CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING AGENDA
For Thursday, April 29th, 2021

Zoom Meeting
https://bit.ly/3aC2uPw
or via Phone 1-253-215-8782
Meeting ID: 941 9238 1977
Passcode: 776256

I. Call to Order (5:00 p.m. via Zoom)

II. Roll (Lacey Derr, Chris Dimond, James Houck, Mark Ridgway, David Larkin, Annette Smith, Bob Wostmann, Jim Becker and Don Etheridge)

III. Approval of Agenda

MOTION: TO APPROVE THE AGENDA AS PRESENTED.

IV. Approval of March 25th, 2021 Board minutes

V. Public Participation on Non-Agenda Items (not to exceed five minutes per person, or twenty minutes total time).

VI. Consent Agenda – None

VII. Unfinished Business

1. RAISE (formerly BUILD & TIGER) and Port Infrastructure Development Program Grant
https://www.transportation.gov/sites/dot.gov/files/2021-04/FY%202021%20RAISE%20grants%20NOFO%20%28Final%29.pdf
https://maritime.dot.gov/office-port-infrastructure-development/port-and-terminal-infrastructure-development/2019-port-1

Presentation by the Port Engineer

Committee Questions

Public Comment

Committee Discussion/Action

MOTION: TO DIRECT STAFF TO PROCEED WITH FEDERAL GRANT APPLICATIONS FOR JUNEAU FISHERIES TERMINAL (PLANNING ONLY), SMALL CRUISE SHIP INFRASTRUCTURE MASTER PLAN, MARINE SERVICES CENTER AND DOCK ELECTRIFICATION - CONSISTENT WITH AVAILABLE FUNDING.

2. Update of FY21/FY22 Budgets Reflecting Zero Large Cruise Ships in CY2021

Presentation by the Port Engineer

Committee Questions

Public Comment

Committee Discussion/Action

MOTION: TO UPDATE THE ASSEMBLY WITH THE REVISED BIENNIAL BUDGET REFLECTING ZERO LARGE CRUISE SHIPS FOR THE UPCOMING SEASON.

VIII. New Business –

1. Letter of Award – FY20 ADOT Harbor Facility Grant - Acceptance
Presentation by the Port Director

Committee Questions

Public Comment

Committee Discussion/Action

MOTION: TO ACCEPT AN HARBOR FACILITY GRANT FOR UP TO $125,000 TO INSTALL HARRIS HARBOR PILE ANODES.

2. Bid Award for Project DH21-036 Harris Harbor Pile Anode Installation
Presentation by the Port Director

Committee Questions

Public Comment

Committee Discussion/Action

MOTION: TO RECOMMEND THE ASSEMBLY APPROVE A BID AWARD TO GLOBAL DIVING & SALVAGE, INC FOR $174,650 FOR HARRIS HARBOR ANODES.

3. Proposed CY2021 – Passenger for Hire & Loading Zone Permit Fees
Presentation by the Port Director

Committee Discussion

Public Comment

Committee Discussion/Action

MOTION: THAT DUE TO THE EXTRAORDINARY ECONOMIC CONDITIONS FOR CY21 THAT THE BOARD CHARGE FLAT FEE FOR "A ZONE" AND "B ZONE" BUSSES $200 PER COMPANY; THAT "C ZONE" PEDICAB COMPANIES BE CHARGED $200 PER COMPANY; THAT STATTER HARBOR BUS PERMITS BE CHARGED $200 PER COMPANY; THAT INSPECTED PASSENGER FOR HIRE VESSELS BE CHARGE $150 PER VESSEL AND $1.50 PER PASSENGER; AND THAT UNINSPECTED PASSENGER FOR HIRE VESSELS BE CHARGE $100 PER VESSEL AND $1.50 PER PASSENGER.

IX. Items for Information/Discussion

1. Security Gate Installation at Harris Harbor
   Presentation by the Port Engineer

Committee Discussion/Public Comment

2. University of Alaska – Juneau Fisheries Terminal – Lease Extension
   Presentation by the Port Director

Committee Discussion/Public Comment

3. State of Florida Lawsuite v. Centers for Disease Control & Prevention (CDC)
   Presentation by the Port Director

Committee Discussion/Public Comment

4. Assembly COW Meeting – May 10th
   Presentation by the Port Director

Committee Discussion/Public Comment

5. Preparation for May 19th Public Hearing – Resident Surcharge/Dockage Fees
   Presentation by the Port Director

Committee Discussion/Public Comment

X. Committee and Member Reports

1. Operations/Planning Committee Meeting- Thursday, April 21st, 2021
2. Member Reports
3. Assembly Lands & Resources Committee Liaison Report
4. Auke Bay Neighborhood Association Liaison Report
5. South Douglas/West Juneau Liaison Report

XI. Port Engineer's Report

XII. Harbormaster's Report

XIII. Port Director's Report

XIV. Assembly Liaison Report

XV. Board Administrative Matters

a. Finance Sub-Committee Meeting – TBD
b. Special Board Meeting – Wednesday, May 19th, 2021
c. Ops/Planning Committee Meeting – Wednesday, May 19th, 2021
d. Board Meeting – Thursday, May 27th, 2021

XVI. Adjournment

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MINUTES
For Thursday, March 25th, 2021

Zoom Meeting

I. Call to Order - Mr. Etheridge called the Regular Board meeting to order at 5:00 pm via zoom meeting.

II. Roll - The following members were present via zoom or in person: Lacey Derr, Chris Dimond, James Houck (arrived at 5:02pm), Mark Ridgway, David Larkin, Annette Smith, Bob Wostmann, James Becker and Don Etheridge.

Also present: Carl Uchytil – Port Director, Erich Schaal – Port Engineer, and Teena Larson – Administrative Officer.

III. Approval of Agenda

The agenda was approved as presented.

IV. Approval of February 25th, 2021 Board minutes

Hearing no objection, the February 25th Board minutes were approved as presented.

V. Public Participation on Non-Agenda Items

Rick Turner, Aurora Harbor

Mr. Turner said he is here to talk about the heightened avalanche risk. He asked at what level of risk are the Harbors evacuated? He said looking into the risk study's that have been completed in 2011 it seems there is some risk to Aurora Harbor from a large historic avalanche which is the conditions we are currently having. He suggested to have an assessment of potential risk to the harbor for the patrons and the live-aboards that could be affected by a historic avalanche. When there is extreme hazard like a few weeks ago, he would like to have the harbor evacuated if it is necessary.

VI. Consent Agenda – None

VII. New Business

1. Proposed Fee for Services Increases – 05 CBJAC 20.050 Residential Surcharge

Mr. Uchytil said after the last Wednesday's Operations/Planning Committee meeting, staff sent out an email to every known live-aboard by either email or regular mail trying to get the word out that the residential surcharge increase was being discussed at the Board Meeting tonight. The Docks & Harbors Board, as an empowered Board, has the charge to operate the Docks & Harbors enterprise, which requires a public process. The Board could direct staff tonight to advertise for 21 days and then hold another public hearing at a future Docks & Harbors Board Meeting of the proposed changes. At that public hearing, the Board would discuss the potential changes. If the board approved the changes, they are sent to the Assembly for approval.

Mr. Uchytil showed a presentation that was provided to the last Operations/Planning Committee. He said this was presented with the guidance that any new expenditures for the Docks & Harbors enterprises needs to be done with the expectation of raising revenues. Staff was asked what opportunities there were for increases in revenue to ensure we remain a profitable enterprise. Docks & Harbors has been challenged with COVID and the loss of revenue from the lack of cruise ships. The background is there is a need to look at potential revenue increases. He continued with showing slides on the potential fee increases;

- Resident Surcharge/Live-aboard fee
    - $69/vessel per month
    - >3 days per month results in surcharge
    - $23/month extra per person over 4 individuals
- Since 2017, everyone registered as a Live-aboard must have a Marine Sanitation Device approved by the Coast Guard.

The history of the fee from 1986 to 2001 was $20.00. Starting fiscal year 2001, it went up to $36.74. That is when the harbor was transferred from the State to the local Municipality of Juneau and at that time, there was no more financial support from the State DOT. This meant it was incumbent upon Docks & Harbors to raise revenue necessary to meet the demands in the Harbors. There was another increase in FY06 to $45.00, FY07 to $57.00, and FY08 to $69.00, which is where that rate is currently. Adjusting the $69 rate for inflation that would be $87.12 today. Previous minutes showed they were proposing to continue to raise this fee in FY09 to $81.00 and FY10 to $93.73 but that was unclear if it did not make it through the Board or the Assembly.
Mr. Uchytil said the $69.00 fee pays for potable water (home residential pay $140/mo for water and sewer. Most of Alaska Live-aboards are concentrated in Southeast. When we rebuild our harbors, we are building so there is water for year around use, which is a higher cost in our design and construction. Another part of the $69 fee is the trash disposal (home residential pays $35/month). There is recycling available seasonally as well as oil and hazardous waste disposal. There is access to sewer pump out or cart provided by harbor staff. Again, with reviewing some of the previous minutes with these type discussions, there was talk about raising the fees by $200 to provide a pump out and access to sewer. Harbors has spent money to recommission the bathrooms at Harris and we have bathrooms at Statter Harbor. Staff provides snow removal on floats and parking lots, which is primarily for the Live-aboard community. Harbors provides floats and parking lot lighting, and access to on-call harbor officer daily from 8 am to 4:30 pm as well as access to emergency harbor needs after normal hours.
Mr. Uchytil said in FY19 Harbors collected $117,507, and FY 20 $114,884 in resident surcharge, which averages about 140 Live-aboard vessels in four harbors. There are a total of 727 slips (180 Statter + 547 Downtown). This means 20% of all moored vessels are live-aboards for harbors. There are more Live-aboards than individuals that live in 15 Southeast communities. He said he looked into other Alaska communities Live-aboard policies.

- Haines - Only allows live-aboards from April to October 15 and their fee is $75 per month.

- Homer - Does not allow live-aboards for more than three months in one year. There is no charge.
- Cordova, Whittier, and Seward - Allow live-aboards year round with no charge.
- Skagway - Discourages live-aboards as a permanent place of residence and their fee is $60.84 per month.
- Sitka - Allows live-aboard year round and charge $166.57 per month.

Mr. Uchytil went over the recent improvements to the Harbors.

- Recommissioning Harris Bathroom (2018) - $150K
- Pump out Facilities
    - Douglas sewage tank with portable pump (2018) - $25K
    - Aurora Phase I winterized and portable pump (2014) - $165K
    - Winterized pump out Harris Harbor(est May 2021) - $45K
    - Winterized pump out Statter Harbor (Phase IIIB) - $160K
- All new harbor projects include winterized potable water
- Security Cameras added to approach docks at Harris, Aurora & Douglas Harbors (2021) - $15K

Mr. Uchytil showed a slide of impounded vessels since July of 2019 and charges associated with the impounds. There were 14 of the 18 impounded vessels that were live-aboards costing the Harbor enterprise $88,000.

Mr. Uchytil showed a slide on snow removal since 2018, which is $240K with personnel and equipment expense. This equates to $80K annually for the last three years. The snow removal effort also includes the launch ramps but the Harbors has snow removal priority over the launch ramps.

He said looking at the FY21 Harbor revenues so far, we are tracking down for the first five months.

Mr. Uchytil said the recommendations are any new reoccurring expenditures must be balanced with an appropriate increase in fees. He said in the February meeting, the Board voted to accept the Anchorage CPI of -1.1%, which lowered the moorage rates for the upcoming FY22 season. As a result of this, starting July 1st, 2021 the fees will decrease. He said as part of the public process, staff recognizes that cost makers should be cost payers in fees for service enterprises that Docks & Harbors manages. Staff is recommending a resident surcharge increase of $69 per month, which is still, less than the resident surcharge in Sitka. Other recommended fee increases are the reservation charge fee and the vessel salvage & disposal fee.

Board Questions

Mr. Ridgway commented he did research for other harbor live-aboard fees and he found some harbors do a sliding scale based upon the tank size. He said looking at this proposed fee increase, are there some classification of live-aboards that you can say take more resources than others? Would the size or type of the vessel take more resources?

