ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE
Meeting Minutes – February 1, 2021

I. ROLL CALL

The Assembly Committee of the Whole meeting, held virtually via Zoom webinar, was called to order by Deputy Mayor Loren Jones at 6:00 p.m.

Assemblymembers Present: Loren Jones, Maria Gladziszewski, Wade Bryson, Michelle Hale, Carole Triem, Alicia Hughes-Skandijs, Greg Smith, Christine Woll, and Mayor Weldon.

Assemblymembers Absent: None.

Docks and Harbors Members Present: Chair Don Etheridge, Jim Becker, Bob Wostmann, Lacey Derr, Mark Ridgway

Docks and Harbors Members Absent: Annette Smith, Chris Dimond, James Houck, David Larkin

Staff Present: City Manager Rorie Watt, Deputy City Manager Mila Cosgrove, City Attorney Robert Palmer, Municipal Clerk Beth McEwen, Deputy Clerk Diane Cathcart, Port Director Carl Uchytil, Harbormaster Matt Creswell, Port Engineer Erich Schaal, Port Administrative Officer Teena Larson, Finance Director Jeff Rogers, Public Works Director Katie Koester, Parks and Recreation Director George Schaaf, Community Development Department (CDD) Director Jill Maclean, CDD Planning Manager Alexandra Pierce

II. APPROVAL OF AGENDA

The revised agenda was approved as sent out earlier in the day.

III. APPROVAL OF MINUTES

A. November 30, 2020 Assembly Committee of the Whole Draft Minutes
Hearing no objection, the minutes of the November 30, 2020 Committee of the Whole meetings were approved.

IV. AGENDA TOPICS

A. Joint Meeting with Docks & Harbors Board

Items for discussion during joint meeting:

Docks & Harbors Board 2020 Annual Report to the Assembly
Chair Etheridge provided a brief overview of the 2020 Annual Report. Assemblymembers asked what the forecast might be if there is no cruise ship traffic in 2021 to which Mr. Etheridge said it would wipe out their budget for the most part.

Small Cruise Ship Berth Planning

Port Engineer Erich Schaal gave a presentation in conjunction with consultants Heather Haugland and Dick Somerville from McKinley Research Group, LLC (Formerly McDowell Group).

The top site locations assessed as potentials for a small cruise ship berth included the following locations listed in Docks & Harbors Board preference order:

- NOAA/Seadrome – D&H Preferred site
- NCLH / USCG Subport
- Little Rock Dump
- Douglas Harbor
- Harris Harbor
- Auke Bay (even though not downtown)

Docks & Harbors Board members and staff answered questions from Assemblymembers asking about funding sources, coordination with neighbors and community members, and short term vs. long term needs. They also discussed how this might fit with other area plans and they asked some questions that staff will bring answers back to a future COW meeting. Mr. Jones reminded Assemblymembers that they had set this task for the Docks & Harbors Board 2 years ago and this plan is the result of that request.

UAS Property/Juneau Marine Services

Mr. Etheridge explained that CBJ is currently leasing the boat yard from the University (across the street from JDHS). The lease is up this year and they won't be able to lease it again at this same rate. They are looking at trying to come up with a price and do either a lease/purchase or outright purchase of the property. They may need to come back to the assembly to get assistance in purchasing the property to be able to improve the boat yard facilities in Juneau. They are still waiting to get an appraisal on the property and looking at doing a month to month lease in the short term.

Auke Bay Loading Facility Right of Way Lease

Mr. Etheridge explained that they have been using this for many years and DOT/PF has said CBJ Docks & Harbors cannot use that ROW for a number of things that they previously have used it for. Mr. Uchytil explained there is an $18,000 liability for the use of that property and they need to renegotiate an agreement with DOT for the highest and best use. Mayor Weldon noted that Manager and legal staff discussed this earlier in the day and they are aware of the issues involved in working with state agencies to resolve these issues and will be working with D&H staff on that.

