to three years.

Mr. Zaruba said the Board needs a value to be able to come up with a reasonable lease rate. He said he has a problem with the appraiser. He asked Mr. Uchytel if anyone disclosed to him a relationship between Duvernay and Horan?

Mr. Uchytel said no.

Mr. Peterson said he wanted a point of order. This is not an interrogation and objects to the tone of the question.

Mr. Zaruba said full disclosure is important in any documents, and full disclosure is necessary in Mr. Horan's appraisal that states he was a partner in Pomtier, Duvernay and Horan for many years. This will look bad in the public perception.

Public Comment –

Paul Swanson, Juneau, AK

Mr. Swanson asked if it is addressed in the lease who maintains the equipment?

Mr. Donek said that is in the agreement.

Board Discussion/Action

Mr. Janes said the Board directed staff to ask Mr. Duvernay to move from the existing location to the new location. It was not a done deal and permits needed to be obtained. Mr. Duvernay agreed to move because the Board believed there was a better and higher use for the area at Statter Harbor. His lease exists for three more years. There needs to be a boat yard in Auke Bay. Mr. Janes said this is a team situation. This is a new facility that is

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opening up and will take time to get up and running. This needs to be looked at a little differently than leasing out another piece of Harbor managed property. We are trying to keep a service going and get the highest and best use in Statter Harbor.

Mr. Peterson said this lease has been active since 2008. To come up with a land value is premature and might violate the current lease. In three years this lease will expire and we will have the opportunity to add additional language to address what is lacking in this current lease. He said he fully supports keeping the lease as it is.

Mr. Zaruba said he agrees with what everyone has said. His concern is by not putting this out in a RFP or a public opportunity to bid on this, we run the risk of public perception of this being an inside deal. We should find out the value of the property and then test the market place to see what kind of revenue it would bring. He knows Mr. Duvernay has first right of refusal but the Board also has an obligation to maximize for CBJ and the people of CBJ's revenue from its assets. Perception means a lot to the public. He said in the interest of good government, this should go out in a RFP.

Mr. Simpson said there is an existing lease. It contemplates that a new facility might be built and if it is, the Board would look at the lease rate but does not require us to go out with another RFP. This is a contract right to go to the new site with a new rate negotiated. The problem he has with the rent value is that it does not fit the ordinance exactly. He is comfortable with the CBJ attorney's legal opinion. This can be revisited in three years.

Mr. Donek said we have a better use for the boatyard area in Statter Harbor. The travel lift and dock it operates on currently is junk and we are risking liability if that decides to fail. We don't have options and time to go out with a RFP. This is not permanent and will be an interim fix. Looking at how an appraisal would be completed for a normal tidelands property is not the same because this lease is not just bare tideland.

Mr. Zaruba said he agrees that the existing boat yard needs to go and moved to the Auke Bay Loading Facility. He said he does not agree that there are not comparable improved tidelands that this property could be appraised against. There are improved tidelands all over Southeast Alaska, and that is what Mr. Horan used for comps. He said if we accept this appraisal, his rent is set at \$27,000 per year and it is one man's opinion. He feels uncomfortable taking one man's opinion when this Board is charged with coming up with a reasonable rent.

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Mr. Donek said we are not in this business to make a profit or make as much money as we can but to provide a public service.

MOTION By MR. JANES : DIRECT STAFF TO MOVE FORWARD WITH A BOAT YARD LEASE AMENDMENT WITH HARRI'S COMMERCIAL MARINE AND BRING BACK TO THE NEXT BOARD MEETING AND ASK FOR UNANIMOUS CONSENT.

Motion passed with no objection

2. Contract Amendment for Construction Administration & Inspection for Cruise Ship Berths Project.

Mr. Gillette said in the packet is the letter from PND which relates to the Construction Administration and Inspection services for the south berth construction that just started. This work will be going through May which will be inspecting the pilings as they are being drilled in and the administrative work that goes along with the construction project. The fee proposal is a time and expense because it is very hard to estimate. The fee proposal is \$994,410. This will be for three engineers full time as they are drilling and placing piles. One of the Engineers will do the administrative part of the project with two crews running at the same time.

Board Questions

Mr. Donek asked Mr. Gillette to tell the Board how PND was chosen for this project.

Mr. Gillette said through a RFP process. Four proposals were received and were reviewed through a selection Committee.

Mr. Donek verified that this was just the next phase of their work.

