

CBJ Docks and Harbors Board
REGULAR BOARD MEETING MINUTES
For Thursday, October 29th, 2015

I. Call to Order.

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

II. Roll Call.

The following members were present: John Bush, Robert Janes, David Lowell, Robert Mosher, Mike Peterson (Via Telephone), Budd Simpson(arrived at 5:14), David Summers, Tom Zaruba, and Tom Donek.

Also present were the following: Carl Uchtyl – Port Director, Dave Borg – Harbormaster, Gary Gillette – Port Engineer, Amy Mead – CBJ Attorney, Christopher Orman – CBJ Assistant Attorney, and Jerry Nankervis – Assembly Liaison.

III. Approval of Agenda.

Mr. Donek requested to move #2 Juneau Port Development to #1 under Unfinished Business.

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

Motion was approved with no objection.

IV. Approval of Previous Meeting Minutes.

Hearing no objection, the September 24th, 2015 Regular Board Meeting Minutes were approved as presented.

V. Public Participation on Non-Agenda Items –
Jim Betts, Juneau, AK 99801

He said he wanted the Board to know he submitted an application to serve on the Board today for the vacant position.

VI. Consent Agenda - None

VII. Unfinished Business –

2. Juneau Port Development Mining Rights and Modified Harbor Plan
Howard Lockwood, Manager of Juneau Port Development LLC, and the owner of AMEX Mining. He said he wanted to brief the Board about the association between the Harbor and the mining claim. He said somehow the mining has become the enemy in this project. In the concept of the project, the mining claims became the source of the movement of the material necessary to create an area of about 1,000' x 1,000' at -22 with a wall surrounding it to accommodate a harbor. The mining claims have always been on the property, and were withheld by a mineral reservation when ATS 556A was passed to CBJ.

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They were claimed by Dr. Roger Eichman. Mr. Lockwood said he has been involved and tracking these claims for over 17 years. They are valid current mining claims. The mining claims are the dominant estate on this property until the minerals and precious metals are removed. The royalties are paid to the State and taxes are paid to CBJ. The mining phase of this project makes it possible to finish the plan, market, and sublease individual slips to the users to the benefit of CBJ and the Docks & Harbors Board. The claims have to be processed and the State release the mineral reservation before anyone can use the property. The mining industry will pay for the dredging and the containment wall and this is all a gift to Docks & Harbors. The dredging is going to cost \$30M. The lack of financial support from the State, the Industry, and the situation Docks & Harbors is in, he would think Docks & Harbors would be happy to have someone come in and lay out a program to dredge this property so the minerals could be removed so the property would revert back to Docks & Harbors. The containment wall is about a 1,000' long and the cost estimate from PND for this wall is \$6M. This would be funded by the mining industry under a program to put a project together. The slips would be sub-rent out to financially stable users. Each slip will have a 35 year sub-rent with an option for another 35 years. The one thing Juneau Port Development has to have is a stable property use. He said he had that up to three years ago. He had a plan that had 112 slips. Because of the CBJ's Engineer Department Director taking some of the land Mr. Lockwood's plan was going to use, is what caused the change in the plan to develop. Mr. Lockwood said Juneau Port Development went through an entire revamping of this project to come up with one workable piece of property which is on the east side of ATS 556A and accommodates approximately 54 slips. Mr. Lockwood said Juneau Port Development requests a vote on the modified harbor plan. He said he invited Mr. Dave Wilfong from DNR to provide the same power point he presented at the Ops/Planning Committee.

David Wilfong – DNR Engineering Associate.

He said he works in the mining section to permit and regulate mines in Southeast Alaska. He has added slides due to questions from the last meeting from talking with Amy Mead, CBJ Law. He said he was rushed during the last presentation and there could have been some misunderstandings. He would like to give a clear understanding of what Mr. Lockwood's rights are with the mining claims, CBJ's rights, and DNR's rights. He said DNR manages all of the land and water in Alaska including over the counter land sales, conveyances to municipalities, water quality management, water rights, and water use permits for the amount of water being used. DNR is the lead state agency in anything that has to do with mining. All other agencies will need to consult with DNR for issuing permits and decisions. The main priority in the mining industry is to ensure that all of the permits are issued in a timely manner through a unified

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permit system. He said Alaskan's own Alaska, however, there are many different managers of Alaska. Roger Eichman's mining claim is managed by Mr. Lockwood. Mr. Wilfong said Mr. Lockwood estimates that there is 1.5M tons of sand which are the tailings from the Alaska Juneau Mine. Alaska Juneau Mine had a notoriously low recovery rate of gold, silver, and lead from the mine. The gold that escaped is in that sand. This has already been liberated from the hard rock so this will be really easy to recover. The tide and submerged lands were conveyed to the State of Alaska at statehood. The surface estate was conveyed to the City of Juneau on January 4th, 1968. The mining claims were located November 20th, 1987 by Roger Eichman, however, there were mining claims on that area before that. When land is conveyed to a municipality, the valuable locatable minerals are held back by the State. The State held back an area needed to get to the minerals, and also an area in case they would need to build roads, and buildings.

Mr. Wilfong said one of the questions asked by Ms. Mead was about proving up the claims. He said there are several factors to holding onto a mining claim.