Abandoned Cars in Harbor Lots

Mr. Etheridge reported they have at least 1 dozen or more abandoned vehicles that are being used for various illegal activities with drugs and other security concerns. He said that a large part of the trouble that happens at the harbors is primarily related to the abandoned cars in the parking lot. They are looking for some help from JPD and CBJ to try to resolve these issues. Mr. Watt said that junk cars is something that needs to be worked on both in the harbors and throughout the borough. There had been some traction last winter but we have lost our momentum on that and they will be refocusing back on those issues.

Mayor Weldon thanked the Docks & Harbors Board for participating in the joint meeting.

The Committee of the Whole took a recess from 7:15 until 7:25p.m.

B. CBJ Process for Consideration of NCL Proposal
There were three attachments for this item:

- City Manager Memo re: Subport Development
- Attachment I: NOAA Seadrome Site Concepts
- Attachment 2: 2004 Long Range Waterfront Plan (LRWP) Excerpts

Mr. Watt said that the packet has a rather lengthy memo addressing the many hats that the Assembly will wear during this process. His main emphasis was to recommend the Assembly not worry about their potential role should something be appealed from the Planning Commission (PC). He also shared a page from the Long Range Waterfront Plan. He said that when they received the Visitor Industry Task Force (VITF) Report, that the VITF did not recommend updating the LRWP. He said that with regards to the subport, he has heard it debated both ways about whether or not the plan would allow the permitting of a dock at the subport or would disallow it. He said that he thinks it tends to lean towards disallowing it but that it is debatable. He provided the page from the LRWP to show that there are specific dock areas that demonstrably show large cruise locations. He said that for the concept plan for the subport, it shows extended wharfage and more moorage facilities but it does not show large ships in that area. He said that if we don't clarify this section of the LRWP, the consideration at the Planning Commission will be the argument of whether the LRWP allows or disallows cruise ships in that area. He said that he thinks that is not helpful or useful for the PC to have that argument. Mr. Watt said that the feels the important discussion to have at the PC is whether or not a dock gets permitted, and if so with what conditions. In light of this, he is recommending that the Assembly ask for an update to the LRWP that would just take care of this relatively narrow issue.

Mr. Watt said his other recommendation is that the Assembly decide on an approach related to the lease of municipal tidelands. The above is a summary of his memo in the packet. He said that it is a complicated issue that touches on a lot of other issues.

Ms. Gladziszewski asked to hear the City Attorney's opinion about Mr. Watt suggesting that the Assembly should not worrying about an appeal process.

Mr. Palmer said in the big picture, Mr. Watt is steering them in a direction that might help minimize or avoid conflicts of interest or bias questions. He said that the overarching theory is that, assuming there is an appeal, regardless of who files it, of a decision coming out of the Planning Commission, if the Assembly were to undertake this approach to help clarify what the LRWP describes before the conditional use permit that could provide some arguments of bias. Most of those arguments could be eliminated if the Assembly were to refer a subsequent appeal to a Hearing Officer. The Hearing Officer would rule on any procedural matters and those conflicts of interest could be completely prevented. On the substance of a decision, the Hearing Officer simply provides a written recommendation to the Assembly and if the Assembly were to take that recommended decision as is without any adjustments or edits, the potential for any conflict of interest or bias arguments is really low. It has effectively minimized it. He said that would be different story if the Assembly decides to make changes to the final decision as proposed by the Hearing Officer and they would need to look at that from a case by case perspective. He said they may not need to be super concerned about all that at this time but it is definitely something of which to be aware.

Ms. Gladziszewski said that she agreed with Mr. Watt's proposal take it in the following steps: look at the LRWP, then send it to the Planning Commission, then do the lease. She said that saying the LRWP doesn't explicitly prohibit a cruise ship dock in that location is the same as it not explicitly saying that it prohibits a nuclear submarine base. She related the history and conversations about this waterfront plan and that the community was looking for a location to place a new cruise ship dock and that is how they decided upon the 16b project and they chose not to put a dock in the subport area. She said that is totally in the Assembly's purview to take up that matter prior to anything going to the Planning Commission.