Mr. Gillette said yes, the RFP was clear it was for professional services throughout the whole project. The first part that has been going on for about a year is for the fabrication work inspections from their Seattle office. This is an amendment to go to the next phase which is construction of the South Berth. Staff will be coming back again next year about the same time for the North Berth construction.

Mr. Janes asked if everything was moving forward on schedule?

Mr. Gillette said they arrived when they said they would and are unloading material barges and getting started on the project.

Mr. Zaruba asked how the Engineers services estimate compared to what is budgeted in this contract?

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Mr. Gillette said it is within the budget that was proposed.

Mr. Zaruba asked if it was less or equal to what was in the budget?

Mr. Gillette said less at this time.

Mr. Simpson asked if during the inspections in Seattle there were any defects found in the fabrication work that needed to be corrected?

Mr. Gillette said there were little things that were found and corrected.

Public Comment- None

Board Discussion/Action

MOTION By MR. SIMPSON: TO APPROVE AND FORWARD TO THE ASSEMBLY THE CONTRACT ADMINISTRATION INSPECTION SERVICES PROPOSAL BY PND FOR \$994,410 AND ASK UNANIMOUS CONSENT.

Motion passed with no objection

6:17 – Break

6:34 - Resumed

IX. Items for Information/Discussion

1. Juneau Port Development Lease

The Power Point Presentation was not available due to technical difficulties and this was discussed last under Items for Information/Discussion.

Mr. Lockwood said he is working on responding to a letter from the Port Director dated June 26th that lays out specific things the Port Director would like to see from his stand point. He plans to have that response for the OPS/Planning meeting on October 21st. This lease was first conceived in a meeting in 2001. He outlined at the meeting to use the mineral estate to raise the money and develop an area encased by a wall which was all funded by private funds. There are no CBJ funds, tax payer funds, or Docks & Harbors funds used for this project and the revenues will be for the benefit of CBJ. As a result of that meeting, he moved through all of the Boards and signed the lease in 2007. The terms of the lease and the position of Juneau Port Development is there is no money on that lease at this time. The reason for that is Juneau Port Development does not own that property but the State of Alaska holds the title to the tide submerged lands mineral reservation and there are other documents that will have to be cleared before the Harbor could be put in place. The function of the lease is actually

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a pass through that allows for the subletting of that property. The design for the Harbor needs to be completed, land titles need to be in effect, and the marketing into the mega yacht industry, and larger vessel industry needs to be completed before subletting. Docks & Harbors collects the revenues off the capital infrastructure and after the cost of operation and maintenance is taken out, the remaining revenues reserve in the Harbor will go back to the original participant in the lease. The plan works like a timeshare. The developer coordinates the property, makes a design, and comes up with a plan that is marketable to an individual. The rents from the timeshare holder will benefit from the revenues after the cost of operation. Juneau Port Development owns nothing in this lease. The patrons that execute the sub-lease become the lessee of that particular slip. In order to get to that point there needs to be a project set in stone. Up to current, he has not had a set in stone project to work with. There has been other City ventures that came from the Public Works and City Engineering Department that destroyed the ability to attract the mega yacht market. This destruction started three years ago. This project has been a moving target for him as a developer to try to stabilize the land titles that can stabilize the facilities that can be sublet to the user. The project works just like a timeshare. The land is taken, the project is developed, the financing is put in from the outside and it is passed through a user that pays it off. In the meantime, Docks & Harbors receives a tremendous amount of annual rent from that infrastructure that was financed outside CBJ. This is a unique piece of property and the only place in the world this will work because the attraction to the City by the mega yacht patrons. He said if he can put a package together that attracts them as the facility attracts them, then the sub-lease package has to be approved in full by Docks & Harbors. At that point it would be a marketable item. Because this is the only place in the Northwest the mega yacht people have a place to dock and have control of the property. The problem moving forward is the intermediate stage of the project. He asked if there was any questions about the structure on how this lease works and the position that Juneau Port Development holds in this situation? The focus from Juneau Port Development is to finish the design and proposal to put on the market and attract the mega yacht users.

Mr. Zaruba asked if Mr. Lockwood's plan is to get this area title for the leases de-conflicted?

Mr. Lockwood said no. His plan is to get a stable piece of ground and design. He is working with PND to perfect the draft plan and have an item that is marketable to the mega yacht industry. His plan is to create a package, a plan, and an entity within the harbor with clear title to the property with a provision that has been approved by the Board and by

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Finance Committee and by the City attorney that can be marketed to the mega yacht industry.

Mr. Zaruba said he understands that, but his question is what does he want the Board to deliver?