1. You need to make a discovery. You must find enough of a locatable mineral to be able to invest more time, energy, and money into pursuing this find. In this case, there is enough gold to justify this. 03/28/1981

2. Location. There needs to be stakes in all four corners. - Which there is. 11/20/1987

3. First and annual rental - This is current.

4. Annual Labor – Current

Mr. Wilfong talked about a Surface Use agreement.

- The Miner must enter into a surface use agreement with the surface estate owner.
- The Miner must post a surety bond to pay for damages that may occur to the surface estate.(structures and way of life)
- If an agreement cannot be reached between the miner and surface estate owner, the Director of ADNR DMLW will make a determination of necessity and the bond amount.

Mr. Wilfong said in most cases it ends up a win-win situation.

Board Questions –

Mr. Janes asked if this could be a win-win situation.

Mr. Wilfong said he does not have an opinion on how this should go. His job is to regulate operations and promote the responsible development of Alaska's natural resources. He said he has been working with Mr. Lockwood for about four years now. He said his plan is to dig up the sand and put it behind a retaining wall which will lower the depth of the sand and increase the depth of the water to be able to use the area for a Harbor. There are three things that could happen.

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1. Mr. Lockwood could just walk away.
2. Mr. Lockwood could suck up the sand and run it through equipment and put it right back in the same area.
3. Mr. Lockwood could suck up the sand and put it behind a retaining wall.

Mr. Zaruba asked Mr. Wilfong, from the States perspective, has Mr. Lockwood satisfied all the requirements to mine that area?

Mr. Wilfong said yes.

Mr. Janes asked if the DEC permit and the Corp of Engineers permit would be attainable without big issues?

Mr. Wilfong said he wasn't thinking about the contaminated end of this project. With the technology today, there is always a way to remove contaminants.

Mr. Uchytel asked Mr. Wilfong if Mr. Lockwood didn't have the lease agreement, would he still hold the mining claims? He also wanted Mr. Wilfong to explain what a perfected mining claim is.

Mr. Wilfong said he would still have the mining claims if the lease expired. There would need to be a surface use agreement to mine it. For a mine to be perfected, there are four things that need to incur which Mr. Lockwood is current with;

1. Location
2. Discovery
3. Annual Rental
4. Annual Labor

Mr. Bush asked Mr. Wilfong if there was a surety bond in place, if not, when would it be required? Who makes the decision on how much the bond will cost? Will the environmental issues be considered for the bond?

Mr. Wilfong said the surety bond will be required when the mining operation ramps up to anything that is beyond a recreational mining operation, which is a operation up to and including a 6" suction with a 18 hp dredge. In this operation it would take approximately 30 years to move all the sand with using this size of a suction dredge. He said clearly a larger machine will be required. Mr. Lockwood would need to apply for a mining permit to use the machinery that he will use to mine this area. When that mining permit is looked at by the State of Alaska, they would look to make sure there was a surety bond in place. The bond would need to be in place before the permit is approved. The amount of the surety bond would be negotiated by the surface estate owner and the miner. If the two parties can't agree on an amount, the director of DMLW could decide on a reasonable amount and if either party didn't agree to the amount it

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could go to civil court. Mr. Wilfong said the environmental issues would be considered. Each site and operation is looked at differently.

Mr. Bush asked if a large scale mining permit has been applied for?

Mr. Wilfong said no. He also wanted to clarify his answer to Mr. Zaruba's question "if Mr. Lockwood was free to mine in the State's eyes". He said his response was "yes", but that is not correct because there is no permit in place for the large scale mining along with a surface use agreement and surety bond. In that fashion he is not ready. He would only be able to use a 6" suction barge.

Ms. Mead said the mining discussion does not have anything to do with the lease. This is a split interest issue. She said Mr. Lockwood and his partner Mr. Eichman pulled two different property interests with respect to that area.

1. They have a tidelands lease for CBJ. Meaning we have conveyed to them an interest in using the surface.

2. They have a leasehold locater interest. Meaning, because we were conveyed the property prior to their obtaining the mining interest, they have a lease holder locater preference which gives them a preference right to obtaining the mining permit which they have not done yet.

The lease is for the surface use. The lease agreement is terminating and there is no action the Board could take to change that unless the Ordinance authorizing the lease agreement were amended. There is nothing that prohibits the Board from asking the Assembly to amend the Ordinance or entering into a new lease agreement. There could be another lease agreement entered into under the same conditions if that is what the Board wanted to do, but the issues related to the mining don't have anything to do with the Tideland lease.

Mr. Donek asked after this lease expires, what can this land be used for with Mr. Lockwood still holding the mining claims?

Ms. Mead said Mr. Eichman and CBJ has equal property rights. One cannot prohibit the other from using the property. The mineral estate owner cannot prohibit the surface owner from using the property. The surface owner cannot prohibit the mineral estate owner from using the property. Whoever starts using the property first can use it, but if the other person wants to start using it there needs to be a payment, indemnity, or making whole. The two property owners are suppose to work on an agreement and if they can't, they will need to go to court. There is no prohibition to entering into another tidelands lease, or another one with Mr. Lockwood.

