

CBJ Docks and Harbors Board
Harbor Fee Review Committee Meeting Minutes
For Wednesday October 5th, 2016

- I. Call To Order – Budd Simpson called the meeting to order at 12:03 p.m. in the Port Field Office Conference Room.
- II. Roll Call – The following members were present: Tom Donek, Bob Janes, David Lowell and Budd Simpson.

Absent: Robert Mosher

Also present were the following: Carl Uchytel – Port Director, Dave Borg – Harbormaster, Doug Unruh – Operations Maintenance Supervisor, and Matthew Creswell – Senior Harbor Officer.

- III. Approval of Agenda.

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

Motion Passed With No Objection

- IV. Approval of April 28th, 2016 Harbor Fee Review Committee minutes.
Hearing no objection, the April 28th, 2016 Harbor Fee Review minutes were approved as presented.

- V. Public Participation on Non-Agenda Items – None

- VI. Unfinished Business - None

- VII. New Business

1. Residence Surcharge (05 CBJAC 20.050)

Mr. Uchytel said the rates for the residence surcharge have not changed for 10 years. Currently it is \$69.00 per month for four people on a vessel and \$23 per person after that. He said it is important at this time to not only talk about the price but also have a discussion about managing our live-aboards. Page seven of the packets shows how many live-aboards are in our Harbors currently. Aurora has 88, Harris has 30, Douglas has 22, and Statter has 25. This gives a total of 165 vessels in our harbor system that are paying a resident surcharge fee. There are also patrons that sneak aboard and don't let the office know they are living on their vessel. The regulation states that if you live on your boat more than three days in any calendar month you are required to pay the live-aboard surcharge. Staff would also like to discuss if there is a limit of live-aboards and if the regulation should read owner only can be a live-aboard. In the regulation, owner only might have been the intent, but there are several vessel owners that sublease out their vessel to tenants. Staff also discovered there are Vacation Rentals by Owner (VRBO) vessels in the Harbor. Staff engaged CBJ Law and they believe, as we do, that is a commercial operation and not authorized within our regulations. Mr. Uchytel said having the right number and right live-aboards is a good thing. It adds vitality and extra eyes on the docks to maintain safe and secure facilities. However, they can get out of hand. Currently, the Harbor has human waste issues. Mr. Borg and Mr. Creswell facilitated some sampling through Admiralty Environmental to look at the health of our Harbor waters. Staff instructed them to do random sampling on two

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occasions, on two different dates, and two different months in different locations. If DEC were to do this they would do a certain number of geometric mean of samples within so many days. The fecal coliform level was such that beaches would be closed. (Units below are fecal coliform per 100 mL).

The following samples were taken in Aurora Harbor in June.

- End of N float was 8 FC/100mL
- between N and L float was 66 FC/100mL
- J float was 270 FC/100mL
- F float was 21 FC/100mL
- C float under the ramp was 15 FC/100mL
- A float was 2 FC/100mL
- The fuel dock was 7 FC/100mL

The following samples were taken in Aurora Harbor in August.

- K float was 62 FC/100mL
- H was 16 FC/100mL
- C ramp was 700 FC/100mL

The following samples were taken in Harris Harbor in August.

- Harris ramp was 510 FC/100mL
- H3 was less than 2 FC/100mL

The following samples were taken in Douglas Harbor in August.

- The derby float was 7 FC/100mL
- E float was 3 FC/100mL

Mr. Uchytel said Aurora Harbor has a portable pump out facility that is available for patrons to use. He said when the Committee looks at the rates to be fair and reasonable, he suggested to engage the OPS/Planning Committee to make the regulation changes necessary to move live-aboards into something sustainable and meets regulatory expectations from Harbor patrons.

Committee Questions

Mr. Donek asked where the \$69.00 surcharge and \$23.00 per person fee came from?

Mr. Uchytel said he doesn't know.

Mr. Borg said he looked but was not able to determine how they came up with that amount.