Mr. Lockwood said no, he just wants the Board to approve what he's doing. It was pointed out three years ago that if he would have had approval of his plan it would have made it impossible for the City Engineer to put a snow dump in. He is asking for approval of the concept plan at this time. He is not asking for money from Docks and Harbors just the freedom to get this project completed.

Mr. Janes said he remembers the Board giving approval to move forward with this project by authorizing extensions.

Mr. Lockwood said the Board has approved the extensions, but he is making the statement he is no longer asking for an extension of the lease but he has a project moving forward that already has \$1,700,000 into this project from outside investors. Once this plan is completed by PND he will go to the mega yacht market this month. At another meeting, he will ask approval from the Board of the draft plan from PND.

Mr. Janes asked with the mineral rights, does Docks & Harbors not have the ability to lease this property to no one else because Mr. Lockwood has the mineral rights?

Mr. Lockwood said that is correct. The State of Alaska maintains those mineral reservations on ATS 556A which were withheld when this lease was passed to CBJ. That reservation needs to be released before the Title is clear. Before he can make a proper sub-lease to the mega yacht owners, he needs to show to them that he has the ability to release that area. The law states if that mining claim is not released, and he doesn't keep up with his annual rent which is \$800 to \$900 monthly to the state as a claim holder, another miner could make a claim. It took four years to put this lease together that the Board is trying to cancel now. It would be a shame to lose the position to market this area to the mega yacht industry and see if this will work. He said his current modification is in the packet. When the snow dump went in by the Public Works Director, Mr. Lockwood did a redesign and it reduced the number of slips by 55. He would like to build a wall and put the dredge material behind the wall. The wall is in the process of being designed and bonded currently no matter what happens with the Harbor. The wall is needed to handle the first phase of the dredging. There is over \$65M in gold in the sand toe at that site and has been assayed and proven.

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He said the simplicity of this project is taking the dredge material and making uplands and then for the hole in the water put pilings in for docks for boat slips. The name of this Harbor is Entrance Harbor. He will come back to another meeting with answers to the Port Directors letter and written support for everything he has said tonight.

Mr. Uchytel said today he met with Mr. Lockwood and Chris Orman, CBJ Law. He said it is his responsibility to manage the leases and he would not be doing his job if he said that Mr. Lockwood has met the terms of the lease as well as the direction the Board has given him in the last few years regarding Mr. Lockwood's project. Mr. Uchytel said no one wants to stand in the way of Mr. Lockwood's project. At the October Board meeting in 2010 Mr. Lockwood was given a two year extension for the purpose of providing additional time to obtain permits for the proposed development. At the October Board meeting in 2012, Mr. Lockwood was granted another two year extension for the purpose of providing additional time to obtain permits for the proposed development. The Board was clear in stating additional extensions would not be considered under the terms of the lease. At the October Board meeting in 2014, Mr. Lockwood's lease was extended one year with a four to three vote. The Board stated at that time that Mr. Lockwood had until October 31st, 2015 to secure all permits under the terms of the lease necessary to develop a Harbor Marine Complex and associated uplands amenities. Mr. Uchytel said Mr. Lockwood has until October 31st 2015 to demonstrate that he has in accordance with the terms of the lease the permits in place to develop this Harbor facility. Mr. Uchytel said as of today he has not met this standard. He said he has tried to communicate with Mr. Lockwood that the best way forward is for the Port Director to write a letter to Mr. Lockwood referencing the letter from June the permits he has not been successful in obtaining. Mr. Uchytel said he does have a permit with the Corps of Engineers, but that permit is a general permit authorizing work conducted by floating devices in navigable waters in the United States for the purpose of recovering metals within the State of Alaska. Mr. Uchytel said the cleanest way forward to give Mr. Lockwood due process for this lease would be to send a letter saying per the terms of the lease you are not compliant and his lease will not be extending and terminated on October 31st, 2015. That would give Mr. Lockwood an opportunity to come back to the Board and petition the Board to challenge the Port Directors decision and if that was not favorable he could petition to the Assembly, if that was not favorable he could petition to the Superior Court. The Board could also decide to do something other than what the Port Director is proposing and extend or amend the lease. This would need Assembly approval.

Mr. Zaruba asked when the lease expires?

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Mr. Uchytel said October 31st, 2015. If there is an appeal, the time stops.

Mr. Zaruba asked when will Mr. Uchytel write the letter?

Mr. Uchytel said he suggests to send it tomorrow.