Mr. Donek asked if someone walked into the office Monday morning and wanted to lease this area, would there be anything that would prohibit this?

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Ms. Mead said no, but that would not extinguish Mr. Eichman's mineral rights.

Mr. Lockwood said to answer Mr. Janes question about the contaminants on this property, the prime contaminants is lead, bird shot, bullets, broken glass and car parts. To apply for the permit to dredge, he needs to specify if the material will be put back in the same location or put behind a wall. This is the issue before the Board tonight as far as his thinking is concerned. He said he has a different opinion on the status of the lease. There is a termination clause in the lease document, the Port Director or the Law Department has not followed that clause. He said he didn't see anything that gave the Port Director authority to write the letter with a statement that this lease will terminate. He doesn't understand how that letter can cancel this lease document that took years to negotiate without due process. The principles that would terminate this lease would be the Assembly or the Committee of the Whole. He said he has asked what the Board wants changed in the lease and offered to make an amendment to the lease to satisfy this Board. This is a unique situation and right now there is an opportunity for the Board to cooperate with the mining and the mining to cooperate with the Board and put together an infrastructure facility that the City cannot do alone. This is all a gift to the CBJ. Once the minerals are taken from this area, this will automatically go back to the CBJ. If this lease is cancelled, you've lost this document that took four years to put together. Without the support of Docks and Harbors in this action, Mr. Lockwood said he will not continue. He would then mine the material and just put it back where it was. CBJ will be losing the \$30M to dredge plus the cost of the wall.

Mr. Lockwood showed the modified plan of the Harbor with approximately 54 slips. With this plan there is no conflict of any land. The idea would be to dredge the material out of the Harbor area and build a wall and put the material behind the wall. This would take the mining interest and Docks and Harbors to make this possible. He is asking for a vote tonight on this modified Harbor plan.

Mr. Janes said this is a concept, but without the permit in place, this can't move forward. The cancelling of the lease will not be stopping anything. What is holding up the permits?

Mr. Lockwood said he has not had a stable piece of ground to work with. He said he started the DEC permit under the general permit just about a year ago. He went and modified that permit today and under the program, he was told he could start work tomorrow.

Mr. Janes asked what hardship the lease being cancelled is going to cause?

Mr. Lockwood asked why the Board doesn't just tell him what they don't like about the lease and make an amendment to this lease. After the mining claims

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are released, the property goes back to CBJ. He asked for the Board to assign a Committee that he could work with and come back to the Board.

Ms. Mead said the way the lease was developed, there were certain things that needed to happen. If those things didn't happen, the lease would terminate with no action. The lease provided for a 36 month extension from the Port Director which was done, and there were other extensions given that were not authorized by the original lease agreement. The Board's authority to enter into a lease agreement came from the Ordinance. At this point what would need to happen is the Assembly would have to amend the Ordinance to allow for another extension or amend the lease agreement, and if that didn't occur, the lease would expire, but there is nothing that would prohibit another lease being entered into for a new project.

Mr. Zaruba asked Mr. Uchytel if there was any other competing interest for this property?

Mr. Uchytel said Goldbelt may be interested.

Mr. Lowell asked for clarification if the Board approved the site plan today, it doesn't absolve the lease being terminated by the deadline.

Ms. Mead said that is correct. If you like Mr. Lockwood's proposal for the new Marina, you would enter into negotiations, and the lease would go forward to the Assembly for approval just like any other Tideland lease.

Mr. Uchytel asked if the lease would need to be competed?

Ms. Mead said she is unsure and would need to see if this lease offers preference rights.

Mr. Uchytel said this is nothing more than a tidelands lease to build a Harbor and associated upland. It is not about the mining. It has in the lease, Mr. Lockwood should have only had one extension to get his permits in place, and the Port Director is authorized to grant the extension or not. Following the lease language, without the permits in place, he is not able to grant another extension.

Ms. Mead said if there is confusion on how an Ordinance reads, it could be sent back to the Assembly for a determination on intent. There is also a provision in CBJ Law that allows for a negotiated lease agreement that has to be authorized by the Assembly it would be up to the Assembly whether or not they would want to consider other offers as well.

Mr. Zaruba asked Ms. Mead if there is nothing the Board can do at this point on this lease?

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Ms. Mead said the Ordinance language and lease agreement allowed for an extension under the original agreement and that extension has occurred and because the permit conditions have not been met, this lease terminates.

Mr. Zaruba asked if the Board is done at this point?

Ms. Mead said unless the Board wants to ask the Assembly for an amendment to the Ordinance.

Mr. Summers left the meeting at 6:44 pm

Mr. Janes asked if the Board can ask the Assembly to amend the Ordinance?

Ms. Mead said the problem is this lease expires in two days and not a chance to get before the Assembly before it expires. There is nothing that prohibits the Board from negotiating a new lease agreement and sending that to the Assembly for approval.

Public Comment - None

Board Discussion/Action

MOTION By MR. SIMPSON: BASED ON THE ADVISE OF COUNCIL THAT THE LEASE MUST TERMINATE ON OCTOBER 31, I MOVE THAT WE ALLOW THE LEASE TO TERMINATE BUT ADVISE THE ASSEMBLY THAT THE BOARD WISHES TO REOPEN THE PROPERTY THAT WAS SUBJECT TO THE LEASE FOR PROPOSALS FOR A NEW LEASE FOR THE SAME PURPOSES, AND TO AUTHORIZE THE PORT DIRECTOR TO NEGOTIATE THE SAME.