Mr. Uchytil said we have not talked about a graduated scale by type of vessel. It goes back to the fairness issue of just treating a live-aboard a live-aboard and they are all treated equally. This could be looked at.

Ms. Derr asked if our harbors are on a flat rate or metered water.

Mr. Uchytil said metered water.

Ms. Derr asked if he has noticed that as the live-aboards increase so has our water bill?

Mr. Uchytil said logically the answer is yes but he does not have that in front of him.

Mr. Wostmann said some of the harbors that he knows of that allows live-aboards in the winter disconnect the water during the winter months. He asked if he knew what the difference in operational expense for the year round water that requires heat tape and the only summer use water?

Mr. Uchytil asked Mr. Schaal for the additional expense in the design for the harbors year round water use. Having live-aboards there is the additional need for winterized water pedestals. Having the water on year round there are leaks/frozen pipes and the need to get divers to repair them, which is to support the live-aboard community. If we did not have live-aboards, we could have a single loading zone area that would have one spicket for water.

Mr. Schaal said it comes down to the level of service the Board wants to provide for the harbors. If there was a loading zone that was seasonal, there would be reduced cost because the water would not be ran throughout the facility. In regards to harbor design, staff has tried to make it as basic as possible to prevent freeze up in the winter so the water lines are ran through the seawater where 99% of the year it is above freezing and we apply heat trace tape inside the water pedestal that protects against freezing temperatures. He estimates having year round water adds twice the expense to having water with the complexity to having the water lines in the water.

Mr. Ridgway asked in terms of having various moorage rates for the different facilities, did staff consider different live-aboard rates for the different harbors.

Mr. Uchytil said no, historically all live-aboards have been treated the same.

Mr. Ridgway said this is a doubling of a rate; does staff have recommendations of how to avoid doubling the rate in the future so there is a consistent managed increase over time?

Mr. Uchytil said no one ever wants rates increased. When the Board elected to put a CPI adjustment on the Harbor rates, they thought their work was done, but that is not meeting the needs of the Harbor. There has to be times when new fees need to be implemented or the operational needs will fall behind. There is a need now and the fees need to be addressed now. It is the Boards decision to raise or not raise rates. It is the staff's responsibility to let the Board know of the operational needs with the current revenue stream.

Mr. Etheridge said he was on the Board previously when all the rates were reviewed when the harbors were struggling financially. He said they met for almost a year to put together a package for fee increases. The same thing happened then as now with waiting too long trying to keep up with our costs and we were losing ground. So instead of doing the gradual increase, we had to do the large increase. It was known by the Board at that time just doing the CPI was not enough, and the Board was going to review rates more often, but this has not happened like they thought. The fee review needs to be completed on a regular basis.

Ms. Smith suggested tying this fee to the automatic Anchorage CPI with a review every five years.

Mr. Uchytil said five years ago, when these fees were reviewed, the Board decided not to act on the resident surcharge fee. They can always be reviewed but it is up to the Board to act on the fee increase.

Mr. Ridgway suggested to have staff recommend a fee to review every year with a presentation with costs associated.

Mr. Uchytil said staff could establish a process to look at rates on an annual basis.

Mr. Dimond asked if this rate would take effect immediately or phased in over a couple of months.

Mr. Uchytil said staff made a recommendation for this increase. It is in the discretion of the Board to use another number, phase in over several months or years, and to make sure the increase is fair and reasonable.

Mr. Dimond asked if there is any indication on how the Assembly will act on this fee increase?

Mr. Uchytil said when regulation changes are brought before the Assembly they do one of four things;

1. Not to take up the consideration of the regulation by moving the regulation by orders of the day. (In this case, the Assembly says the recommendation moves forward)
2. The Assembly could discuss the regulation and move to adopt the regulation. (In this case, the Assembly can discuss the regulation, have more public input and can adopt the regulation)
3. The Assembly can discuss the regulation and direct the City Manager to consider review of the regulation.
4. The Assembly can direct CBJ Law to prepare an ordinance or resolution for consideration with the changes. (In this case, they can approve what the Board wants or send it back to the City Manager for changes.

Mr. Dimond asked if Mr. Uchytil had an indication of how the Assembly would react to this fee increase?

Mr. Uchytil said Docks & Harbors has not received any general funds from the City since he has been Port Director for the last ten years. As an empowered Board, the Board has deference to make appropriate revenue type decisions and he hopes the Assembly would concur with the wisdom of this body and respect the Board's recommendation for this fee increase.

Mr. Etheridge said when the previous Board recommended fee increases in the past, the Assembly did not reject the changes but did a public hearing and moved forward with the Board suggestions knowing that Docks & Harbors had to make it on their own paying for operations from the fees.

Ms. Alicia Hughes-Skandijs, Assembly Member
Ms. Hughes-Skandijs said in response to Mr. Dimond, in her opinion, cases where the Assembly might get involved could be when they feel the public process has not been vetted out and the Board did not give a full consideration to how it fits into the other financial decisions. In general, the Assembly has a good track record of not trying to second guess the empowered Boards except when there was an error in public process.

Mr. Larkin asked with not raising the fees in quite some time, and our expenses increasing with the delta growing, is there a potential for removing some of the services if the Board does not increase the rates?

Mr. Uchytil said if Docks & Harbors does not maintain a revenue stream that exceeds our expenditures, there would be the need for discussion on loss of services.

Public Comment-
Eric Antrim, Juneau Alaska
Mr. Antrim said he has been a single live-aboard in Harris Harbor for the last four years and pays $69 per month. He does not see any services that he receives that any other harbor patron does not also receive. If the overall harbor expense is exceeding the revenues, the cost should be spread out for all harbor patrons. All harbor patrons pay fees based on the size of the vessel, those fees could be indexed to overall harbor costs. He estimates his water usage to 700 gallons per month. He said he has two bags of garbage per week. He said $69 a month is far more than what it costs the harbor to purchase these services for him. He said he believes his non live-aboard neighbors use as much water and garbage as he does. The harbors requires insurance in case of the need to impound vessels, whether they are live-aboards or not. There is a fob on the Harris Bathroom that costs could be portioned to users of that facility. The showers in Harris are coin operated and not a good deal compared to the gym membership he uses for his showers. He said as a live-aboard he provides a neighborhood watch, he does snow removal, and picks up litter around his neighborhood. He said one year he even saved a life by pulling a harbor patron from the water. There are no escape ladders in Harris Harbor. Other harbors offer live-aboard services that are not offered in Juneau. He said in general, live-aboards to not receive any services that are not offered to all harbor patrons. His opinion is that Juneau is trying to discourage live-aboards with raising live-aboard fees and this has nothing to do with providing a service. He would like to see the

live-aboard costs and how these fees are related to the costs showing if they are too much or not enough.

Mr. David Thomas, Juneau, AK
Mr. Thomas said he is a live-aboard in Aurora. He said he understands things cost money and the live-aboard services need to be paid for. During COVID is an odd time to double the live-aboard fee. He received money to help with his fees from the City and now the City is doubling his fees and will get the money back. He recommended to graduate this fee out over the years to try to recoup from COVID. He asked if the City was going to get CARES ACT funding for the loss of revenue from the cruise ships?

Mr. Erik Wiseman, Juneau, AK
Mr. Wiseman said he is a live-aboard in Douglas. He said he has a high praise for the Harbors in general and personnel. He said he disagrees with the live-aboard fee increase. He said he agrees with the cost makers should be cost payers. He asked the question years ago, why does one live-aboard pay the same as four live-aboards. This would be four times the sewer/water fees, and garbage fees. He said however these fees are increased, he suggested to prorate the fee based on how many people are on the boat. He said the presentation by Mr. Uchytil was compared to people living on land with the water/sewer and garbage fees but the people on land have a constant sewer/water hook up and he feels that is not an equal comparison. He asked if there was a spreadsheet that would show how staff came up with the recommended fee and the associated expense.

Mr. Rick Turner, Juneau, AK
Mr. Turner said he has been a live-aboard in Aurora Harbor since 2003. He said over this time he has noticed an increase in the quality of the harbor and staff. He said he understands costs increase overtime. If this increase is due to inflation, it is understandable but doubling the rate is a bit of a stretch. He plugged the $69 fee in the CPI calculator since 2004 and it would be $96 today. If going with that, the doubling of this rate is excessive. He said in the presentation it was noted that a lot of the harbor was constructed for the year round live-aboards with trash, pump outs, and water. As others pointed out, live-aboards do not have exclusive use to these amenities but enjoyed by all harbor patrons that wish to use them. Removal of the snow benefits all because all boat owners need to be able to access their boats to remove snow. He said if the principle is if there are cost makers that there should be fees to cover those costs it would seem it would not only be live-aboards paying for these services but spread out over the entire harbor. He said he has a 65-gallon water tank that he fills once a week, and about one and ½ bags of garbage per week. He is wondering if the loss of revenue is a temporary thing due to the loss of traffic due to COVID, and having half of Aurora Harbor dismantled and not available to generate revenue. If the revenue increases again, will the live-aboard fee decrease or will this only be discussed when it needs to increase. The harbors should recognize they are receiving a valuable service with round the clock presence in the harbor, especially at night when there are no other harbor staff around. He has called the police before when it was necessary.

Mr. Jim Penor, Juneau, AK

Mr. Penor said he has been a live-aboard in Aurora Harbor for four years. He also would like to commend the harbor staff for how well they do things and their quick response. He said he understands being an enterprise fund you need to pay for your operations, but in regards to the derelict boats, does the harbor go after the owner of the boats for financial retribution and disposal of the boats? He also questioned how the fisheries boats are charged because he said he knows they clean out the holding tanks in the hull of their boats, so after a fishing opening, they come in and run hoses to their tanks that run all night. He said it is just him and his wife; he fills his 200-gallon water tank once a week, which is far less than a house. He is very dissatisfied with seeing people and truckloads of garbage that gets dumped in the harbor dumpster that does not have a boat in the harbor. Catching people that do that could help save on costs.

Mr. Russell Peterson, Juneau, AK

Mr. Peterson said he has a message from five people in Auke Bay that called him just before the meeting with their concerns and they did not have internet access. This goes to the access to the public process. They did give me their names and their concerns that I could do as a separate issue from his own five minutes.

Mr. Etheridge said that Mr. Peterson has five minutes and the people Mr. Peterson is referencing can write a letter to the Board.

Mr. Peterson said he has been a live-aboard in Aurora Harbor since 1986. He said he uses one to two bags of trash maybe every week or more like four bags in a month. He uses 500 gallons of water per month and no sewer because he has a sewage treatment system so he does not need a pump out. The only services he uses is the water and trash. He said Arrow Refuse quoted him it would be five dollar per person annually for their bag of trash for their fee but he said he has not received the quote back from them. He said he likes the words, equal, fair, and reasonable. He likes spreading the water fees across for all harbor users is equal. He said he knows fishermen use a lot of water but no one has gotten into the details. Having a survey of water use would be a good thing but that is relying on people's honesty. He said there is no live-aboard representation on the Board for the live-aboard group that pays $117,000 annually. He said that is half your salary. He said with the proposed increase that will be almost $250,000 for water and trash and charter operators do not pay anything toward that. Some people in Auke Bay say they see charter operators unload seven or eight bags of trash a day. The fishermen come in and use a lot of water washing their equipment and they also contribute to the dumpster. He said then there is also the illegal dumpster use. No one has completed a fair and accurate study of who uses what and how much to spread it across the board. If this was spread out equally, live-aboard fees could be dropped to $50 and still have more money collecting a little from each of the other user groups. There is representation on the Board for the recreational use, fishermen, and charter operators but the live-aboards that pay $117,000 annually have zero representation on the Board. He said, in regards to the public process, there are people still driving home at this time. Are people supposed to use leave time to attend a meeting at 5:00 pm in the afternoon. The live-aboards trust the Port Director to make the right recommendation to the Board and that is what he is being paid for so we do not all have to attend like this. We are all already contributing our own personnel time and we pay these other people.