Mr. Simpson said it was probably an incremental raise from when the rate was reviewed before.

Mr. Uchytel said on page seven of the packet shows the revenue generated from live-aboards. The other thing important to this discussion is in January CBJ Law made the decision that people with the live-aboard fee plus the moorage fee are not subject to CBJ sales tax. The live-aboards are treated the same as someone renting an apartment and are not subject to sales tax.

Mr. Borg said they are also not subject to property tax. He also wanted to add to the live-aboard numbers. Of the 88 vessels in Aurora, 14 of the

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vessels are leased out with a total of 111 people, of the 30 vessels in Harris, two are leased out with a total of 38 people, and of the 22 vessels in Douglas, one is leased out with a total of 44 people. Mr. Borg said he is uncertain how many are leased out in Statter. These numbers change monthly.

Mr. Simpson asked if Mr. Borg had an estimate of how many people may be live-aboards but are not registering?

Mr. Borg said he did not. He said he has situations on the north end of Aurora where he has had several people just flop. Staff is daily walking that area to find signs of that happening.

Mr. Janes asked if they are rental boats?

Mr. Borg said they are flop boats. They are boats that are unmaintained. The moorage is paid, but the owners don't even know who is living on them. There was a time this last summer that a girl moved onto a boat that was owned by a guy that was out of town for a month and she had three people living with her. This does happen.

Mr. Uchtyl raised the question with Statter Harbor being a transient facility. Do we allow live-aboards as opposed to the reserved moorage? Live-aboards may be appropriate, but just not in the transient area.

Mr. Borg commented that the bigger issue with live-aboards is the lack of the ability to move. This created a problem for staff when they don't move every ten days like required.

Mr. Simpson asked what the vessel frequent move rule for Statter Harbor is?

Mr. Borg said ten days.

Mr. Simpson commented he thought it was more often than the ten days.

Mr. Unruh said it used to be three and ten. They took the three day rule away about five years ago.

Mr. Simpson asked if it was taken away due to too hard to manage?

Mr. Unruh said it was hard to manage and it is still hard to manage the ten day rule because Docks & Harbors has lost their ability to write citations for non-movement. People know staff can't write tickets and they don't move because there is no consequence.

Mr. Simpson asked if currently some of the live-aboards at Statter Harbor are not moving according to the ten day rule and there is nothing Docks & Harbors can do about it?

Mr. Unruh said that is correct.

Mr. Uchtyl said the ten day rule is only applied from May to October.

Mr. Donek asked if the 25 live-aboards at Statter are all in the transient area or are any in the reserved moorage area?

Mr. Unruh said there is one vessel in the new section that is a live-aboard.

Mr. Simpson asked if Docks & Harbors can't issue citations for failure to move, what other remedies does staff have?

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Mr. Borg said the route he went this year was issuing letters to those individuals stating they were no longer within the monthly moorage management program they agreed to when they signed their moorage card and will be charged daily rates. Mr. Borg said this worked for all but two people.

Mr. Donek asked why Docks & Harbors lost the authority to write tickets for non-movement?

Mr. Uchytel said it was a couple of years ago when JPD was not allowed to write tickets for parking violations because the ticket needed to be handed to the person. The outcome was the State law was changed, but there were more limitations on how and what authority Docks & Harbors officers have to write certain tickets. Staff needs to reengage with JPD and CBJ Law to figure out how to bring our authority back to write this kind of a ticket.

Mr. Donek asked what Docks & Harbors expenses are for live-aboards

Mr. Uchytel said snow plowing, trash, and water.

Mr. Borg said water is a big issue. There are a lot of live-aboards that are not allowed to have a permanent hook up but they still do because they don't have tanks. If live-aboards want to have a permanent hook up, they should pay a \$250.00 deposit in the event of the hose freezing. The average repair on a spicket is approximately \$250.00. This does become a real issue in the winter time. He said staff will un-hook the hose, but the live-aboard will just hook back up again. Docks & Harbors is not allowed to write tickets for this hook up. If staff can't write a ticket, they should have to pay the \$250.00 deposit.