Mr. Janes stated if the letter is sent, because of the mineral rights and the Corps of Engineers permit, Mr. Lockwood still has the authority and ability to dredge this as long as he is paying the State. This is why the lease keeps getting extended because it can't be leased to anyone else. This is complex and he sees benefit for CBJ to continue with Mr. Lockwood's lease. Mr. Janes asked Mr. Lockwood if he has the right to dredge this area and put the fill upland under his Corps of Engineers permit or put it back where it was?

Mr. Lockwood said the Corps of Engineers permit allows dredging to -22. This permit does not allow to place this material on the uplands, but the entire ATS 556A is tide and submerged lands. This was the complication for CBJ's dredge fill permit because Ron King stated CBJ does not have anything to do with dumping fill back into the waters. Mr. Lockwood said he will be dumping fill back in the water and letting it build up.

Mr. Janes asked if it would be behind the wall?

Mr. Lockwood said the wall is not planned to go in until he gets a dredge schedule where there will be 500,000 cubic yards to +22 and that will be on the CBJ side of the old fuel dock. Then go to the other side of the fuel dock and do another 50,000 cubic yards which will raise the land to where trucks can drive on it. Under the terms of this lease and the Corps of Engineers permit, I can dredge the material and place it behind the wall because it is still in tide and submerged lands. The lease has a provision for forfeiture. The Port Director is premature to send a letter until the end of the extension. Mr. Lockwood said he has an active lease and he is only not compliant because of the interpretation of the Port Director on this lease. He is trying his best to accommodate the terms of the Port Director's letter. Mr. Lockwood said he would need to get permission from the Board to write the letter and he will ask for a vote of the Board who wants to oppose this lease. He said if this is not favorable, he will appeal to the Assembly. He said he is on a personal hook for over \$1,700,000. Mr. Lockwood said it states in the lease that if he does due diligence it is an automatic extension.

Mr. Donek said this is not an action item tonight.

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Mr. Simpson said he is convinced by Mr. Lockwood's statement that he won't be in default until the end of October. If he is in default at that time then it would be appropriate to send the letter.

Mr. Donek said this will expire on October 31st, 2015.

Mr. Simpson said his lease will expire if he fails to meet the conditions of the lease.

Mr. Donek said the lease states it is up to the Port Director to determine if Mr. Lockwood is compliant with the lease.

Mr. Simpson confirmed that if Mr. Lockwood is not happy with the Port Director's determination he can appeal to the Board.

Mr. Zaruba said writing the letter now will give Mr. Lockwood the opportunity to appeal to the Board on October 29th before the lease would expire if Mr. Lockwood is not compliant.

Mr. Simpson agreed with that also.

Mr. Donek said the Port Director makes the decision and the decision can be appealed to the Board.

2. Surplus M/V Icy Strait

Mr. Borg said he is proposing to put the M/V Icy Strait up for public auction. The vessel is over 21 years old and has been in service since 1994. Based on the recent survey, the vessel has reached its useful service life. The vessel has been hauled out of the water and in storage for the past 18 months. This vessel is too big for the harbor and the tasks can be completed with a smaller more nimble vessel. The survey said it is worth \$49,000. He said he will start the auction at \$35,000.

3. Auke Bay Wake Zone Update

Mr. Uchytel said he received a complaint from a home owner that lives on the shoreline that the boat wakes were causing damage to his new dock. As Port Director he does not have the authority to change the speed limits outside the Harbor area. He has been working with TBMP to engage the tourism industry to self regulate and begin a voluntary process which seems to be working well.

4. Douglas Harbor 65% Design

Mr. Gillette said staff is moving forward with the 65% design. We will start with a base bid and have two added alternatives. The first alternative is to install the existing gangway ramp that was at Douglas Harbor from a

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approach dock made of piles and wood down to a float that will be attached to the rest of the floats. Added alternative two would be to extend the existing wall out to where the ramp is put to the wall to the float. When we receive the bids, based on the bids we would be able to do added alternative one or two. The base bid with added alternative one would be \$6.3M. The base bid with added alternative two is \$6.7M. The expanded area and moving the wall out is another \$400,000. The benefit would be that there would be extra parking.

Mr. Zaruba asked if there was a requirement from the CBJ that makes it difficult for local companies to bid on these projects?

Mr. Uchytel said that is a Project Labor Agreement (PLA). There was a resolution by the Assembly two years ago that said any project over \$4M adjusted for inflation that every contractor has to agree to sign a project labor agreement. This is a requirement to use union labor from a union shop in Juneau. There are a couple contractors in town that by their choice decided to be non-union and are prevented from bidding on a PLA project.