Mr. Etheridge told Mr. Peterson his five minutes was up for public comment.

Mr. Etheridge said one statement on this topic is fishermen pay three percent of their catch.

Mr. Peterson said that was an unrelated tax.

Mr. Etheridge said fishermen pay three percent extra to the harbor system. Charter Operators pay per seat and per passenger extra.

Mr. Tracy Rosson, Juneau, AK
Mr. Rosson said he is a live-aboard in Aurora Harbor. He agrees that the live-aboards do not receive any representation on the Board and we do not receive any services exclusively for the live-aboard community. He said he sent a letter to the Board when he first heard of the proposed fee increase but he has not received any comments that his letter was even received.

Mr. Dennis Watson, Juneau, AK
Mr. Watson said he owns a four-bedroom home in Juneau and pays the same as a family with four kids, grandma and grandpa all living in the same house. The only people that pay the fluctuating rate are the commercial users. He said he advocated for water meters for all the boats but the City was opposed to doing that. What got us in this predicament was from quite some time ago, the CPI was not applied uniformly and harbors does not have the fair market lease rates. Cruise ships pay, but their water rates have not gone up for several years. Reviewing fees annually is all well and good but when the special interest groups show up and they make their argument and the Board backs down we are going to end up in the same predicament. What is fair is fair for all and not just the ones that make the loudest noise.

Mr. Matt Leither, Juneau, AK
Mr. Leither has been a live-aboard in Statter Harbor for nine months. He said it is hard to make an assessment on the use of resources when the water is not metered and not a fee per bag of garbage, it is hard to say who is using what. Assuming the live-aboards are using a significant portion of the resources is a difficult assumption for him to accept at face value. He referenced Sitka from Mr. Uchytil's presentation that pay live-aboard fees. He called the Sitka Harbor yesterday and that is not a live-aboard fee but Sitka's rate is the minimum a small house would pay for utilities. He said Sitka should not be in our conversations. He said there is no winter pump out in Statter Harbor currently, he has to haul his water, summertime he is unable to get a parking space for his car and there was also a time when he could not get in the harbor during a storm and his boat got bashed on the side. If the live-aboard fees are not covering those things, it is frustrating that the Board is considering increasing or doubling it. He looked at live-aboard fees as a homeowner's association, and he is happy to pay that with services, but he said he wants to see how we compare to other harbors. He said he did a ratio of live-aboard fees versus moorage fees to see how Juneau compares to other harbors. Based on a 35' boat, if someone is paying $1,000 in moorage, Statter is at 30%, Ketchikan outside the City is at 33%, Ketchikan inside the City is at 39%, Petersburg is at 49%, and Juneau Downtown is at 49%. The proposed fee increase will put Statter at 60% and Juneau Downtown at 98%,

which is almost double of all other harbors in Alaska. Sitka is at 150% but this should not be in the comparisons and Craig is at 116%. With the proposed fees, Juneau is ahead of what everyone else is paying in live-aboard versus moorage fees.

Board Discussion/Action –

Mr. Ridgway commented on "if we do not increase our rates, services will be cut back". He heard from the live-aboards that there is not a direct service that only affects the live-aboards. If a service is cut back, it is not separable from everyone else's services. He also heard from live-aboards on the improvements in the harbors over the years and the great staff. Other things figured into these fees are the capital improvement and operation costs. This fee has not being raised since 2008.

Mr. Houck wanted to point out that the live-aboards say they do not receive any additional services than everyone else in the harbor. He looked up a fee to go to a campground, that is $10 per night, and that does not come with electricity or anything but having a facility to use the restroom. Comparatively, one would have to have their own RV or tent and they still have to pay the $10 per night fee. Paying this fee would double what the live-aboard fee is.

Ms. Smith said 100% increase is a large increase and pretty hard to take. We got into this situation because we have not increased the rates since 2008. She asked to make an amendment to what is on the table.

Mr. Etheridge said there is nothing on the table at this time.

Ms. Derr said she did receive public correspondence and she is listening. This is not an easy task for what we are addressing on a fiscal level. We are looking at a huge deficit. As a homeowner, she said her water bill has increased over the last 13 years and she cannot control what they charge her. She said she pays the same rate as a family of six or ten. With the increase in cost of living, so has the services increased. If the request is not to hit the live-aboards with a fee increase, then cutting back services would be the way to counteract that. It might be to shut off water in the winter. With the thought of splitting the garbage service, a can is $30 per month and if you want a bigger can, it is more. Working on fair and equitable she would recommend cutting services in the winter because that is what the costs equate to currently.

Mr. Ridgway commented permanent parking for live-aboards is a benefit for live-aboards. He said when he goes to check on his boat he has a hard time finding parking and all the same vehicles are in the parking spaces. There is not the granularity in our enterprise to separate charges to fees but the Board recognizes there is a revenue shortfall that needs to be addressed.

Mr. Becker commented that he heard the live-aboards comment that they did not want the fee raised because they did not have much garbage, or other expenses in the harbors. There was talk about metering water. He said the homes in Juneau have a flat rate. The water and sewer rates have increased and the sewer increase was due to the need for the rebuilding of the sewer system. He said he believes the people in the harbors have a good

deal. He commented that the water he uses to wash down his nets and boat, and he is a commercial fisherman, is from his own salt-water pump system. He only uses the City water when he wants to fill up his water tank. He said the increase in this fee is long overdue. It is hard to double a fee but this is something the Board has to do.

Mr. Wostmann commented on one of the live-aboards public input on CPI. If you were to apply the CPI for current day, the fee would be at $96 per month. This is almost half of the proposed increase. If the CPI was followed over the years, we are really only looking at an additional $45 increase a month. He said looking at the increase in services and the improvements in the facilities, the increase in rates for the homeowners in town for sewer/water and City services, this easily justifies the rate that is being contemplated. There are other points for discussion, like the cost per person, but overall there is justification for the rate being considered.

Mr. Ridgway commented on previous discussion on phasing this fee. He said he would be in favor of a delay for implementing the proposed increase and add a date in the motion when the fee would go into effect.

MOTION By MR. DIMOND: TO DIRECT STAFF TO COMMENCE THE REQUIRED PUBLIC NOTICE PERIOD FOR A PUBLIC HEARING TO INCREASE THE RESIDENCE SURCHARGE (05 CBJAC 20.050) BY $69 PER MONTH.

AMENDMENT TO THE MOTION By MS. SMITH: TO ADD AN AUTOMATIC RATE INCREASE/DECREASE BASED ON THE COST OF LIVING (ANCHORAGE CPI) WITH A REQUIRED REVIEW EVERY FIVE YEARS.

Mr. Wostmann said he supports this amendment.
No objection to the amendment of the motion

AMENDMENT TO THE ORIGINAL MOTION By MR. RIDGWAY: MOVE TO SAY THE RATE INCREASE WILL NOT TAKE PLACE PRIOR TO AUGUST 1ST 2021.

Ms. Smith asked if August 1st would allow enough time to get this change through the public process and the Assembly?

Mr. Uchytil said it should.

No objection to the second amendment of the motion

No objection to the original motion.

2. Proposed Fee for Services Increases – 05 CBJAC 15.030 Dockage Charges
Mr. Uchytil said this fee is for the reservation charge policy for the summer season. In the need to find additional revenue for this next fiscal year as soon as possible, staff suggested to review this fee, which is a charge for vessels greater than 65' on the IVF, PFO, ICT and Statter Harbor Breakwater. This fee is linked to the Dockage charge, which includes the cruise ship docks. Currently this fee is;

- $1.50 per foot for vessels less than 65' in length overall
- $2.50 per foot for vessels with a length overall from 65' up to 200'
- $3.00 per foot for vessels greater than 200'

Mr. Uchytil said doubling this fee for just the vessels up to 200' could provide $165K annually to the Harbors Enterprise. This will also affect the cruise ships that come to the Alaska Steamship dock or the Cruise Terminal dock. There are two fees that are assessed to the cruise ships for docking on our docks. There is the Dockage charge that is for the length of the ship and the port maintenance fee, which is based on tonnage. If the Board wants to increase this fee, it only affects the fee for the length of the vessel and will not increase the port maintenance fee. The average dock fees collected for FY19 & FY20 was $672,756. The average port maintenance fee for FY19 & FY20 was $680,945. How this will affect the cruise industry is currently they pay $13 per arriving passenger and the head tax collected in CY18 & CY19 on the AS/CT docks is $6,760,000. Docks Enterprise receives approximately 25% of our annual operating needs funded by marine passenger fees. Currently the total cost to moor at the AS/CT dock is $8.1M. With this proposed $3/foot increase of Dock fees, making it $6/foot, the cost to Industry for mooring at the AS/CT docks would be $8.7M with the real operating cost increase of 8.3% to Industry. Does the Board want staff to commence the public process for this increase?

Board Questions
Mr. Wostmann asked to compare the new proposed rates to the private docks.

Mr. Uchytil said the rates at the private docks are proprietary and he does not have that information.

Ms. Smith asked given that there is no cruise ship season this year, and we will only see the smaller ships, how much additional revenue is estimated with this proposed fee increase.

Mr. Uchytil said there is also a paragraph in this regulation that says the Board has the authority to provide promotional rates after a public hearing. An option for the Board for the cruise ship may be that the rate does not change until next year. Staff knows we are going to have yachts coming to Juneau and this is really the targeted user groups for this fee increase this year.

Ms. Smith said she knows the yachts have a lot of garbage and this increase should move forward.

Mr. Ridgway commented on item two in Mr. Uchytil's March 17th memo, which stated that the Board would prefer not to raise rates broadly across the harbor patrons to meet new fiscal year requirements. He asked if Mr. Uchytil has discussed this further with the Board Chair to ensure that direction is accurate.

Mr. Uchytil said he has not had that discussion with the Board Chair. He said staff interprets the decision to reduce the moorage rates throughout the harbors as a decision that the Board was not interested in raising rates throughout the harbors for our harbor patrons that have moorage.

Mr. Ridgway asked if that decision by the Board could also be interpreted, as there was a rule in place to follow the CPI. He said now, broadly speaking, our financial outlook has changed. Is there an opportunity to reassess that? There was a rule in place, the Board followed the rule in place, but now our financial outlook is changing.

Mr. Uchytil said Docks & Harbors staff takes direction from the Board and as a Board, we knew in February there was going to be new expenditures within months. The Board elected to reduce rates and that was interpreted from staff as a signal that the Board does not want to raise rates throughout the harbors. The Board can give direction to staff to look at other rates to increase. He said he was directed from the Board to come up with new ways to increase revenue and that is where the previous and this presentation came from. Rate changes are hard and we are looking at rates that have not been changed in a long time with the fact we have a large expenditure coming up starting this fiscal year.

Mr. Houck asked to ground truth the assumption that the Board does not want to raise rates across the harbors. He suggested to send out a poll to the Board asking if they did not want to raise rates across the harbors or the Board was following a rule already in place.

Mr. Uchytil said he interprets the will of the Board through the actions of the Board and right or wrong, that was how he interpreted the Board decision to lower rates was that they did not want to raise rates across the Harbors. The Board can give direction to staff to come up with a new rate for discussion.
Mr. Etheridge commented to Mr. Houck that the poll came out five to four in the vote on the motion.

Mr. Becker said he suggested to raise moorage rates by 10% across the Harbor and no one supported that idea.

Ms. Derr asked if it is fair to say this fee increase would be in line with our future overall goals of improving our facilities.

Mr. Uchytil said the Board has expressed interest in purchasing the UAS property, which will incur a quarter of million dollars of new expenses. If this is truly a need of the Juneau maritime community, there needs to be more revenue to meet the new expenditure.

Ms. Derr asked if this increase is a reasonable cost regardless of what we are looking at purchasing.

Mr. Uchytil said it would be helpful. There is the need to raise money for the recapitalization of Aurora Harbor. He cannot say if this fee is linked to CPI this will never need to be reviewed again. We have to raise rates as we see the need and have the expenditure on the horizon. There would be a different discussion if we were not looking at a huge capital outlay in the next couple of months. There is a need now if it is the will of the Board to move forward with the UAS property purchase.