Mr. Uchytel said if a live-aboard wants water, there should be a monthly water rate for a permanent hook up.

Mr. Borg said there are nine total live-aboards with a permanent water hook up.

Mr. Simpson asked if it was practical for a fee to have Docks & Harbors staff go around on a regular basis to collect sewage from vessels with approved marine sanitation devices.

Mr. Borg said currently a patron just needs to call the office and staff will take it to them. The patron then uses it, is responsible to clean it, and return it.

Mr. Simpson asked if this happened very often?

Mr. Borg said it does happen, but the use is slow to take off. There was probably a dozen this last summer that used the pump out. The patrons that come up from down south are more familiar with the pump out process. Only a few in the Harbor take advantage of the pump out currently.

Mr. Uchytel said not all vessels have holding tanks. We have the pump out stations that are useable year around. To encourage use, maybe a vessel needs to demonstrate each month by a log that they used the pump out.

Mr. Borg said Ketchikan finally passed their new regulation that says that a vessel has to have an approved marine sanitation device if you are going to

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be a live-aboard. It has to be a type one, two, or three, and if you have a holding tank it has to be sealed shut as federal law requires within three miles of shore. This is a federal clean water act requirement. Ketchikan also required harbor staff to inspect every vessel that is going to be a live-aboard. They did have some push back. One woman wrote letters to the editor and went to the City Council. The Ketchikan City Council supported the Harbor and told the woman that if she wanted to live in the Harbor she needed to follow the rules. Mr. Borg said he would like this same thing passed. If Juneau is successful, then this will be consistent throughout Southeast. Mr. Borg said the Juneau Harbors raw sewage test was very high after a tide flush. The test was taken on a low tide after a 22' high tide change.

Mr. Simpson said the tests are interesting on the variations from slightly different locations. The only way to get reliable information is from a consistent testing in the same location over a period of time. The test does tell Docks & Harbors there is a potential serious problem. It is unsafe for a person or dog to be in the water.

Mr. Borg commented there is more in regulation on dog waste than human waste. There is nothing in regulation on human waste, but there is on dog waste.

Mr. Creswell said part of the Clean Harbors program is to have human waste in regulation.

Mr. Simpson said Docks & Harbors is trying to implement the clean harbors initiative, and sewage is a large problem right now.

Mr. Creswell said one of the mandatory requirements for the Clean Harbors is to have in our title 85 regulation a prohibition against dumping sewage. This will have to be implemented before Docks & Harbors will be certified.

Mr. Unruh said a lot of the live-aboards have pets. He recommended to have a surcharge for pets because of the time spent cleaning up after the animals.

Mr. Simpson said at least there are rules in place for that.

Public Discussion

Allen Holzman, Juneau, AK

How many live-aboards live on C float?

Mr. Borg said he didn't have that information with him.

Mr. Holzman said the relevance of that is C float had an exceptionally high pollution number as opposed to the other docks. What makes the pollution at C dock so high in August? This could be transient boaters.

Mr. Uchytel said the test was performed by Aurora C ramp.

Mr. Borg said that would have indicated it was from the inside of the main and the whole main is all live-aboards.

Mr. Holzman said on E dock there are several gillnetters as well as three or four live-aboards, what additional benefits does live-aboards get over the gillnetters by paying their \$69.00 per month.

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Mr. Uchytel said there is the snow plowing in the winter months and the live-aboards are there all the time. They have access to trash and water every day. The gillnetters may use the services but not on the same level as the live-aboards.

Mr. Simpson said the gillnetter is similar to a recreational user that is also only in the harbor for a small amount of time.

Mr. Holzman said that is very dismissive because you are going to snow plow the Harbor regardless if the live-aboards are there or not, the water usage is disproportionately high for the fishing boats, and a lot more people use the trash than just the live-aboards year around.