Ms. Hughes-Skandijs asked the City Manager to explain the process for how to amend the LRWP and what that might look like. Mr. Watt said they would work with staff to provide an amendment to the LRWP and they would give a proposal that the Planning Commission might be able to review for conformance. He said he doesn't know what that would exactly look like but it would need to be flushed out. Any amendment to the plan would have to go through the Planning Commission and the Assembly and it is likely they would flesh that out some more before final adoption.

Ms. Hale said that she would want to make sure if they went into making modifications to the LRWP that there would be strong public process. Mr. Watt said that at every step of the way, they would be inviting public comment. One of things not yet done today and one thing that is important to stake out the Assembly's role is that the architects hired to work on the NCL project have been having public meeting but the public is not sure when/how it is best to address their concerns to the Assembly. Ms. Hale said she hoped they would also look at the Small Cruise Ship Berth issues to be folded into that planning process.

Ms. Woll asked if there were any timelines associated with all of these steps. Mr. Watt said that it would likely take quite a while. Six months would be a fairly fast turn-around to amend the LWRP. Then time would be required for negotiating on tidelines, we are not fast at disposing of property. A lease of tidelands is handled under our land disposal timeline. While he is suggested they allow the lease process to start, he would recommend the lease negotiations to happen after the conditional use process is completed. He said that the Assembly may wish to develop requirements over time that would be included in that lease process. The Lands Code speaks to the use/disposal of public property and he said that determining fair market value of tidelands could become some topics for debate. The Assembly could give the manager some direction with respect to the negotiation. He said he didn't see any of those pieces moving very fast. Even after CBJ's process, then the Federal regulatory agencies also get involved.

Mr. Jones noted that some of the tidelands are also state tidelands and that takes some extra time on top of all those other pieces of the process.

Mr. Smith thanked Mr. Watt for providing a focus on the public process. With this proposed process, he wanted to confirm that there will be a way for the Assembly to say they've heard from the community and the Assembly decides X vs. Y and that this process preserves that ability.

Mr. Watt said that is correct, that this process does preserve that ability. He noted that there are likely some edge issues and those economic terms are likely to be part of the negotiations.

Ms. Gladziszewski said with respect to any amendment to the LRWP, people had very strong opinions about the undesirability of a dock in that location when it was initially adopted. She said that a text amendment isn't necessarily that complicated but the process could be. Mr. Watt said he agreed.

Ms. Triem said that when she brought up re-opening up looking at the LRWP, she was shot down. She said that the last time this was done, they took an area-wide survey and she thought this would take a lot longer than 6 months.

Mr. Jones said that he thinks the uplands issue would be a separate CUP process and it would be difficult for CBJ to require things that Mr. Watt mentioned for a private property owner. Mr. Jones then discussed the control of the waterfront by the CBJ vs. private property owners. Currently two docks are owned by CBJ and two docks are owned by private entities and that may turn into three now that the NCL has purchased the subport parcel.

Mayor Weldon said that the Assembly will be looking at the VITF recommendation about the dock, they were in favor of a dock with several conditions and it is worth looking at again when they have these conversations.

MOTION by Mayor Weldon to forward the recommendation from the Manager and to provide an opportunity for public comment on the approach at the next Assembly meeting. *Hearing no objection, the motion passed by unanimous consent.*

C. Fireworks

There were four attachments for this item:

- Memo from Municipal Attorney
- 2016 era CBJ Fireworks Policy
- Draft Ordinance 2021-03 vCOW1
- Map of Fire Service Area

Mr. Jones asked Mr. Palmer to give an overview of the proposal and for the Assembly members to ask any questions, initial impressions and they will continue to discuss this at additional COW meetings.

Mr. Palmer thanked Ms. Hale for helping guide him through this process. The Assembly spent a lot of time in 2015/2016 on the current fireworks policy. It essentially allows saleable fireworks and provides direction to JPD for the enforcement of the noise ordinance. However, he said that the Fire Code was also changed a year after the policy direction was given. He said that with that

Fire Code change, it currently reads: *"The storage, use, and handling of fireworks is prohibited except as allowed in this section and AS 18.72."* He said that they have struggled with that over the past three years and he worked with Ms. Hale to provide a first draft of a fireworks regulation ordinance so the Assembly would have a starting spot from which to begin.