Mr. Donek asked what Trucano was doing with the old floats from Douglas?

Mr. Gillette said he is taking them to the dump. Some of the main floats have been sold.

Mr. Uchytel said next week the Corps of Engineers is coming down for a pre-con meeting on the dredging project. This dredging project is \$5.8M and awarded to Western Marine Construction of Seattle. The project will start mid-October and be finished in February.

5. RFP Downtown Harbor Facilities

This is a draft RFP for the Professional Services for Land Use and Strategic Financial Planning Downtown Harbor Facilities in Juneau. This came out of the offsite strategic planning meeting with the Board. This is for a comprehensive master plan conceptual development of the area from Norway Point to the bridge. Harris Harbor is ten years old and Aurora Harbor is designed so there is already an idea on the marine aspects. This project is basically for the uplands and the fisheries dock area. The budget for this project is \$100,000. Typically with RFP's, there is a selection committee, and staff encourages Board members to be on the selection committee.

Mr. Donek suggested to make sure during the RFP process that it is known this is for \$100,000.

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Mr. Gillette said it is open. The proposer will tell how much the \$100,000 will cover and how much it will cost to finish the project.

Mr. Zaruba asked where the money is coming from?

Mr. Gillette said there is enough money out of the Aurora Harbor project that could be used because it is not enough to do a construction project with.

Mr. Uchytel said the money left over is the 10% contingency from Aurora Harbor phase one. Docks & Harbors does not have money to complete the rest of Aurora Harbor. With this project we could get conceptual ideas on where to go next. Funding is going to be very important.

6. Selection Committee – 4400 Thane Road Update

Mr. Uchytel said last Monday the selection Committee sat through a RFP process that looked at three proposals. One was from Tlingit and Haida Immersion Park, another was from Abby's Kitchen for a Restaurant, and one was from Jeff Fanning, Liquid Alaska for a bus/coach staging area. The Committee chose the Tlingit and Haida Immersion Park as the preferred proposal. In the RFP it stated it was the responsibility of the proposer to make sure the proposal was consistent with the land use code in Title 49 and zoning. It has been brought to Docks & Harbors attention that this proposal may not meet the zoning requirements and would not be authorized. Tlingit and Haida will be working with CDD to be compliant with the zoning.

X. Committee and Board Member Reports

1. Operations/Planning Committee Meeting – Cancelled
2. Finance Committee Meeting – Cancelled
3. Member Reports – none

XI. Port Engineers Report –

Mr. Gillette said Manson construction is in town to start the 16B project.

XII. Harbormaster's Report –

Mr. Borg reported;

- The last day for seasonal staff is tomorrow.
- Staff is working on winter preparations in the Harbors.
- Working on a full time hire for our Senior Harbor Officer position.
- Completed new dock shelters at the top of C, H, and A ramp in Aurora Harbor.

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XIII. Port Director's Report –

Mr. Uchytel said at the last meeting Mr. Parker complained about cat urine on his boat. Mr. Clauder approached the owner and he is trying to get rid of his cat.

Mr. Donek said he also checked on a solution for this issue and the individual could have went to the Humane Society and borrowed a live trap. You can then take the cat back to the Humane Society and they fine the owner.

Mr. Uchytel said the Alaska Association of Harbormasters conference is October 12th through the 16th that he and Mr. Borg will attend. The PCC conference was last week in Juneau and received approximately 50 harbormasters.

XIV. Assembly Liaison Report

Mr. Nankervis reported;

- Monday night the Assembly rescinded a portion of the senior sales tax exemption.
- The destruction date for the Gastineau apartment was extended to sometime in April.
- The moratorium was extended to later in October on marijuana because everything is not in place yet.

XV. Board Administrative Matter

- a. Operations/Planning Committee Meeting – Next meeting is changed from Wednesday, October 21st to Thursday, October 22nd, 2015.
- b. Finance Committee Meeting – Next meeting is changed from Thursday, October 22nd to Wednesday, October 21st, 2015
- c. Board Meeting – Thursday, October 29th, 2015.
- d. Harbor Fee Review Meeting – Next meeting is Thursday, October 22nd, 2015 at noon.
- e. Docks Fee Review Meeting – Next meeting is Wednesday October 21st, 2015 at 4:30 pm.

XVI. Adjournment - The regular Board Meeting adjourned at 8:05 p.m.