Mr. Uchytel said a live-aboard vessel is basically your condo, and a condo owner pays additional fees. This is not the same as the additional fees condo owners have to pay, but it is similar. There are additional fees for live-aboards. If we could shut down the harbor for the winter, we would. We wouldn't have to maintain it, and we would save on electricity, and water. If we could consolidate all the live-aboards to one facility in the winter it would be a better business decision then trying to maintain snow plowing at four harbors and six launch ramps.

Dennis Watson, Juneau, AK

He said he was recently in Des Moines, WA in early September and had a long talk with the Harbormaster there. Mr. Watson read a sign from Des Moines Marina. "All animals must be kept on a leash and feces must be picked up at the Marina including each dock. The fine per violation is \$513.00. If a ticket is written for a dog running loose, and not scooping, the fine is \$1020.00". Mr. Watson asked the Des Moines Harbormaster if he was enforcing these fines, and he said he was. The Harbormaster in Des Moines said one of the reasons for success is that the enforcement officer is a very attractive lady and the violators don't argue with her. Dog's became a major problem, and they are very strict on enforcing the fine.

Mr. Watson commented on the contamination in the water issue. Several years ago, the high school senior class did a fecal test in Statter Harbor and it was off the chart. Nothing was ever done and the test results quietly went away.

Mr. Watson said the live-aboards do have a sweet deal. Live-aboards came up as an alternative living location at the Planning Commission as well as the Affordable Housing Committee and is recognized as a form of affordable housing. The live-aboard fee is ridiculously low and the Borough and the Harbors is being taken advantage of especially when there are patrons subleasing their boats out for a profit. The Harbor also has houseboats and he said he doesn't recall seeing in regulation anything specifically referring to houseboats, but there are houseboats in the harbor and he is unsure how they are required to move. A houseboat should be defined separately in regulation. To charge a houseboat at the same rate as a 24' bayliner, the houseboat comes out way ahead.

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Mr. Holzman said the difference in the low cost housing is that he owns his boat, and he is just paying for a place to park it. It isn't as if he has a house on a lot.

Mike Baldwin, Juneau, AK

He said he agrees that living on a boat is a pretty sweet deal. If it is handled properly with a boat owner living on the boat, he should pay something extra to be there and he agrees with that. However, when other people come in the Harbor and buy a junker boat and sublease them, the good deal is up at that point. A benefit of having good live-aboards in the Harbor is they are the Harbor security and serve a purpose, and that is something that shouldn't be overlooked. Other people that sublease their vessels bring undesirables in the Harbor which cause problems. This problem should be addressed. He does not agree that a good boat owner and live-aboard patron should have to pay for what is happening on that end of Aurora. I pay for the moorage if I'm living in the boat or not. I pay the extra just to be there. Harbor staff does plow the Harbor, which you will do anyway to maintain the Harbor to be functional 12 months out of the year. Harbors are not shut down here seasonally. The electricity, water, and docks being cleared off has to be available all the time whether live-aboards are here or not. He does not see raising the live-aboard surcharge without cleaning up the other problems. If the other half of the Harbor is cleaned up, the Harbors will see a big change. He said he doesn't have any problem paying a surcharge to live in the harbor for receiving the services he does, but he is returning the favor also as a good tenant overseeing the docks. He said he has run people off the dock and been woke up by a JPD officer early in the morning trying to locate a certain individual. Without the eyes on the docks, there would be more problems than what exist currently.

Mr. Simpson asked Mr. Baldwin if he had any comments about the sewage disposal issue.

Mr. Baldwin said a live-aboard vessel should be required to have a sanitation disposal on the boat. Anacortes only has 10% live-aboards because they have to have a sanitation system on their vessel and have regular pump outs on a schedule with the harbor to keep the boat in the Harbor. He does not agree that live-aboards are the cause of all the contamination in the Harbor. The water tests were done in the summer when there were a lot of boats with a lot of people. There is going to be an influx of contamination. Aurora Harbor is one of the most popular Harbors here. Mr. Baldwin recommended to do the test now to see what the levels are. This is the only State that he knows of that doesn't require some kind of sanitation cap on any boat in the Harbor. The three mile limit is still intact. The Coast Guard kind of turns their head in this area, but they don't down south.