Mayor Weldon asked if on packet Page 87, line 10 was a typo and should it be 25 or 250?

Mr. Palmer said that was no typo and it should be 25 gross pounds and he will be touching on that later.

Mr. Palmer then proceeded to provide an sectional analysis of the proposed ordinance 2021-03 vCOW1 as it was provided in the packet.

He explained that the overarching approach started from the position to codify the 2016 policy, at Ms. Hale's request, it was to tighten it down a little bit more to define "saleable fireworks" and define "concussive" vs. "non-concussive" fireworks. He said they were attempting to create a code that allows showy fireworks within the fire service area boundary and allow concussive fireworks outside the fire service area, i.e., out the road or out N. Douglas Hwy for personal use. Anything that is a licensed fully operator such as what CBJ does on July 3 would be permitted within the fire service area.

Mr. Bryson spoke about the concussive explosions vs. sparkling non-concussive grenades. Mr. Bryson also spoke about potential locations within the fire service area that might be allowed for concussive fireworks, i.e. Auke Rec for example.

Mr. Palmer explained the process for periodic changes to Universal Fire Code. When drafting this ordinance, he wrote it such that this chapter specifically addresses the fact that this code section would over-ride any changes made in Title 19 and also allow for the Fire Marshal the ability to override the Universal Fire Code.

Mr. Palmer then spoke to the specific parts of the code on page 2 of the draft ordinance under (b) Exceptions circumstances with the dates/times/locations allowed within the Fire Service Area. Section (b)(2) provides for use outside the fire service area.

Mr. Palmer then answered a number of questions from Assemblymembers regarding what the boundaries would, how it related to the fire service areas and also the discussion about expanding the area that fireworks would be allowed north of the N. Douglas boat launch plus Eaglecrest.

Mayor Weldon asked about the N. Douglas neighborhood and if there might be a modification that could be made to extend the N. Douglas area further north to avoid the neighborhoods it is prohibited from.

Ms. Woll asked about the 2016 policy and that the 2016 policy didn't speak to concussive vs. non-concussive. Mr. Palmer said this was a distinction in the policy and he could bring back additional details about how those dates and locations were determined. He said this ordinance was an attempt to simplify that language. He said that since this is a draft ordinance, it can be modified however the Assembly sees fit.

Mr. Palmer said that the next section pertains to a Fireworks Use Permit that would be issued by the Fire Chief and it is modeled off a similar permit in Kenai.

Mr. Palmer noted that CBJ Code 36.80.040 Sale of Fireworks section was specifically put into the code by the Assembly in 2011. He said that it was inadvertently deleted upon the adoption of one of the International Fire Code subsequent adoptions. He said that it would not be an infraction, this would be a Class B misdemeanor.

Mr. Bryson – said that this would prohibit anyone from selling fireworks within CBJ with the exception of a tribal entity allowed to sale them on tribal land. He said that removing this section or deleting it from the ordinance, it could level the playing field so it doesn't create a monopoly.

Mr. Palmer said that we are in a unique situation, and he won't comment specifically on what might happen in the future. He spoke to Tlingit Haida retail permit that they obtained from the State. He also noted that the State permit application language stated that if the local government prohibited local sales of fireworks, the state permit would not be granted.

Mayor Weldon spoke to the sale of fireworks by Tlingit Haida during the pandemic and the Assembly discussed some of the unintended consequences that happened as a result of code changes over a number of years.

Ms. Triem said she is still in the thinking stages of this and isn't sure where she wants to go with this. She said that she is inclined to keep talking about the prohibition and not dismiss it outright. She spoke to the increased use of fireworks this past year partly due to the availability of firework purchases.

Mr. Bryson spoke to the stockpile of fireworks by citizens due to the banning of fireworks during the 2019 summer due to fire conditions.