Mr. Janes asked what is meant by same purpose?

Mr. Simpson said his preference is with the same entity. He said it makes sense because of the mining interest on that property.

Mr. Peterson said he would oppose Mr. Simpson's suggestion. The Board is maintaining the status quo and he has seen nothing that would suggest in the last years that coming up with a new lease would propel Juneau Port Development any further towards its permits. Also, it would be discrimination for this Board to take any kind of an action that would suggest that we want to open up a new lease arrangement with the same person and would discourage any other person wanting to do something different with this land. He objects and asks for a role call.

Mr. Janes said he is taking the opposite approach. He has seen this project evolve over the last few years and seen the changes he has made to his plan as a result to activity from CBJ. The permits may be evolving because of those changes. He said the Board has latitude in negotiating the new lease. With

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this new plan and permit dates strongly worded he thinks the Board can allow the process to continue.

Vote on Motion

John Bush – Yes

Robert Janes – Yes

David Lowell – Yes

Robert Mosher – No

Michael Peterson – No

Budd Simpson – Yes

Tom Zaruba – Yes

Tom Donek – Yes

Motion passed 6 yes /2 no

Mr. Donek said Mr. Lockwood also is asking for a vote on his modified Harbor plan.

MOTION By MR. SIMPSON: MOVE THAT THE BOARD APPROVE THE MODIFIED HARBOR PLAN AND ASK UNANIMOUS CONSENT.

Mr. Peterson objected. The Board is taking action on an item that in two days will be irrelevant. The Board would be accepting a plan that is based on the requirements of the lease.

Mr. Simpson said the lease is ending, but the Board just passed a motion in which the Board is making a recommendation to the Assembly that they consider reopening the lease and this would be helpful to that consideration. This will give the Assembly an idea what they are reopening. This is not new and he would like to move this forward.

Vote of Motion

John Bush – Yes

Robert Janes – Yes

David Lowell – Yes

Robert Mosher – No

Michael Peterson – No

Budd Simpson – Yes

Tom Zaruba – Yes

Tom Donek – Yes

Motion passed 6 yes/2 no

5 minute break at 6:56

7:04 back in session

1. Auke Bay Boatyard Lease Amendment

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Mr. Uchytel said last month the Board approved an appraisal conducted by Horan & Company for the amount of \$27,000 per year as a fair market rent for the Auke Bay Boatyard to be relocated to the Auke Bay Loading Facility. Subsequent to the Boards Action, CBJ Law put together the lease amendment that was considered at the Finance Committee last Wednesday. The Finance Committee did not act on this and referred it to the next Finance Meeting. The majority of the concerns were over exhibit B which listed personal property associated with the lease agreement. Last Thursday at the OPS/Planning meeting they approved the amendment and Mr. Uchytel said he was directed to bring this before the Board tonight. This lease amendment is relocating the Auke Bay Boatyard from Statter Harbor to the Auke Bay Loading Facility. Exhibit A shows the location and Exhibit B is the list of equipment associated with inventory. Mr. Uchytel and Mr. Donek contacted Mr. Horan yesterday and asked if the appraisal would change if additional personal property was added to the lease. Mr. Horan answered that the property was appraised on the intended use as a boat haul out facility and the comparable properties looked at were other haul out facilities within Southeast Alaska. This is how he determined a market rent of \$27,000 for this facility. It doesn't matter how much personal property you put on this, it is based on how much revenue it is going to generate. The other aspect that came up was the original \$10,000 lease executed in 2008 was not based on an appraised value but a value that was negotiated between the lessee and Docks & Harbors.

Mr. Donek said the Finance Committee tabled this amendment pending further information, and the next day the OPS/Planning forwarded this to the Board. This was an unusual situation, and rather than send back to Finance next month he thought this would be the most expeditious process.

Board Questions

Mr. Simpson said it is important to note that the OPS/Planning Committee requested the same additional information that the Finance Committee requested, however, the OPS/Planning Committee requested the information for this Board meeting. The information that both of the Committee's requested is now before the Board.

Mr. Zaruba asked if there is a fiscal note with the exhibit B items?

Mr. Donek said not at this time.

Mr. Bush asked if exhibit B list got longer, would it change the value of the lease?

Mr. Uchytel said No.

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Mr. Bush asked if the boat lift on exhibit B broke down, would that be something that the lessee wouldn't have to pay the rent?

Mr. Uchytel said it could be possible. The lease could allow for a lease rent credit if the Sealift broke. Similar to the lease credit given when the travel lift in the current Auke Bay Boatyard was unsafe and needed repairs. The lease amendment was designed to relocate the existing boat yard to the new facility with a change of the lease rent amount.

Mr. Simpson asked if the Lessee is responsible for routine maintenance?
Mr. Uchytel said that is correct. In the MOA, the agreement indicated Docks & Harbors wants the original manufacturer representatives doing the maintenance on the Sealift to protect Docks & Harbors interest in that apparatus.

Mr. Simpson asked at who's expense?