Mr. Holzman asked if the transient boats and fishing boats are going to be held to the same sanitation standards?

Mr. Borg said yes. He also wanted to point out the majority of the pump out use is by the Commercial fishing fleet in all Harbors.

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Mr. Simpson asked if the Commercial vessels were more subject to Coast Guard inspections?

Mr. Borg said yes.

Committee Discussion/Action

Mr. Janes said the \$69.00 live-aboard fee is very low for the costs we incur in the maintenance and the administration of the live-aboard situation. However, much of the maintenance and issues are related to subleasing of boats. The two big issues are subleasing and the monthly live-aboard fee. Mr. Janes suggested to address the subleasing issue with full force as soon as possible to clean it up. It is not good policy to subsidize that kind of activity in the Harbor. With only charging \$69.00, it is almost like Docks & Harbors is promoting that activity. An additional \$20.00 per person per month to live on a boat adds to the people coming and going. There ends up being no control. This costs Docks & Harbors time and money. Once this problem is resolved, he suggested to look closely at the fee to see what the actual costs are to the Harbors to maintain the Harbors for live-aboards. This may take a long time. He said he doesn't suggest to raise the fee a lot at this time but just raise it incrementally as other fees have been raised. He wants to see a true cost analysis what live-aboards are costing the Harbors. The subleasing matter needs to be addressed first and he believes it is disproportional to the owner live-aboards.

Mr. Borg said Ketchikan removed subleasing from their harbor language and does not allow any subleasing. The person subleasing a boat does not care about the boat he is living on, or the harbor, or anything for that matter. This is just a cheap place to flop and that is why there is so many problems. Another problem the subleasing is causing is people will buy three boats and put them in the harbor to sublease them out. They soon become derelicts and have the blue tarp issues.

Mr. Simpson commented that the blue tarp issue crosses over to the subleased boats. If the Harbors is successful with addressing the derelicts, that should take care of some of the subleasing cross over part of the problem.

Mr. Borg said this would take a lot longer than just saying no more of the subleasing. If there is no more subleasing, there would probably be more people flopping but that will be easier to manage. He said one guy has so many boats that he doesn't even know who the guy is renting to from one day to the next. Office staff is requiring photo idea now to know who is renting where.

Mr. Simpson said the leasing, flopping, and derelict pieces of this equation are for a different Committee. This is really for the OPS/Planning Committee. We need to figure out if Docks & Harbors is going to allow subleasing. If the Committee does want to allow subleasing, what is the fee for that?

Mr. Borg recommended no subleasing. Only an owner and family can live on their boat. He said at the next meeting he will bring the language from Ketchikan's regulation.

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Mr. Donek said, as far as addressing the subleasing of boats, that is an OPS/Planning Committee issue. He said this should be addressed first before the fees are set. He doesn't know where the \$69.00 came from and what rationale went into that fee. This fee should also have the CPI adjustment annually. He said in title 85 it says the harbors are intended for boats used for transportation on the water. If you are renting out a boat for someone else to live on, that is no longer a vessel intended for transportation on the water. He said he also has a problem with houseboats. They are also not intended for transportation on the water so why are those allowed? He said CBJ does have rules and regulations for building code and rentals. A person just can't rent out anything you want to rent out. He suggested to tie in the land side of the ordinances as far as the rentals go. Most of the rentals in the Harbor would not be allowed under CBJ code.

Mr. Simpson said the CBJ codes would tie into the sewage issue also. To rent a home, a homeowner is required to be hooked to City sewer if they have it.

Mr. Uchytel said the houseboats are on the inside. The regulation allows the Harbormaster to assign non-moving boats. The idea was there were certain areas of the harbor that were considered not desirable in support of that bigger vision of supporting marine transportation in the harbor which allowed the Harbormaster to allow the boathouses to show up. The boathouses are non-moving and don't have to move. Unlike the live-aboards, they are still obligated to move three times a year, and 60 days apart. Staff is still working toward compliance with that.