Mr. Palmer spoke to section 36.80.050 Possession of Fireworks re: the ability for citizens to possess fireworks and he did specifically put in the 25 gross pounds in possession vs. 250 gross pounds which is the state limit.

Mayor Weldon asked for clarification on what 25 gross pounds would look like compared to what Mr. Bryson provided to all the Assemblymembers. Mr. Bryson noted that the 10 packages he had delivered to the Assemblymember boxes probably weighed approximately 30 pounds.

Mr. Palmer then provided additional overview of the rest of the draft ordinance including how he structured the definition sections for "saleable fireworks" vs. non-concussive saleable fireworks (A) through (K). Mr. Smith asked for clarification on the source for the specific language used for these definitions. Mr. Palmer said he took these directly from state statutes.

Ms. Hale said that her intent in working with Mr. Palmer was to get at the concussive issue, they have a huge shock value and cause the most consternation. Additional discussion took place regarding the noise types and whether the definitions are OK as they were or if Assemblymembers wanted to make changes to them.

Members asked questions related to the types of fireworks and which categories they may fall under as well as the fines and how those were structured. Mr. Palmer addressed the fines as found on the last page. Additional discussion took place regarding responsible party over the age of 18 who would oversee the use of fireworks.

Ms. Hale spoke to the reasoning she asked Mr. Palmer to put the fines in the amounts that she did as well as clearly defining the concussive vs. non-concussive language as well as implementing a fine that will truly serve as a deterrent.

Mr. Jones asked members to be sure to send their questions and comments to the Law Department and this will be coming back to them at a future COW meeting.

D. Operational Impacts - COVID/Budget Cuts

Mr. Jones said that often times they don't see operational impacts until the next budget cycle and he asked Ms. Cosgrove to provide a report on the operational impacts of COVID.

Ms. Cosgrove said she provided a lengthy memo in the packet with an overview of the operational impacts. Briefly, she said that business as normal has been significantly impacted by the pandemic. CBJ already had a pretty lean workforce going into the pandemic and while it has been a significant impact on operation, in large part, the workforce has pivoted so well during this time she has been impressed and amazed. She said that the daily work for the most part is getting done but the proactive work is not getting done. She said that staff have been running this as a sprint during a marathon and people are a bit frayed around the edges. There were an extremely large quantity of special assembly meetings and lengthy response processes involved.

Ms. Hale expressed the Assembly's appreciation to staff and the appreciation of the community.

Mr. Jones said the Assembly should be glad that we are not the Anchorage Assembly nor the Legislature.

Mr. Watt echoed Ms. Cosgrove's comments and said that between the two of them and the Leadership Team, they have built a city staff force that they are very proud of. He said they are pleased at how staff has worked to be responsive to the Assembly and the public. He also noted that staff has a lot of work to do and we appreciate the Assembly's support.

Ms. Gladziszewski said that she hears from regular citizens who express their appreciation regularly about all that city staff has done.

Ms. Triem asked for this to be discussed so the Assembly is aware of the ramifications of their decision making. She said that there are lots of decisions the Assembly makes that have consequences on city staff she asked if the positions that were cut or left not filled, if they will remain unfilled or cut or are they looking at filling them. Ms. Cosgrove said they are just discussing budgets in departments with staff starting this week and they may have some position changes that will be brought back to the Assembly during the budget cycle.

Mayor Weldon asked for an explanation of the loss of staff in the various departments. Ms. Cosgrove provided a breakdown of those positions currently not filled.

Mr. Jones thanked Ms. Cosgrove and all the staff.

Mr. Jones said that the upcoming meetings of the Assembly committees are: Assembly Finance Committee on Wednesday, February 3, the Full Assembly sitting as the HRC Saturday morning February 6 and the next COW on Monday, February 22.

V. SUPPLEMENTAL MATERIALS

VI. ADJOURNMENT

There being no further business to come before the committee, the meeting was adjourned at 8:54p.m.

Respectfully Submitted by,
Beth McEwen, MMC
Municipal Clerk