Mr. Etheridge asked when the last time this was increased.

Mr. Uchytil said 2006. The head tax is viewed from the Industry as punitive and previous Boards have not wanted to raise the cruise ship dock fees because of that reason. Since 2006, the Docks Enterprise has had increases in personnel costs with MEBA and step increases but also since 16B, the Coast Guard security requirements have increased the number of Docks employee, more people than when we had just the yellow fence along the seawalk, which is an added expense. There are real costs associated with maintaining world-class cruise ship facilities.

Mr. Ridgway said as a public enterprise that charges fees for services, a standard for a process would be to have a set rate that is equitable, repeatable, and reasonable whether those rates are intended to address services and upkeep, and/or capital expenses. If the Board assumes there is a reasonable rate structure currently across the enterprise. Would it be more advantageous when a capital improvement comes along for staff to come to the Board and recommend a specific increase for that capital improvement need versus raising rates based on operational increases?
Mr. Uchytil asked if he meant that after a capital improvement project is complete that the rates would increase?

Mr. Ridgway said if there is a capital improvement project at any facility that be broadly placed across the enterprise. Every rate that could be adjusted, would be adjusted to help pay for a specific recapitalization project. That would be a more defensive process.

Mr. Uchytil said the criticism for that would be how it is funded, using fund balance, and grant money, that argument could be that it is already funded and paid for that new infrastructure. There will be kick back that it is already built why are my rates increasing? There is always a matter that someone else should pay for the improvements.

Mr. Etheridge said there is a long list of wants and we need the revenue to start doing some of those wants.

Mr. Ridgway said he is suggesting to raise fees for the delta of the funds we have and the funds needed for all capital improvements. He asked if that would be easier for staff.

Mr. Uchytil using that approach would be easier.

Ms. Smith asked if rates could be raised across the Enterprise or does Docks need to be separate from Harbors?

Mr. Uchytil said pre-COVID, staff was looking at combining Docks & Harbors. This was approved by CBJ Law. In some ways this would be good and in some ways this could be bad, so for right now it is better not to combine them.

Public Comment-
<u>Mr. Russell Peterson, Juneau, AK</u>
Mr. Peterson pointed out that the IVF is one of the few places in town that has cable and internet available right on the pedestal and can be hooked up the same day as arrival. Those are two amenities that are no longer available in our Harbors and is a service added

since the 2004 rate increase. He commented that vessels that do not have water and internet services in Statter Harbor could use the IVF during the winter.

Drew Green, Cruise Line Agencies of Alaska, Juneau, AK

Mr. Green said he is the Port Manager representing 17 cruise lines, 39 ships over 600 port calls, which was previously scheduled for 2021 bringing over a million passengers to Juneau. We also use the IVF, PFO, ICT and the Statter Harbor breakwater for small cruise ships and yacht traffic that they also support. He said he understands the fiscal frustrations Docks & Harbors is facing and the need to meet the demand of the UAS property acquisition. He wishes they were in a position to help but doubling of the dockage fees based on the current rate does not bring us to an unreasonable rate but it is an inappropriate rate of increase based on the fees to make a port call in Juneau in addition to this fee. The cruise lines pay a $13 head tax from both private and CBJ docks as well as the port maintenance fee. From discussion over the years, to increase the dockage fee has been held at bay due to the increase in the head taxes over the years. If 2021 happened, the head tax would have brought in $16.9M to offset operational costs and infrastructure to the Docks Enterprise. He is in support of incremental increases to meet the needs of CBJ Docks but he does not believe this fee is justified with the enormity of the other fees. Since this fee increase is needed to float a revenue bond, he would be more amenable to some kind of a compromise. The compromise could be offsetting the increase by eliminating the port maintenance fee or greatly reducing it. The traditional purpose of the port maintenance fee was a retainer after the revenue bond debt was retired for the original bonding for the old dock. This was implemented for maintenance on the old docks or special projects for the old docks. With the new facilities, these funds have not been used for the intended purpose. The head tax can be used for dock maintenance as well. Mr. Green requested if the Board does decide to increase the fees to consider implementing after October of 2021.

Board Discussion/Action

Mr. Wostmann said why he voted in favor of the CPI decrease was for the Board keeping faith with the community rather than not wanting to raise fees across the Harbors. He understands times change and events occur to raise more revenue and it does become appropriate to look at overall rate increases. This would be two separate activities. The one is an automatic thing annually and the other is review of our fees to meet our needs, which would include looking for other revenue sources. He is unsure of increasing the fees for the cruise ships and is asking if this could be separate.

Ms. Smith asked if Mr. Uchytil could address Mr. Green's concerns regarding the other fees charged to the ships.

Mr. Uchytil said when the port maintenance fee was implemented it was to pay for the infrastructure project. Much like most government fees or taxes, it is hard to let it go because of other needs. He believes Mr. Green is suggesting to sunset the port maintenance fee at the expense of raising the wharfage fee.

Ms. Smith asked if eliminating the port maintenance fee would be an even offset or still allow for an increase.

Mr. Uchytil said taking a longer vision, there may be grant opportunity, but the Docks Enterprise will likely need to have money for the small cruise ship project. This fee has not been increased for 15 years and it is right be raised. If we looked at the delta between revenue and expenditures, it has only been good due to a lot of cruise ships after 16B was built. He said he believes Mr. Green is suggesting to sunset fees that were established for a specific purpose. Because of no revenue since October 2019, we are going to be hurting for a while. He said he does not recommend any reductions in Docks or Harbor Enterprise fees because it is tight even for a government agency to run.

Mr. Schaal commented on grant opportunities. He said what staff typically sees is the minimum match the federal government requires is at least 25%. If you are talking about a $10M infrastructure project, there still is a requirement to bring $2.5M from our funds. This is why the fees over expenses are very important. We need to make sure we have a fund balance with millions of dollars to multiply our money with federal grants. Staff does apply for the no match BUILD grants but you are always more competitive when you bring money to the table. Not only do we need to keep up with escalations in cost but also to add to our fund balance for match for grants.

Mr. Ridgway said as a Board we should review this issue more broadly. The idea of combining Docks & Harbors falls apart when looking at rate increases that cover capital projects for a specific area, we would not want fees raised across all our fees. The CPI is not enough because it does not cover all our required expenses such as Coast Guard requirements. The Board needs to establish a broad way of raising rates in an appropriate way. He is in favor of this rate increase.

MOTION By MR. RIDGWAY: TO DIRECT STAFF TO COMMENCE THE REQUIRED PUBLIC NOTICE PERIOD FOR A PUBLIC HEARING TO DOUBLE DOCKAGE CHARGES (05 CBJAC 15.030) FOR STEAMSHIP WHARF, THE CRUISE SHIP TERMINAL, THE INTERMEDIATE VESSEL FLOAT, THE PORT FIELD OFFICE FLOAT, THE INSIDE OF THE CRUISE SHIP TERMINAL AND STATTER HARBOR BREAKWATER AND ASK UNANIMOUS CONSENT.

Motion passed with no objection

VIII. Unfinished Business

1. Lease Deferment Policy
Mr. Uchytil said in the packet on page 20 has the language discussed at the Operations/Planning meeting to defer lease payments through July of 2022 and payments should commence at that time. This would be for a period of ten years at 4%. This is sufficient direction for staff to move forward with lease deferment requests.

Board Questions
Mr. Wostmann asked how this works on a lease that does not have ten years remaining.

Mr. Uchytil said that could be a change in the resolution to add ten years or less. Staff can make sure that will not happen. The Rocovich lease has excess of ten years remaining.

Public Comment -None

Board Discussion/Action

Mr. Ridgway commented he thought this was to be for only five years.

Mr. Larkin said he would recommend changing the last sentence to "not to exceed ten years". That would give staff room to adjust to the specific lease.

Mr. Uchytil said that would work.
MOTION By MR. RIDGWAY: TO ADOPT A RESOLUTION PROVIDING LEASE RENT RELIEF TO LESSEES WITH BUSINESS INTERESTS WITH DOCKS & HARBORS AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

2. UAS Property Purchase Decision
Mr. Uchytil said last week at the Operations/Planning Committee member's demonstrated interest in purchasing the University property. This is brought before the full Board to continue this process.

Board Questions
Mr. Ridgway asked to provide any new information regarding this purchase.

Mr. Uchytil said there has been no other communications since last week's Operations/Planning meeting where they stamped their approval to move forward.

Mr. Sam Kito , University of Southeast
Mr. Kito said he has had a conversation with UAS Lands Committee regarding the extension of the lease and CBJ looking at purchasing the three-leased parcels or the entire area. UAS Lands Department is working on drafting a lease extension that he will send to Mr. Uchytil when he receives it. That will allow CBJ to pay the same amount until the end of the extension, which the amount of time is still under discussion. The UA Lands Department is the primary negotiator on this lease extension.

Mr. Ridgway asked if they would consider a 35-year extension

Mr. Kito said the lease would allow for the 35 years but at fair market value.

Ms. Derr asked if there was new information about including the welding lab in the negotiations.

Mr. Kito said he mentioned the welding lab as a possibility. No decision can be made at this point on the welding lab, but everything is still on the table.

Public Comment
Mr. Russell Peterson, Juneau, Alaska

Mr. Peterson suggested to think of ways to increase revenue from those areas with a lease agreement that is fair market value. He is thinking of ways to increase revenue without just raising live-aboard fees. He also suggested to have a key fob on the dumpster use.

Board Discussion/Action

Ms. Derr said she supports moving forward with this purchase.

MOTION By MR. RIDGWAY: TO PURSUE THE PURCHASE OF ALL OR PORTION OF THE UNIVERSITY OF ALASKA PROPERTY AS NEGOTIATED WITH THE UNIVERSITY AND CONSISTENT WITH AVAILABLE FUNDING AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

IX. Items for Information/Discussion

1. Small Cruise Ship Infrastructure Master Plan – Update

Mr. Schaal said last week at the Operations/Planning Committee he brought the memo in the packet that will go to the Assembly on the Small Cruise Ship Infrastructure Master Plan. He said he has not received any comments from the Board.

Board Discussion/Public Comment – None

Mr. Ridgway left the meeting.

2. Downtown Harbors Wait List Update

Mr. Uchytil showed a slide on the downtown waitlist. There are currently 55 vessels waiting for stalls as of 3/11/21.

Board Discussion

Mr. Wostmann asked a question on the waitlist that Mr. Uchytil said he would get back to him.

Public Comment - None

3. Board's Right of First Refusal to Purchase Boat Shelter G28

Mr. Uchytil said on page 117 in the packet is the regulation pertaining to the sale of the boat shelters. Previously the Board gave direction to staff that they were not interested in purchasing any boat shelters. The last time he reported that he passed on a boat shelter sale, a Board member wanted it brought back to the Board for their option to purchase or not. The owner of the Boat Shelter G28 is asking the Board if they want to purchase his boat shelter for $25,000 because the Board has the right of first refusal.

Board Discussion

Mr. Becker asked if there has been any changes since this was dealt with before?

Mr. Uchytil said no.

Ms. Derr asked if there is any reason the Harbors could use this for anything?

Mr. Uchytil said the Board member that wanted the Board to have the say in the purchase of the boat shelters and thought there may be an economic revenue opportunity with the purchase of the boat shelter.

Mr. Wostmann commented that Harbors has enough on our plate and to not get in this type of purchase.

Ms. Smith asked if we own any boat shelters.

Mr. Uchytil said we do not own any boat shelters.

Mr. Schaal said the provision for having this come before the Board each time is because they are a unique structure and we are the only harbor in the state that has them. They are looked at in history as a liability. This also gives the Board an opportunity to buy them out over time and do away with them if they become such a liability the Board could systematically purchase them and sunset their existence.

Mr. Etheridge commented that all his time on the Board the Board never acted on any purchase.

Ms. Smith asked if a boat house purchase could be looked at a money maker?