Mr. Simpson said one of the reasons for allowing the boathouses was it was unutilized space that we could generate revenue from where no transportation oriented boat would want to be in. It also recognized having some live-aboard patrons in the Harbors helped with some security.

Mr. Uchytel said with the new phase I of Aurora Harbor, staff took that into account and strategically increased the clearance so the inside of the main float is more desirable than it was three years ago. Boats can utilize that area now.

Mr. Donek said his vision of non-moving boats were vessels intended for transportation on the water, not houseboats. Now we are stuck with a certain number of houseboats. The non-moving area should be for boats that are not moving for some reason and the Harbormaster was given an area to move these vessels instead of forcing them out of the Harbor or to allow them to park for an extended period of time.

Mr. Janes said there are many communities that have a vital and vibrant houseboat area that makes sense and have to be managed differently. Looking ahead to phase III of Aurora Harbor we might take into consideration the actual houseboats and have a community that has its own management. Mr. Janes suggested to move the subleasing and the VRBO to the OPS/Planning Committee. He said without knowing where the \$69.00 came from, he proposes leaving the fee where it is and systematically look at the costs after the subleasing issues are addressed.

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Mr. Simpson said he is unsure how the \$69.00 fee was established but it was a product of due deliberation in one of these Committees years ago. It is intuitive that there are additional costs incurred by having people on their boats in the Harbor 24/7 and year around that are not incurred when people are weekend recreational users. Some additional fee makes sense. Mr. Simpson suggested to do a nominal incremental raise at this time viewing it as an interim measure, while sending the rest of the issues to the OPS/Planning Committee to look at in a more comprehensible detail. He suggested to raise the \$69.00 to \$75.00 a month fee for the first person, with looking at the live-aboards, most boats only have one person on them so this would just be an increase of \$6.00. He suggested to raise the \$23.00 rate per person to \$25.00 per person starting with the 2nd person. He wanted to have further discussions on the sewage, derelicts, and subleasing in the OPS/Planning Committee.

Mr. Janes said he agrees as long as this is just intermittent until more information is received.

MOTION By MR. JANES: FORWARD THE ISSUES OF LIVE-ABOARDS TO THE OPS/PLANNING COMMITTEE TO DEAL WITH THE QUESTIONS OF SEWAGE, AND SUBLEASING AND RECOMMENDATION TO INCREASE THE LIVE-ABOARD FEE FROM \$69.00 TO \$75.00 A MONTH FOR THE FIRST PERSON AND THE PER PERSON FEE AFTER THE FIRST PERSON TO \$25.00 PER MONTH FOR A TEMPORARY TIME UNTIL OPERATING COSTS ARE DETERMINED TO MANAGE LIVE-ABOARDS AT THE HARBOR AND REVISIT AT A LATER TIME AND ASK FOR UNANIMOUS CONSENT.

The Motion passed with no objection.

Mr. Donek said this will be heard by other Committee's.

Mr. Uchytel confirmed this Committee wants to send the discussion on live-aboard regulations first and then the fee increase or does it matter.

Mr. Simpson said the regulation needs to be first put into context.

Mr. Baldwin said he has no problem with raising the rate, but with having a \$75.00 fee for the first person and \$25.00 for the second, the live-aboards who have wives fee will increase \$31.00. He believes the first two people should fall under the \$75.00 fee and additional people should be \$25.

Mr. Simpson said there will be time for another review of this.

2. Grid Usage Fees (05 CBJAC 20.100) – No discussion.

VIII. Future Business –

1. Pump Use Fees (05 CBJAC 20.120) – No discussion

IX. Next Harbor Fee Review Meetings –

Mr. Simpson said the next meeting will be November 2nd.

X. Adjournment – The meeting adjourned at 1:12 pm