Mr. Uchytel said the Lessee.

Mr. Donek said the situation with the travel lift at Auke Bay was because it was older equipment. The Company was maintaining the travel lift, but the pier the travel lift was located on fell apart.

Mr. Lowell asked if the chain link fence in the drawing is existing?

Mr. Uchytel said no.

Mr. Lowell suggested to put some perimeter boundaries on this property.

Mr. Uchytel said staff has walked the site with the Lessee and delineated where the fence line is. Part of the agreement is that Docks & Harbors will put the fence in to provide security but also so there isn't creep into the rest of the facility.

Public Comment-

Mr. Jim Betts, Juneau, AK

He said he is here to make comment on the terms of the arrangements with the lease agreement. Primarily his presence is to establish a sense of teamwork and continuity throughout the boating community. The transfer of the lease to Juneau Marine Service/Harri Plumbing/Harri Commercial Marine is a difficult task to pinpoint because he is not sure who the actual Lessee is. Juneau Marine Service has discontinued sales tax filings. There is no entity called Harri Commercial Marine so he is going to assume the Lease is being awarded to Harri Plumbing. Moving the existing boatyard and moving equipment is substantially different then reestablishing an existing lease at a present location. In the detailed project description dated July 29th, 2013 we see a call for a full service boatyard. The original vision of a full service boat yard in a

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public area is far from complete and dysfunctional at best. Further, there was a comment from Mr. Duvernay to honor all vendors willing to work in the downtown, or DeHart's yard during our 2008 discussion when the award was made to Mr. Duvernay. Mr. Betts said Mr. Duvernay stated that the presence of outside vendors would be welcome and excepted as a tradition as a continuance from the past. He said he is concerned about the propriety in the contract. There was problems in the first award, and Mr. Betts said he made note of them at that time. Again, there may be problems in the process the Board is about to engage in tonight given the names and numbers you have. He said about the lease credit to repair equipment for this lease, he would like it if the Board awarded Betts boat repair money for repairs also. He said everyone agrees that Juneau Marine Service/Harri Commercial Marine/Harri Plumbing has provided a valuable service for the community. In terms of being best qualified is an arguable statement, and when this lease was awarded, that was the statement at the time. He would hope in continuing this lease, everyone would consider the best use and most favorable operators in this area. He will not pretend to be one of those favorable operators, however, for the best interest for the community is far more important than a single operator. He said he would like to improve the Marine environment as a business owner and a person of interest in my community. There is a obvious lessening of activity in commercial interest at the DeHart's yard. He said he was saddened by the fire loss at the downtown yard but in view of all of the circumstances throughout the years, he would expect this is a backward direction and not a forward direction. The issue remains today where revenue's have been lost. Monies he can account for that is not in his pocket because customers that have left the area because the service that is not able to be delivered in Juneau. He is concerned because his interest is with the marine field. There have been customers that have been told they can only work in that yard with Juneau Marine Service and customers that have been told they could not work in that yard with Juneau Marine Service. He is hoping if nothing else comes of these consideration's that the Board is experiencing today, that the Board will establish some ground rules that will return a public facility to the public market place.

Mr. Janes asked Mr. Betts to explain his last sentence.

Mr. Betts said in the past the forum for work performance in any of the boatyards has been open. Since the time of transition to Juneau Marine Service, the road has been less than clear. It has been rocky, but he would like everyone to know that he has been welcome to work in the Harri's Marine yard. There are others, that have not been welcomed to work in that yard. He would like to establish a policy to help educate people why or why not they would be

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allowed to work in this yard. If a boatyard cannot maintain the interest in outside competition then we are not operating to the best of our potential.

Jeff Duvernay, Juneau, AK

He said he is the owner of Harri Plumbing & Heating/Harri Commercial Marine and former owner of Juneau Marine Services. He was the sole owner of Juneau Marine Services and is currently the sole owner of Harri Plumbing & Heating. Approximately three years ago he merged Juneau Marine Services into Harri Plumbing & Heating. Ownership is the same and all the assets and liabilities of Juneau Marine Services became Harri Plumbing & Heating and became one entity. They are both C Corporations and one was dissolved and the other continued on. Mr. Duvernay said there is a misunderstanding in regards to what business' have been allowed to operate in the boat yards he owns. The policy has always been the same. Legitimate businesses who are willing to conduct their business in a manner that is business like and meet certain standards. He said he developed a policy many years ago and it hasn't changed. A business needs to adhere to the Best Management Practices in his yard with respect to cleaning and not causing damage. The most important things to allow the boat yard use would be that they are carrying liability insurance, workman's comp insurance, and covered at the same level he is required contractually through his lease with CBJ so he is in compliance with the lease terms. He has allowed anyone willing to meet these guidelines to work in his yard. The other condition is he doesn't allow outside contractors work in his yard doing the same work that he offers. Opportunities do exist for competition, and opportunities for outside businesses to work within his yard as long as they are willing to abide by reasonable rules. He said he is not going to change how he does business. He would like to do a more thorough accounting of what personal property will be in the lease on exhibit B. He suggested to use the original exhibit B in the original lease as the basis and add to that list.