Mr. Schaal said the only benefit he sees for the harbor is if our vessels were able to be stored in one to be out of the weather and could have faster response time. He said the current structures are reaching the end of their useful life.

Public Comment –
Mr. Russell Peterson, Juneau, AK
Mr. Peterson said it is bothering him to listen to all the money we are looking at spending when we do not have enough revenue now.

Mr. Etheridge directed Mr. Uchytil to inform the boat shelter owner that the Board is not interested in the purchase.

4. CLIA (Cruise Lines International Association) Update
Mr. Uchytil said in the packet on page 118 is a news release sent out yesterday on the update of the cruise season. In October, CDC provided some guidance on the conditional sail order, which was the process to re-open for cruising. The Industry led by CLIA has been very frustrated with CDC and not giving the details to open. The Industry is pivoting away from the conditional sail order and ports in the US and moving offshore. They are asking CDC to do away with the conditional sail order and let the cruise lines learn from other cruise lines that have resumed cruising in other parts of the world. Things are still bleak for the Alaska cruise ship season.

Board Discussion/Public Comment - None

X. Committee and Member Reports

1. Finance Sub-Committee Meetings – March 3rd & March 11th, 2021

Mr. Wostmann reported this committee met twice to discuss in more detail expenses, where savings could be found, and potential revenue.

2. Operations/Planning Committee Meeting- Thursday, March 17h, 2021.

Mr. Etheridge reported the items discussed at the Operations meeting were discussed here tonight.

2. Member Reports - None

3. Assembly Lands Committee Liaison Report

Ms. Derr said the Lands met, they are looking at an internal review to streamline their own internal employees and making internal infrastructure a big point for the near future. They are also looking at coding for adding accessory apartments to homes, especially in the downtown area. With those incentives and the coding part of the permit, the process is to have a parking spot for that apartment. They are also looking into more parking studies.

4. Auke Bay Neighborhood Association Liaison Report – Mr. Wostmann said nothing new to report.

5. South Douglas/West Juneau Liaison Report – Ms. Smith had nothing new to report.

XI. Port Engineer's Report –

Mr. Schaal said he wanted to respond to the comment made on the non-agenda topic about the avalanche risk. The Harbormaster is staying in very close contact with Tom Matice who is the avalanche expert for the City and staff updates the bulletin boards and our Facebook page with the current risk. Staff realizes that this could affect harbor patrons and live-aboards in Aurora and they need to know that Aurora is in the run out zone for a slide. Staff has been very active with updating risk levels.

Mr. Schaal provided an update on some of the current projects;

- Statter Harbor Phase III (B) - He showed a picture of the HDPE pipe construction photos with the technology used today for the potable and fire protection water systems. The project is going very well, and the electricians are on site installing light poles and they will hang pedestals soon. There will be concrete poured in the next week or two. We are looking forward to being finished on time in early May.
- Harris Anode Project – It is out to bid currently, which is the 50/50 matching grant with DOT. This was a design completed in house by the Deputy Port Engineer.
- Harris pump out pump replacement – This will also be an internal design and will use DEC clean vessel act money to help keep our waters cleaner.

XII. Harbormaster's Report –

Mr. Uchytil reported for Mr. Creswell who was out of town.

- Staff has been busy with snow removal.

XIII. Port Director's Report - Mr. Uchytil said nothing more to report.

XIV. Assembly Liaison Report – Ms. Alicia Hughes Skandijs said the school board was given adjustment money and the Assembly approved a couple CIP projects.

XV. Board Administrative Matters

a. Finance Sub-Committee Meeting – TBD
b. Ops/Planning Committee Meeting – Wednesday, April 21st at 5:00pm
c. Board Meeting – Thursday, April 29th at 5:00pm

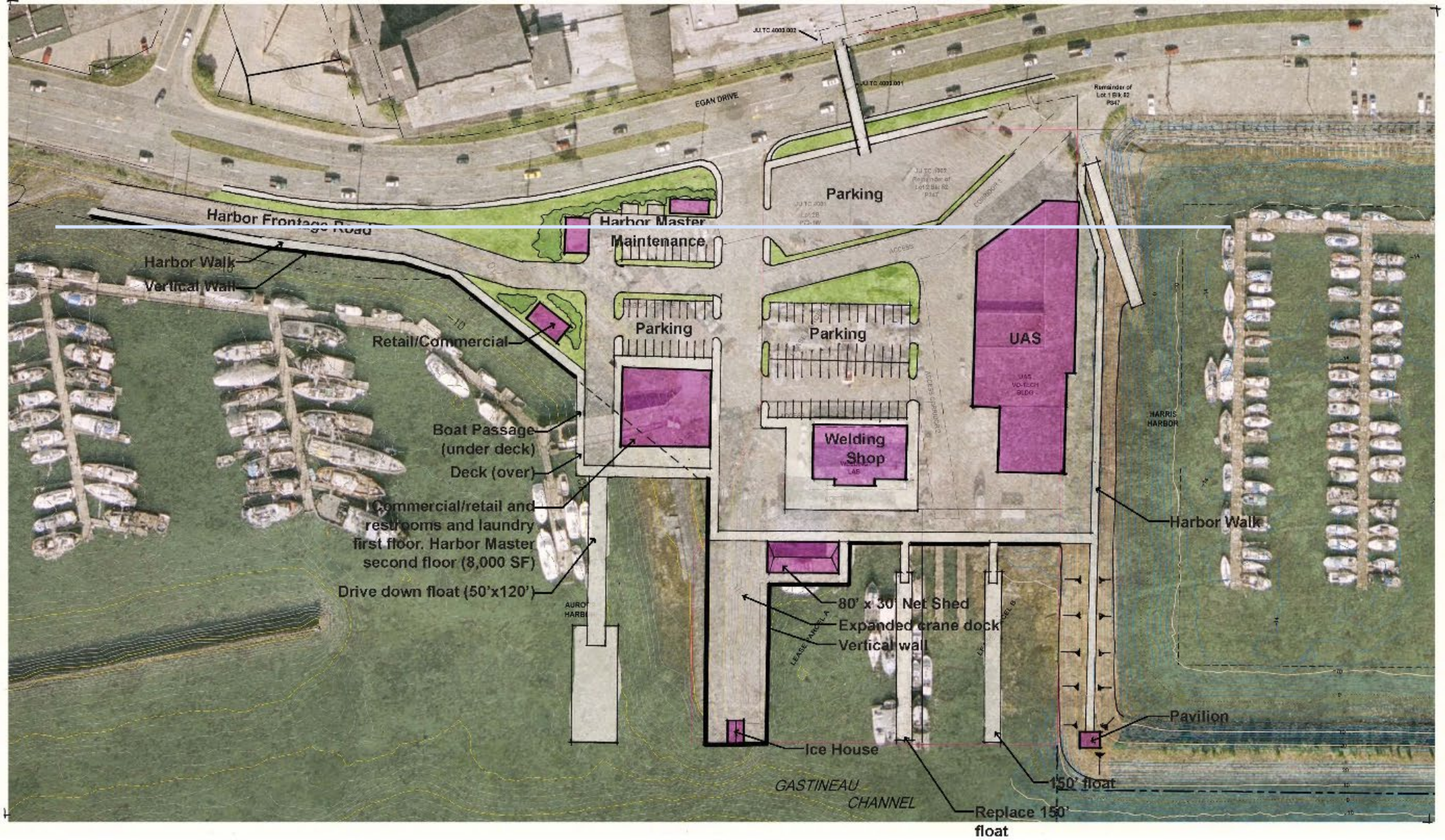
XVI. Adjournment – The meeting adjourned at 8:13pm.

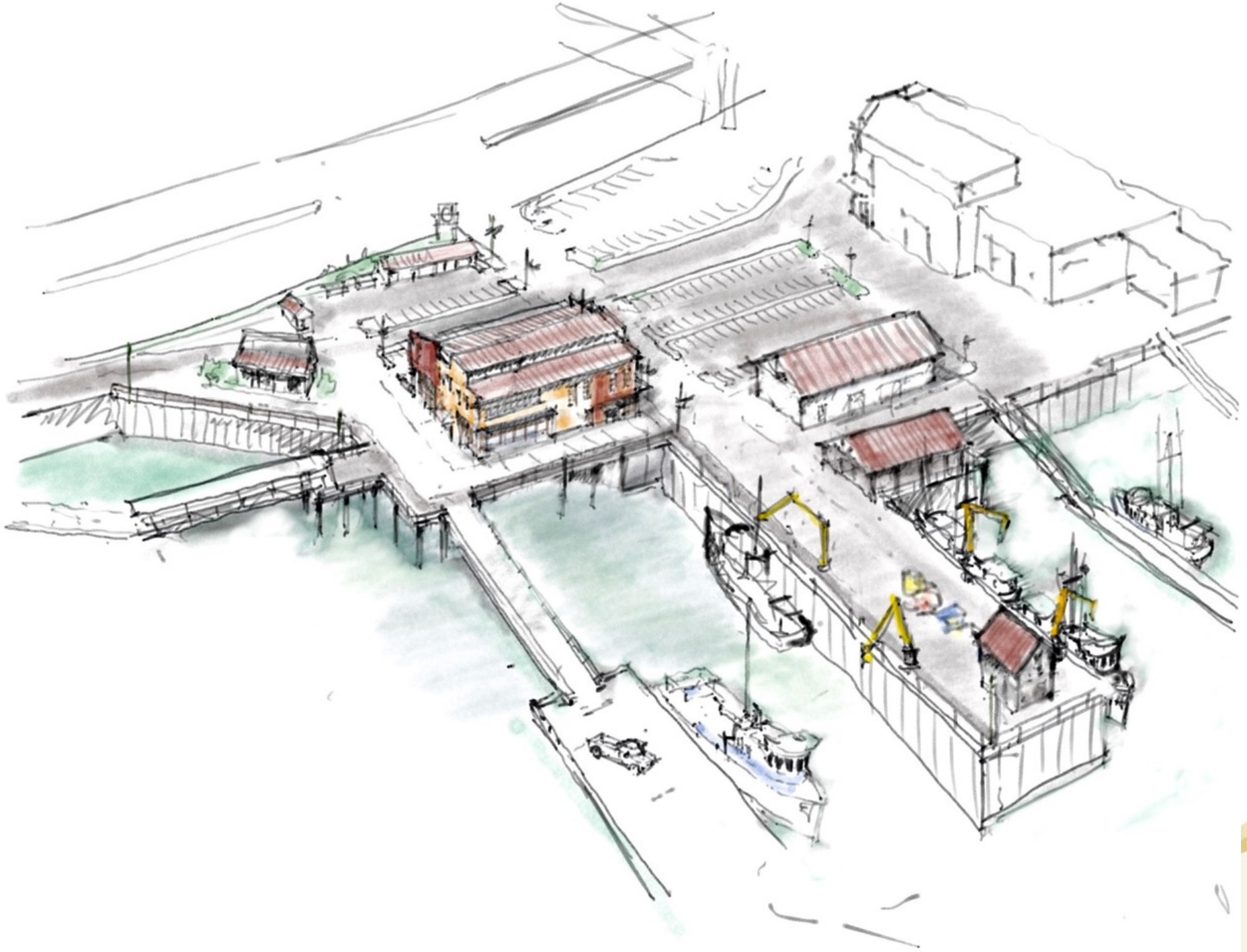
RAISE Grant - US DOT

- Called the BUILD Grant last several years and TIGER originally
- RAISE (Rebuilding American Infrastructure with Sustainability and Equity)
- Grant applications due July 12, 2021
  - $500M for Rural and $500M for Urban
    - Juneau is Rural (less than 200K)
  - 80/20% match requirement for construction projects
  - $1M min for rural construction grants ($1.25M for project size)
  - $100M limit per state

Planning and Design Grants

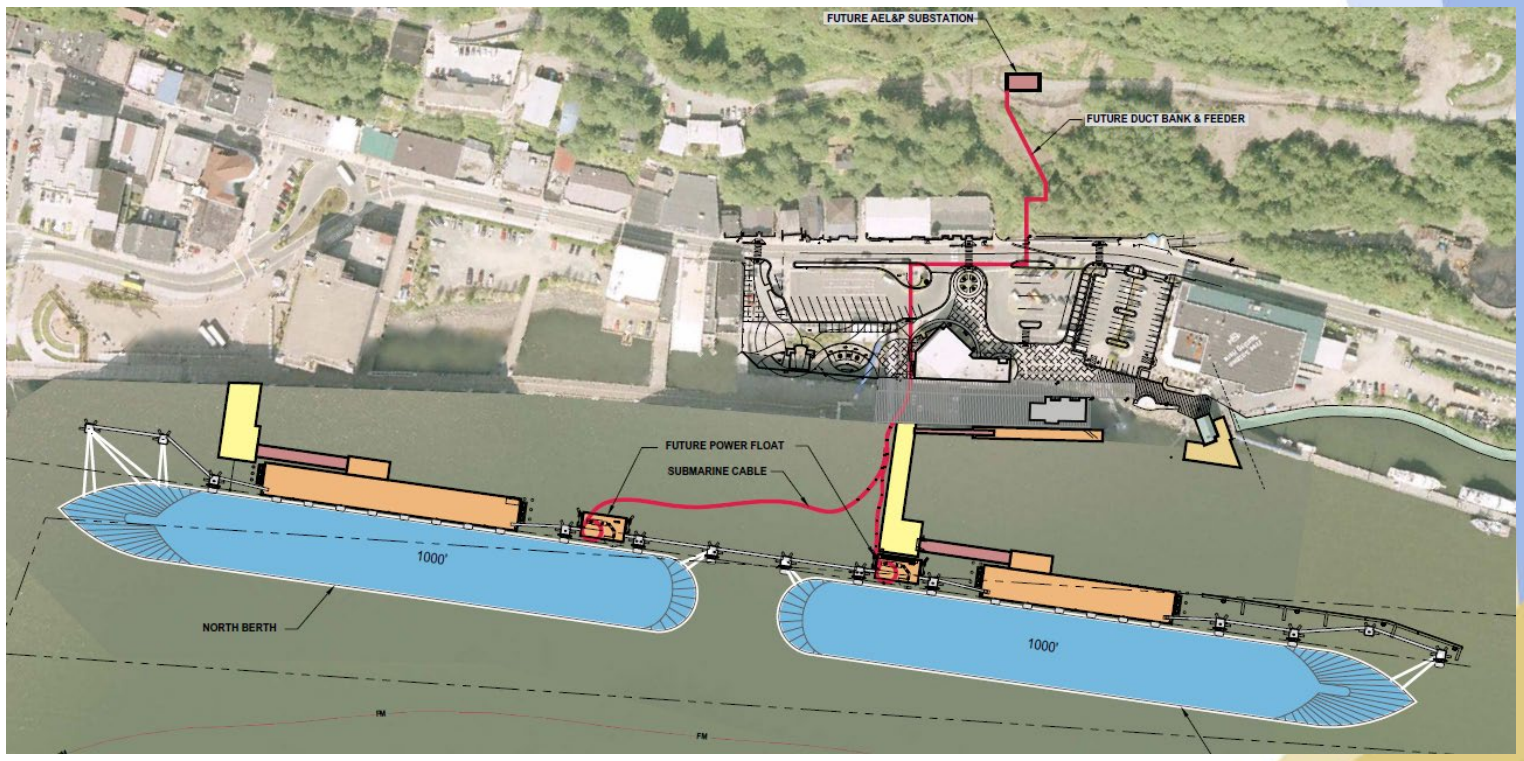
- $30M max can go towards planning projects (out of $1B)
  - At least $10M must go towards planning projects in “areas of persistent poverty” (Juneau is not an APP)
  - Juneau would be vying for a portion of approx. $20M.
- The Juneau Fisheries Terminal Budget outlines $24.942 total cost
  - Construction: $18,175,850
  - Engineering and Permitting: $2,618,868
  - Contingency (15%): $2,693,214
  - CA and Inspection: $1,454,068
- Ask for approx. $2.75M divided in the three options outlined in previous grant applications


EGAN DRIVE
Harbor Frontage Road
Harbor Walk
Vertical Wall
Retail/Commercial
Boat Passage
(under deck)
Deck (over)
Commercial/retail and
restrooms and laundry
first floor. Harbor Master
second floor (8,000 SF)
Drive down float (50'x120')
Harbor Master
Maintenance
Parking
Parking
Parking
UAS
Welding
Shop
HARRIS
HARBOR
Harbor Walk
80' x 30' Net Shed
Expanded crane dock
Vertical wall
Pavilion
Ice House
150' float
Replace 150'
float
GASTINEAU
CHANNEL

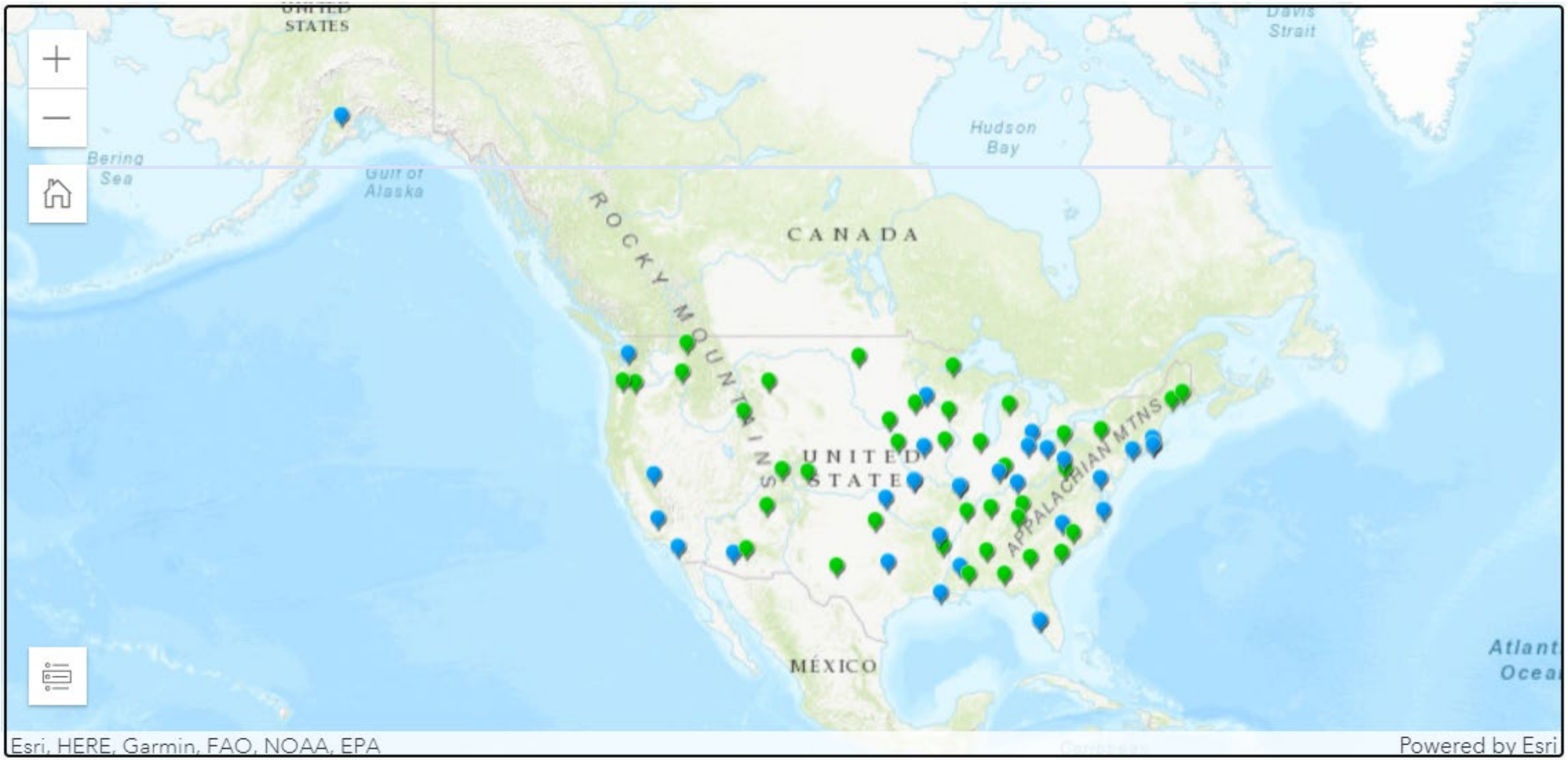


Is Cruise Ship Berth Electrification An Option?

- Possibly…
- A project cost of $12M would require $2.4M in match.
  - Port fund balance is not sufficient at this time to cover match
  - This might be possible by leveraging future head tax
  - More research is necessary for deadlines to have match in hand



BUILD 2020


Bering Sea
Gulf of Alaska
Hudson Bay
Davis Strait
CANADA
ROCKY MOUNTAINS
UNITED STATES
APPALACHIAN MTNS
MÉXICO
Esri, HERE, Garmin, FAO, NOAA, EPA
Powered by Esri

Port of Juneau

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From: Carl J Uchytil
Port Director
To: Assembly
Thru: (1) Docks & Harbor Board
(2) CBJ Finance Director
(3) City Manager

Date: April 28th, 2021

Re: FY21/FY22 - Docks & Harbors Budget – Projected Updates

1. On April 7th, the Assembly Finance Committee approved the Docks Enterprise and Harbors Enterprise FY21/FY22 Budgets by a vote of 6-3. The concern from the Assembly members voting against the budget was believed to be procedural because more recent information was available to adjust for reduction in tourism for this upcoming season. In January 2021, the Docks & Harbors approved a budget with optimism that a robust tourism season was in this year's future. In February, the Canadian government extended its suspension of port closures which dampened the 2021 outlook but did not cancel the prospect outright. The CBJ budget process continued into April with the uncertainty of whether Docks & Harbors would receive any cruise ship generated revenue for FY21 and FY22.

2. This memo updates the FY21 Projected Actuals and FY22 Revised Budget to the best of Docks & Harbors ability assuming there will be no foreign flagged, large cruise ship calling on the Port of Juneau in CY21 which adversely affects both FY21 and FY22. It should be noted that we anticipate needing a supplemental appropriation of $717,400 from the Docks Fund Balance to the FY21 Docks operating budget to address the loss of cruise ship generated revenue.