Mr. Janes agrees with the insurance. He asked if Docks & Harbors is listed as the additional insured on other people's insurance that he allows to work in his yard?

Mr. Duvernay said he requires that.

Mr. Janes asked if he requires this insurance document every year?

Mr. Duvernay said he does not require that.

Mr. Janes said Docks & Harbors should get a list every year showing who is insured.

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Mr. Mosher asked if there was any way to have insurance for people that work on your boat that may be just passing through.

Mr. Duvernay said yes. An individual can add to their insurance additional insured, or an individual could work as a sub-contractor to his company. They wouldn't have to be a direct employee, but they enter into a direct contractual relationship with his company. His company pays the sub-contractor and bills the customer and that puts his company in a position to be responsible for looking after them.

Mr. Mosher asked if there was any way to work in the yard if they were still free lancing.

Mr. Duvernay said no.

Mr. Mosher asked what if someone was working for him on his boat?

Mr. Duvernay said that would fall under his insurance.

Mr. Betts asked the Board to have the Lessee consolidate his name to a single entity.

Board Discussion/Action

Mr. Zaruba said as a member of the Finance Committee, it was asked to provide the personal property along with the fiscal numbers for this list. This would be fair to Mr. Duvernay as well as CBJ to establish parameters on how much money is involved. The items that are going to be transferred is not a big issue, but when talking new construction in item #7 there needs to be a benchmark on how much CBJ will be obligated at the most to provide these services to Mr. Duvernay. He suggested to strike #7 and adjust #8 to read 127 and pass it the way it is.

Mr. Simpson said at some point in this discussion it was said that the new office and shop building for this lease has been approved during the strategic planning session. He said it was discussed, but no motion was made. This is something that has not been authorized. He said the Board is not committing to anything in particular by having it in this list. This is more of a notation.

Mr. Zaruba said that is his point. For the time being to take it off the list and later Mr. Duvernay can come back and tell the Board what he needs. That way, the new construction is not affixed to the lease agreement making it an operable part of the agreement.

Mr. Peterson said if item #7 was struck, would it conflict with the memorandum of agreement?

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Mr. Uchtyl said there is an agreement that Docks & Harbors would like to set the Boatyard up for success. The Board could tell Mr. Duvernay that he is on his own to build his own buildings, but Mr. Uchtyl said he believes that the building should be in place to make the Boatyard whole or provide like type facilities. Staff will come to the Board if there are expenditures over \$25,000 and ask for Board approval.

Mr. Janes said he agrees to take this off with no numbers attached is a good idea. He suggested to put office and shop buildings in a similar size and nature at the exiting boat yard will be constructed at a later date. That will give the latitude to make it a little nicer and the Board has the intention of doing this.

Mr. Zaruba said it works both ways. It is the Boards responsibility to protect CBJ's interest. If that is left open ended, it is not protecting CBJ's interest. Mr. Duvernay is responsible for protecting his interest. He can come back to the Board and tell us what he needs. In the mean time, he can move all the stuff he already has to the new facility.

Mr. Peterson asked when the next lease negotiation for this lease will occur?

Mr. Uchtyl said spring of 2018.

MOTION By MR. PETERSON: ALL THE ITEMS ON EXHIBIT B 1-8 REMAIN ON THIS LIST. THE TERMS OF THE AMENDMENT AND THIS WHOLE THING MOVES FORWARD AND IN 2018 THE TERMS CAN BE REVISITED.

Mr. Uchtyl said Mr. Duvernay wanted to update Exhibit B list.

Mr. Duvernay said the original Exhibit B had a lot of things that are worn out and not longer exists. He would like an accurate accounting of the boat stands because some of stands are owned by him.

Mr. Simpson said he is more comfortable striking item #7. Leave it to the intent the Board expressed in the planning session that the new structure not be tied down to a particular design, cost, or time frame. This will leave the Board with a little more flexibility. He asked Mr. Duvernay if he was okay with striking item #7?

Mr. Duvernay said he was if the Board was continuing to work under the MOA in place. His concern is that part of his rent is based on having the office structure, the covered boat area, and the two sheds which is presently still used. It is just not the same as having it at the new facility. The understanding was there is grant money that has been awarded to Docks & Harbors for building out a haul out facility. Also, he is restricted to what type of structures he would be permitted to put up because there needed to be a specific look and feel for the facility. As long as things are moving along in that spirit everything

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is good. As long as in six month's from now he comes back to talk about what is needed for a structure and then his rent goes up. He will have an issue with that.

Mr. Donek asked Mr. Simpson if he was making an amendment to Mr. Peterson's Motion?

Mr. Simpson said no. Mr. Simpson said the policy of this Board is it is important as a community service that there is a decent boat yard and that is what this is all about. That is why this improvement item is on the planning session list of things the Board wants to do. He said Mr. Duvernay suggested that his rent is tied in with the buildings currently at the Auke Bay Boatyard, but the Board heard Mr. Horan's appraisal is not based on any amenities but based on the market which is the value of running a boatyard in Southeast Alaska.

Mr. Duvernay said he agrees.

Mr. Zaruba asked to repeat the motion.

Mr. Peterson said the motion would take into consideration Mr. Simpson's and Mr. Zaruba's request.

MOTION By MR. PETERSON: TO STRIKE #7 AND CHANGE #8 TO #7 AND THE LIST MOVES FORWARD WITH THE LEASE AS IT STANDS WITH NO VALUES ADDED. ANY OTHER NEEDED CHANGES CAN BE DISCUSSED IN THREE YEARS AND ASK FOR UNANIMOUS CONSENT.

Mr. Zaruba clarified Mr. Peterson was in agreement with taking item #7 out of the exhibit B list.

Mr. Peterson said that is correct.

Motion passed with no objection.

VIII. New Business –

1. Consultant Services for Statter Harbor Phase III Planning Update

Mr. Gillette said in the packet is the proposal by PND Engineers to do planning relative to this boatyard moving to the Auke Bay Loading Facility. This will free up this property for other uses and have identified a need for vehicle staging and access to the proposed future for hire float. The master plan in place currently has the boat yard in that area so it needs to be updated. PND's proposal is \$44,256. Staff would start with a scoping meeting with the community and talk about the issues, uses, and generate some conceptual plans based on the public input.

Board Questions

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Mr. Donek asked how PND was selected.

Mr. Gillette said PND has been under contract from an RFP from a number of years ago. This contract provided for services that could be added relative to Statter Harbor.

Public Comment - None

Board Discussion/Action

MOTION By MR. JANES: TO ADVISE STAFF TO BRING ON CONSULTANT SERVICES FOR STATTER HARBOR PHASE III PLANNING AND ASK FOR UNANIMOUS CONSENT.

Motion passed with no objection.

IX. Items for Information/Discussion

1. Juneau Port Development

Mr. Uchytel said this was discussed earlier and will not need further discussion.

2. Douglas Harbor 95% Design Review

Mr. Gillette provided a handout of the 95% design and went over the design. The way the bid will be structured is there is a base bid which is with the floats. Bid alternate A, which is the preferred alternate, would be to expand the wall to create an additional uplands area for parking and uplands use with a ramp to access the Harbor. Bid alternate B would not extend the wall but would build an approach dock with a ramp that would be attached to the Harbor. Reason for the alternates is there is a \$300,000 difference between the two. The plan is basically the same from the 35% design except it is coming more detailed. If the project is done with just the base bid it would be \$5.4M, adding in alternate A the cost estimate is \$6.3M, or adding in alternate B the cost estimate is \$6M. Mr. Gillette said the next piece is where do we get the additional funds needed for this project? With the base bid and alternate A, we would need to come up with another \$1.34M more than we have. Mr. Gillette said the Board already voted on allowing the \$1.3M to come out of Docks & Harbors fund balance and the remaining \$42,000 could come out of the contingency amount. These amounts are Engineer estimates and we won't know the final amount needed until Docks & Harbors receives the bids.

Mr. Zaruba asked with Docks & Harbors other projects, how close have the Engineer's estimates been?

Mr. Gillette said Aurora Harbor was about 2 or 3% above the Engineer's estimate, and Statter Harbor was also in line with the Engineer's estimate.

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Mr. Lowell asked why is there a difference in a balance in the CIP account for base bid only versus the base bid plus alternate A and the base bid plus alternate B?

Mr. Gillette said that was an error. With correcting that error, Docks & Harbors would need \$1.5M for the base bid plus bid alternate A. Option now is, do we come up with another \$200,000 or cut something out? Mr. Gillette said the Board could approve using \$1.5M of the fund balance, or if the Board wants things taken out of this plan, we would need to do this now. No money has been transferred yet.

Mr. Uchytel said typically Docks & Harbors carries a 10% contingency in our budget so it would not be careless to say we would carry only 5% in contingency.

Mr. Lowell asked what implications this will have on the construction schedule now that additional permitting is required to do this work?

Mr. Gillette said Docks & Harbors already checked with the Corps of Engineers and they didn't seem to think there would need any modification to the existing permit because the issues are all the same.

Mr. Donek asked when this would go out to bid?

Mr. Gillette said about mid November.

Mr. Donek asked if the Board would see this again before it went out to bid?

Mr. Gillette said no.

3. Meeting Schedule for 2016

Mr. Uchytel said in the packet is the proposed schedule for next year. This is basically the same as last year.

X. Committee and Member Reports

1. Docks Fee Review Committee Meeting – Wednesday, October 21st, 2015

Mr. Peterson reported he gave a presentation on having a per seat fee for the loading zone users and discontinue the Company fee. The Committee set the next meeting times and will discuss this further at the next meeting.

2. Finance Committee Meeting – Wednesday, October 21st, 2015

Mr. Peterson reported the Finance Committee discussed the following;

- Auke Bay Boat Yard lease - There were several unanswered questions which is why the Committee tabled the lease moving forward.

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- Juneau Port Development
- The 2016 Finance Report
- Downtown Food Vendors- the Committee gave weak support for this item.

3. Harbor Fee Review Committee Meeting – Thursday, October 22nd, 2015

Mr. Simpson reported that the Committee decided on the next meeting and the order of the fee reviews with the next to review being the Small Boat Harbor fees.