3. The projected FY21/FY22 Budgets are anticipated to be:

Docks Enterprise	FY21 Projected Actuals **Expenses**	FY21 Projected Actuals **Funding**	FY21 Change in Fund Balance	FY22 Approved Budget **Expenses**	FY22 Approved Budget **Funding**	FY22 Revised Budget **Expenses**	FY22 Revised Budget **Funding**	FY22 Change in Fund Balance
Pre-Canadian Port Shutdown	$1,840,900	$863,600	($977,300)	$2,187,500	$2,193,600	$2,052,500	$1,783,600	($268,900)
Without CY21 Cruise Ships	$1,266,000	$548,600	($717,400)	N/A	N/A	$1,401,000	$863,600	($537,400)

Harbor Enterprise	FY21 Projected Actuals **Expenses**	FY21 Projected Actuals **Funding**	FY21 Change in Fund Balance	FY22 Approved Budget **Expenses**	FY22 Approved Budget **Funding**	FY22 Revised Budget **Expenses**	FY22 Revised Budget **Funding**	FY22 Change in Fund Balance
Pre-Canadian Port Shutdown	$4,343,300	$4,653,100	+$309,800	$4,309,400	$4,374,600	$4,374,600	$4,642,500	+$267,900
Without CY21 Cruise Ships	$3,928,400	$4,105,870	+$177,470	N/A	N/A	$4,262,600	$4,292,500	+$30,000

#

Encl: (1) Revised Docks Budget w/zero Large Cruise Ships in CY2021
(2) Revised Harbors Budget w/zero Large Cruise Ships in CY2021

Revised Budget w/zero Large Cruise Ships in CY2021

Dock
OVERVIEW

	FY20 Actuals	FY21 Adopted Budget	FY21 Projected Actuals	FY22 Approved Budget	FY22 Revised Budget
EXPENSES:					
Personnel Services	$ 687,300	1,133,600	~~967,700~~ 566,000	1,173,300	~~1,086,400~~ 700,000
Commodities and Services	687,900	983,700	~~872,200~~ 700,000	979,200	~~965,100~~ 700,000
Capital Outlay	23,900	35,000	~~1,000~~	35,000	1,000
Support to:					
Marine Passenger Fee	-	-	-	-	-
Capital Projects	-	-	-	-	-
Total Expenses	**1,399,100**	**2,152,300**	**~~1,840,900~~** 1,266,000	**2,187,500**	**~~2,052,500~~** 1,401,000
FUNDING SOURCES:					
Interdepartmental Charges	11,000	15,100	15,100	15,100	15,100
Charges for Services	1,143,400	1,660,000	~~330,000~~ 15,000	1,660,000	~~1,250,000~~ 330,000
Licenses, Permits and Fees	-	-	-	-	-
Interest	147,200	70,000	70,000	70,000	70,000
Support from Capital Projects	3,700	-	-	-	-
Support from Marine Passenger Fee	55,000	448,500	448,500	448,500	448,500
Support from Port Development Fee	358,500	-	-	-	-
Total Funding Sources	**1,718,800**	**2,193,600**	**~~863,600~~** 548,600	**2,193,600**	**~~1,783,600~~** 863,600
FUND BALANCE:					
Beginning Available Fund Balance	2,266,900	2,586,600	2,586,600	1,609,300	~~1,609,300~~ 1,869,200
Increase (Decrease) in Fund Balance	319,700	41,300	(~~977,300~~)(717,400)	6,100	(~~268,900~~) (537,400)
End of Period Fund Balance	**$ 2,586,600**	**2,627,900**	**~~1,609,300~~** 1,869,200	**1,615,400**	**~~1,340,400~~** 1,331,800
STAFFING	**13.76**	**13.76**	**13.74**	**13.76**	**13.74**

Revised Budget w/zero Large Cruise Ships in CY2021

Harbors
OVERVIEW

	FY20 Actuals	FY21 Adopted Budget	FY21 Projected Actuals	FY22 Approved Budget	FY22 Revised Budget	
EXPENSES:						
Personnel Services	$ 1,754,400	1,872,800	~~1,926,100~~ 1,750,000	1,935,000	~~1,916,300~~	1,875,000
Commodities and Services	1,427,400	1,637,800	~~1,673,800~~ 1,440,000	1,626,800	~~1,715,700~~	1,650,000
Capital Outlay	-	10,000	~~5,000~~ 0	10,000	~~5,000~~	0
Debt Service	646,300	738,400	738,400	737,600	737,600	
Support to Capital Projects	155,000	-	-	-	-	
Total Expenses	**3,983,100**	**4,259,000**	**~~4,343,300~~ 3,928,400**	**4,309,400**	**~~4,374,600~~**	**4,262,600**
FUNDING SOURCES:						
Charges for Services	3,014,600	3,340,000	~~3,225,000~~ 2,800,000	3,340,000	~~3,225,000~~	3,000,000
Rentals	925,700	890,000	~~925,000~~ 800,000	890,000	~~925,000~~	800,000
State Grants	-	-	-	-	-	
State Shared Revenue	409,200	275,000	~~388,600~~ 391,370	365,000	300,000	
Fines and Forfeitures	12,300	15,000	10,000	15,000	10,000	
Licenses, Permits & Fees	46,500	-	-	-	130,000	
Interest Income	162,400	70,000	52,500	70,000	52,500	
Support from Capital Projects	-	300	-	-	-	
Support from Pandemic Response	26,900	-	52,000	-	-	
Total Funding Sources	**4,597,600**	**4,590,300**	**~~4,653,100~~ 4,105,870**	**4,680,000**	**~~4,642,500~~**	**4,292,500**
FUND BALANCE:						
Debt Service Reserve	749,500	782,300	782,300	782,300	782,300	
Increase (Decrease) in Reserve	32,800					
End of Period Reserve	**$ 782,300**	**$ 782,300**	**$ 782,300**	**$ 782,300**	**$ 782,300**	
Beginning Available Fund Balance	(309,500)	305,000	305,000	614,800	~~614,800~~	482,470
Increase (decrease) in Fund Balance	614,500	331,300	~~309,800~~ 177,470	370,600	~~267,900~~	30,000
End of Period Fund Balance	**$ 305,000**	**$ 636,300**	**$ ~~614,800~~ 482,470**	**$ 985,400**	**$ ~~882,700~~**	**512,470**
STAFFING	**16.33**	**16.33**	**16.33**	**16.33**	**16.33**	

~~04/23/21~~

THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Transportation and Public Facilities

Program Development and Statewide Planning
Juneau Field Office

3132 Channel Drive
Juneau, Alaska 99811-2500
Main: 907-465-8864
Fax: 907-465-2016

September 9, 2019

Mr. Carl Uchytil
Port Director
City and Borough of Juneau
155 S. Seward St.
Juneau, AK 99801

Subject: Letter of Award of the FY 2020 Harbor Facility Grant Funds – Harris Harbor Pile Anodes

Dear Mr. Uchytil:

Congratulations on successful funding of your application for the Department of Transportation and Public Facilities' Harbor Facility Grant Program for FY 2020. Upon execution of a harbor grant agreement with the department, the City and Borough of Juneau will receive a Tier II 50/50 matching harbor grant in the amount of $125,000 for construction of the Harris Harbor Pile Anodes project. These funds are 100% state general funds.

As a reminder, and as explained in the harbor grant instructions, the municipality will have six months from the date of this Letter of Award to properly ratify and execute a mutually agreeable grant agreement with the department. Note if there is a change in your harbor project that affects the nature of the municipality's original application, then that could prevent us from executing a harbor grant agreement. If a grant agreement cannot be completed within that six month period, the department may deny the award and select the next highest scoring proposal or award the funds in subsequent years. After the grant agreement is signed, the City and Borough of Juneau will have 18 months to complete the construction phase of the project.

Your point of contact is Jim Potdevin in the Juneau Field Office. Please contact him at your earliest convenience to discuss the grant agreement and the timing for your harbor project. We look forward to working with you on this important municipal harbor project. If you have any questions, please contact Mr. Potdevin at (907) 465-8864.

Sincerely,

Benjamin M. White
Director

"Keep Alaska Moving through service and infrastructure."

Ordinance 2020-09(AV)
Manager's Report

An Ordinance Appropriating up to $125,000 to the Manager as Partial Funding for the Pile Anodes Installation Capital Improvement Project; Grant Funding Provided by the Alaska Department of Transportation and Public Facilities.

This ordinance would appropriate up to $125,000 to the Pile Anodes Installation CIP. This project would install zinc anodes to each steel piling in Harris Harbor as part of a maintenance plan to extend the longevity of all Docks and Harbors facilities.

Grant funding is provided by the Alaska Department of Transportation and Public Facilities. The 50% local match requirement is being met by previously appropriated capital improvement project funding from the Pile Anodes Installation CIP (H51-121).

The Docks and Harbors Board will review this request at the regular board meeting on April 29, 2021.

The Manager recommends this ordinance be introduced and set for public hearing at the next Assembly meeting.

Presented by: The Manager
Introduced: April 26, 2021
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2020-09(AV)

An Ordinance Appropriating up to $125,000 to the Manager as Partial Funding for the Pile Anodes Installation Capital Improvement Project; Grant Funding Provided by the Alaska Department of Transportation and Public Facilities.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of up to $125,000 as funding for the Pile Anodes Installation Capital Improvement Project (H51-121).

Section 3. Source of Funds

Alaska Department of Transportation and Public Facilities	$125,000

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2021.

_____
Beth A. Weldon, Mayor

Attest:

_____
Elizabeth A. McEwen, Municipal Clerk

MEMORANDUM

DOCKS AND HARBORS
CITY/BOROUGH OF JUNEAU
155 South Seward Street, Juneau, Alaska 99801

FAXED MEMORANDUM

TO: Bidders

Date: April 15, 2021

FROM: Carl Uchytil
Port Director

SUBJ: POSTING NOTICE OF BIDS
Harris Harbor Anode Installation
Contract No. DH21-036

This memo is to post a notice of the results of the bid opening on April 14, 2021, for the subject project. The bidders and their total bids are as follows:

BIDDERS	TOTAL BID
Global Diving & Salvage, Inc	**$174,650.00**
Alaska Commercial Divers, Inc	**$174,652.00**
American Marine International	**$287,759.96**
Engineer's Estimate	*$253,600.00*

The apparent low bidder is ***Global Diving & Salvage, Inc***. Award will be forwarded to the April 21st, 2021, Docks and Harbors Board meeting for recommendation and to the Assembly on April 26st for approval.

This notice begins the protest period per Purchasing Code 53.50.062. Protests will be executed in accordance with CBJ Ordinance 53.50.062 "Protests", and 53.50.080 "Administration of Protest." The CBJ Purchasing Code is available online at: http://www.juneau.org/law or from the CBJ Purchasing Division at (907) 586-5258.

The apparent low bidder has until ***4:30 p.m. on April 21, 2021,*** to submit the Subcontractor Report, Section 00360 to the Engineering Department Contracts Office. The Subcontractor Report must be submitted even if there are no subcontractors planned for the job.

c. Erich Schaal, Port Engineer

CURRENT FEE STRUCTURE

1. Loading Zone Permit-

- $400 per company plus $9 per passenger seat

2. Passenger for Hire Fee

- Inspected Vessel- $500.00 per vessel plus $1.50 per passenger each calendar day that one or more facilities is used for passenger-for-hire activity.
- Uninspected Vessel Fee- $150.00 per vessel plus $1.50 per passenger each calendar day that one or more facilities is used for passenger-for-hire activity.

3. Statter Harbor Bus Permit-

- $300.00 per company plus $15.00 per passenger seat

In 2020 the Board decided that the charge for Busses would be $5 with no seat fee and PFH permits would be $100 with no seat fee.

PROPOSED FEE STRUCTURE

1. Loading Zone Permit (A&B)- and C Zone Permits (Pedicabs)

- $200 per company

2. Passenger for Hire Fee

- Inspected Vessel- $150.00 per vessel plus $1.50 per passenger each calendar day that one or more facilities is used for passenger-for-hire activity.
- Uninspected Vessel Fee- $100.00 per vessel plus $1.50 per passenger each calendar day that one or more facilities is used for passenger-for-hire activity.

3. Statter Harbor Bus Permit-

- $200.00 per company

AMENDMENT NO. 1
BETWEEN
THE UNIVERSITY OF ALASKA AND
THE CITY AND BOROUGH OF JUNEAU
FOR LEASE AGREEMENT
FISHERIES AND MARINE RELATED DEVELOPMENT OF UAS MARINE TECH CENTER
JUNEAU, ALASKA

THIS LEASE AGREEMENT AMENDMENT NO. 1 ("Amendment No.1"), by and between **THE CITY AND BOROUGH OF JUNEAU ("LESSEE"),** an municipal corporation whose address is 155 South Seward Street and the **UNIVERSITY OF ALASKA ("LESSOR"),** a corporation created under the Constitution and laws of the State of Alaska, whose address is 1815 Bragaw Street, Suite 101, Anchorage, Alaska 99508-3438, is made effective as of the date last signed below.

RECITALS

WHEREAS, the Lessor and Lessee entered into that certain Lease dated May 6, 1988.

WHEREAS, the Lessor and Lessee have agreed to negotiate a new agreement for the purpose of Lessee leasing to purchase or purchasing the leased premises.

WHEREAS, Lessor and Lessee agree to extend the terms of the lease agreement for one year until May 5, 2022 to allow adequate time to negotiate a new agreement.

NOW THEREFORE, The City and Borough of Juneau and the University of Alaska agree as follows:

This Amendment No 1 will extend the terms of the current lease agreement to May 5, 2022.