4. Operations/Planning Committee Meeting – Thursday, October 22nd, 2015

Mr. Simpson reported the OPS/Planning Committee discussed the following;

- Fritz Cove - This was pulled to get all the previous testimony and bring it back to the Committee so all the members know what has been said in the past.
- Auke Bay Boat Yard Lease – the Committee requested inclusion of the exhibit B items.
- Juneau Port Development
- Entertained two motions from Mr. Summers;
 1. Docks & Harbors would refer to users as “Customers” only.
 2. Tobacco free work place.

After discussion on these topics it was referred to management to manage.

5. Member Reports – None

XI. Port Engineers Report –

Mr. Gillette reported;

- The Cruise Berth project is moving forward. They have a very critical schedule and they are a little behind. They are starting to do longer shifts to catch up. They fully understand they need to be completed by May 1st.
- Douglas Harbor dredging should be starting any day. This is the Corps of Engineers project.
- Statter Harbor launch ramp project is moving along. They just finished four of the compaction areas and moving onto lift five. All of the instrumentation is telling us it is compacting well and not moving back into the ocean.
- We have a contract out to produce twelve of the aluminum safety ladders. We came up with a design, did a prototype, checked to see if this ladder would work in the Harbors, and went out for a quote.

XII. Harbormaster’s Report –

Mr. Borg reported;

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- Three young individuals burned up two life rings along the seawalk. They have been replaced and the approximate cost is \$2,500.
- There was an arrest on N float a couple of days ago for an individual that moved onto a boat that she didn't own. He's talked to the boat owners on N Float and let them know if they see something out of the ordinary to report it to the office. Staff is starting to do evening patrols.
- There are four impounds that will be auctioned on November 12th.
- The Icy Strait should be on the State public auction site soon.

XIII. Port Director's Report –

Mr. Uchytel reported;

- Seven individuals will be interviewed for the vacant Board position.
- The next priority project is phase III of Statter Harbor. The goal is to have the contract to begin the work on this project in a year from now. Funding opportunities would come from the Dock funds or various head taxes to move forward with this project.
- Erich Schaal was awarded the CBJ Docks & Harbors Employee of the year at the AAHPA conference last month.
- Mr. Uchytel said he was elected president of AAHPA and in November he will go to the Alaska Municipal League for Municipal Harbor Grant funding. Docks & Harbors submitted a Tier II grant for Aurora Harbor for this coming Legislative session. In this role he will be advocating for all the Harbor throughout the state.
- Over the summer Docks & Harbors applied for a Tiger Grant which is a federal DOT grant and we were not selected.
- Mr. Uchytel said six Docks & Harbors employees are taking a UAS Customer Service class.

XIV. Assembly Liaison Report –

Mr. Nankervis left the meeting, but he left a report for Mr. Borg to read.

The Assembly;

- Met on October 20th to swear in a new mayor.
- Approved ordinance 2015-39 which is the Land Use Code
- Introduced awarded bid for Gastineau Apartments demolition to CBC Construction for \$1.3M starting about December 1st and ending April 30th.
- Approved Ordinance 2015-43 which is for the Cultural Preservation lease to Goldbelt.
- Approved contract amendment for construction administration and inspection services for construction of the Cruise Ship Berth project.
- Docks & Harbors proposed regulation change on the recreational daily and annual launch ramp permits and Commercial launch ramp

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permits was pulled from the agenda and will be back on the agenda for the next Assembly meeting. The members wanted clarification on language.

Committee of the Whole met on October 26th. The following was discussed;

- Housing Action Plan
- Airport Master Plan Update.
- Ordinance amending the Land Use Code
- Oceans Interpretive Center
- Seawalk bid is going to be reworked and put back out to bid since all bids greatly exceeded estimate.

At the October 21st Assembly Finance meeting, the State/Federal funding requests were discussed;

1. Wastewater bio solids long term treatment plant.
2. Platform ladder truck
3. Phase II Aurora Harbor rebuild. (This was not on the list, but was discussed)

XV. Board Administrative Matter

a. Election of Board Vice Chair

MOTION By MR. PETERSON: TO ELECT MR. BUDD SIMPSON AS BOARD VICE-CHAIR AND ASK FOR UNANIMOUS CONSENT.

Motion passed with no objection.

b. Committee Assignments

Mr. Donek asked Mr. Lowell if he would be Chair for the Finance Committee?

Mr. Lowell accepted and asked Mr. Zaruba to be Vice-Chair.

Mr. Zaruba accepted.

Mr. Donek asked Mr. Bush if he would be the Chair for the Docks Fee Review?

Mr. Bush accepted and asked Mr. Zaruba to be the Vice-Chair.

Mr. Zaruba accepted.

Mr. Donek appointed Mr. Janes to be the Assembly Lands Liaison.

Mr. Donek appointed Mr. Janes to be on the Port Director's Evaluation Committee.

c. Harbor Fee Review Meeting – Wednesday, November 4th, 2015 at Noon

d. Ops/Planning Committee Meeting – November 10th Cancelled

e. Finance Committee Meeting – Thursday, November 12th, 2015 at 5:00 pm

f. Docks Fee Review Meeting – Thursday, November 12th, 2015 following Finance.

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g. Board Meeting – Thursday, November 19th, 2015 at 5:00 pm.

XVI. Adjournment - The regular Board Meeting adjourned at 8:44 pm