Except as amended herein, all other terms and conditions of the Lease shall remain unchanged and in full force and effect. Unless modified by the terms of this Amendment, the terms of the original Lease shall remain unchanged and shall be extended through May 5, 2022.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 below.

CITY AND BOROUGH OF JUNEAU:

_____
Carl Uchytil
Port Director

Date: _____

UNIVERSITY OF ALASKA:

_____
Michelle Rizk, Chief Strategy, Planning,
Budget Officer

Date: _____

DRAFT

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

STATE OF FLORIDA,

Plaintiff,

v. Case No. 8:21-cv-839

XAVIER BECERRA, Secretary of Health and Human Services, in his official capacity; HEALTH AND HUMAN SERVICES; ROCHELLE WALENSKY, Director of the Centers for Disease Control and Prevention, in her official capacity; CENTERS FOR DISEASE CONTROL AND PREVENTION; The UNITED STATES OF AMERICA,

Defendants.
_____/

COMPLAINT FOR DECLARATORY AND
PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF

INTRODUCTION

1. The COVID-19 pandemic caused massive disruption and harm across the world. As of April 7, 2021, there have been 30,596,830 reported cases and 554,420 deaths in the United States.[1]

2. Those numbers, which are staggering and sobering, do not portray the full picture. The pandemic started with great uncertainty and caused great fear. But with resolve, purpose, and ingenuity, we have developed multiple vaccines, therapeutics, and treatments that have reduced the mortality at unparalleled speed.

3. As of April 6, 2021, 32.6% of the U.S. population has received at least one vaccine dose, while 19% is fully vaccinated.[2] Importantly, 75.9% of those 65-and-older have received at least one dose,[3] as states like Florida have prioritized the vaccination of vulnerable groups like seniors.

4. The country is returning to normal. Florida is leading the way and has remained more open than many other large states. Industries have adapted to COVID-19 in Florida and are adapting elsewhere. They have found ways to do business safely, and before long, most Americans will be vaccinated.

[1] https://covid.cdc.gov/covid-data-tracker/#datatracker-home.

[2] https://covid.cdc.gov/covid-data-tracker/#vaccinations.

[3] https://covid.cdc.gov/covid-data-tracker/#vaccinations.

5. On April 6, 2021, President Biden announced that all adults will be eligible to receive a vaccine by April 19, and he has set as a goal beginning to return to normal by the July 4th holiday.[4] Florida is ahead of President Biden's goal, both with reopening and with vaccinations. As of April 5, all adults in Florida are eligible for a vaccine.

6. Despite the virus, and those who would lock down society indefinitely, people are traveling again. They are doing so safely with protective measures like vaccines, sanitation, and social distancing. On April 5, for example, 1,561,959 individuals traveled on airplane flights in the United States—almost fifteen times the number who were flying on the same day a year earlier.[5] It is not just air travel. Hotels, theme parks, restaurants, and many other industries are safely reopening.

7. But as these industries begin to restart and rebuild, the cruise industry has been singled out, and unlike the rest of America, prevented from reopening. Despite the demonstrated success of reasonable COVID-19 safety protocols in Europe and Asia, the cruise industry in the United States has been subject to a nationwide lockdown since March 2020. As a result, the industry is on the brink of financial ruin.

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[4] https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/03/11/remarks-by-president-biden-on-the-anniversary-of-the-covid-19-shutdown/.

[5] https://www.tsa.gov/coronavirus/passenger-throughput.

8. In October 2020, the Centers for Disease Control and Prevention ("CDC") expressly found that continuing this nationwide lockdown was unjustifiable. But since that time, notwithstanding its public decision to allow the cruise industry to reopen, the CDC has functionally continued the lockdown. And it now appears the CDC will continue that lockdown until November 2021, even though vaccines are now available to all adults who want them.

9. The CDC does not have the authority to issue year-and-a-half-long nationwide lockdowns of entire industries. And even if it did, its actions here are arbitrary and capricious and otherwise violate the Administrative Procedure Act ("APA").

10. Florida asks this Court to set aside the CDC's unlawful actions and hold that cruises should be allowed to operate with reasonable safety protocols.

11. Absent this Court's intervention, Florida will lose hundreds of millions of dollars, if not billions. And, more importantly, the approximately 159,000 hard-working Floridians whose livelihoods depend on the cruise industry could lose everything.

PARTIES

12. Plaintiff State of Florida is a sovereign State and has the authority and responsibility to protect the wellbeing of its public fisc and the health, safety, and welfare of its citizens.

13. Defendants are the United States, appointed officials of the United States government, and United States governmental agencies responsible for the issuance and implementation of the challenged administrative actions.

14. Florida sues Defendant the United States of America under 5 U.S.C. §§ 702–03 and 28 U.S.C. § 1346.

15. Defendant CDC issued and is implementing the October 30, 2020 Order, establishing its Framework for Conditional Sailing and Initial Phase COVID-19 Testing Requirements for Protection of Crew (the "Conditional Sailing Order"). *See* Ex. 1. The CDC is a component of Defendant the Department of Health & Human Services ("HHS").

16. Defendant Rochelle Walensky is the Director of the CDC. She is sued in her official capacity.

17. Defendant Xavier Becerra is the Secretary of HHS. He is sued in his official capacity.

JURISDICTION AND VENUE

18. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1346, and 1361 and 5 U.S.C. §§ 702–03.

19. The Court is authorized to award the requested declaratory and injunctive relief under 5 U.S.C. § 706, 28 U.S.C. § 1361, and 28 U.S.C. §§ 2201–02.

20. Venue lies in this district pursuant to 28 U.S.C. § 1391(e)(1) because the State of Florida is a resident of this judicial district. Venue lies in this district under that provision for the independent reason that a substantial part of the events or omissions giving rise to the claim occurred in this judicial district—Tampa Bay is a major cruise port.

FACTUAL BACKGROUND

Florida's Cruise Industry

21. The cruise industry is an essential part of Florida's economy. In 2019, the industry's direct expenditures in Florida generated "nearly 159,000 total jobs paying $8.1 billion in income."[6]

22. Of all cruise embarkations in the United States, approximately 60% embark from Florida.[7] In 2019, approximately 11 million cruise passengers and crew members came ashore in Florida. These visitors spend money in Florida's local economies, and many Florida businesses depend on them.

The COVID-19 Pandemic

23. Beginning in early 2020, the COVID-19 pandemic devastated the cruise industry, like it did many industries. Outbreaks aboard cruise ships

[6] https://cruising.org/-/media/research-updates/research/2019-usa-cruise-eis.ashx, at 11, 43.

[7] https://cruising.org/-/media/research-updates/research/2019-usa-cruise-eis.ashx, at 6, 9, 15, 42.

were a significant concern, and experts, public officials, and medical personnel had a limited understanding of the virus, how to treat it, and how to prevent its transmission.

24. In March 2020, many cruise ships in the U.S. voluntarily ceased operations. Around that same time, on March 14, 2020, the CDC began issuing nationwide lockdown orders applicable to the cruise industry, just as many states issued lockdown orders against their citizens. *See* Ex. 2.

25. The CDC renewed its March 14 Order on April 9, July 16, and September 30. *See* Ex. 3; Ex. 4; Ex. 5.

26. The cruise industry has been "ravaged," with "companies reporting billions of dollars in losses, causing some of them to downsize their fleets and sell ships for scrap."[8]

The October 30 Conditional Sailing Order

27. On October 30, 2020, the CDC offered the cruise industry a glimmer of hope. Just as airlines, bus lines, hotels, restaurants, universities, theme parks, casinos, bars, and countless other industries have learned lessons during the pandemic and figured out how to operate safety—usually with precautions and reduced capacity—the CDC indicated that the cruise industry could do the same.

[8] https://www.nytimes.com/2021/03/19/travel/coronavirus-cruises.html.

28. In its Conditional Sailing Order, the CDC purported to lift its lockdown order. It found that the "benefits of" opening "outweigh the costs of not allowing cruise ships to sail" so long as "cruise ships have taken the necessary precautions to mitigate risk." Ex. 1 at 16. But, as explained below, the Order has been "nothing more than an extension of a cruise ban wrapped as a present."[9]

29. The Order begins by incorporating the findings of the earlier lockdown orders, and it expressly relies on what occurred on cruise ships at the beginning of the pandemic when the entire world was struggling to control the spread of COVID-19. Ex. 1 at 8, 12. It also expressly bases its conclusions on the lack of an available "FDA . . . authorized vaccine." *Id.* at 8.

30. The Order then praises the cruise industry for taking "steps to improve their public health response to COVID-19." *Id.* at 13.

31. Next, the Order discusses the CDC's "Request for Information," which appears to be the CDC's attempt to solicit feedback from the public without formally committing to notice and comment. *Id.* at 14.

32. The Order then discusses the alternatives it considered. It appears to have considered only two: (1) outright free rein for cruise ships with no

[9] https://www.cruisehive.com/signs-that-cruises-could-start-in-june-from-the-u-s/47910.

oversight and no COVID-19 safety protocols whatsoever, and (2) continuing its lockdowns. *Id.* at 15–16.

33. After discussing these alternatives, the Order explains its "plan" for reopening. This involves four phases: (1) "establishment of laboratory testing of crew onboard cruise ships in U.S. waters," (2) "simulated voyages designed to test a cruise ship operator's ability to mitigate COVID-19 on cruise ships," (3) "a certification process," and (4) "a return to passenger voyages in a manner that mitigates the risk of COVID-19." *Id.* at 16–17.

34. Unlike the previous orders, which were of limited time duration and had to be renewed, the Conditional Sailing Order is effective for a year, until November 1, 2021. *Id.* at 41. In other words, unless cruise ship companies can complete the four-phase process, they will be shut down until November 1, 2021.

35. Much has changed since October 30, 2020.

36. *First*, multiple FDA-approved vaccines are now available, and most of the U.S. population will likely be vaccinated by summer. *See* ¶¶ 3, 5. Moreover, the effectiveness of the FDA-approved COVID-19 vaccines dwarfs the effectiveness of, for example, the average influenza vaccine. This

explains why, on March 8, 2021, the CDC released a statement that fully vaccinated people could, in its view, begin resuming certain activities.[10]

37. *Second*, the cruise industry is "stirring to life" abroad.[11] European and Asian cruises, for example, are reopening with "resounding success."[12] Indeed, "[t]here have already been some success stories out of Europe where cruise lines have shown that they've got great protocols in place, that they are committed to adhering to them, that they can keep passengers in a bubble and that they can do effective testing."[13]

38. *Third*, other industries—such as airlines, bus lines, hotels, restaurants, universities, theme parks, casinos, and bars—have continued to reopen successfully with reasonable COVID-19 protocols.

39. As all of these changes were rendering the burdensome four-phase reopening process obsolete, the CDC made little progress. Over five months in, no cruise company has begun phase-two test voyages.

40. At a March 18, 2021 Senate hearing, Senator Lisa Murkowski of Alaska asked Defendant CDC Director Walensky to "give . . . some indicator in

[10] https://www.cdc.gov/media/releases/2021/p0308-vaccinated-guidelines.html.

[11] https://www.nytimes.com/2021/03/19/travel/coronavirus-cruises.html.

[12] https://www.cruisehive.com/signs-that-cruises-could-start-in-june-from-the-u-s/47910.

[13] https://www.nytimes.com/2021/03/19/travel/coronavirus-cruises.html.

terms of a timeline" for phase two. Ex. 6 at 7. Defendant Walensky responded, "I can't." *Id.*

41. At this rate, it is likely the industry will be locked down until at least November. While the CDC issued new guidance on April 2, 2021, this guidance is only a portion of what the industry needs before it can start phase-two test voyages.[14] And this new guidance doesn't adequately account for the CDC's recent statement that "fully vaccinated people can travel at low risk to themselves."[15] Moreover, the guidance moves the goal posts yet again. For example, the CDC has increased the reporting frequency of COVID-19-like illnesses by cruise ship operators from weekly to daily. It also now requires cruise ship operators to enter into agreements with all U.S. port and local health authorities where they intend to dock.

42. The CDC has continued these actions against the cruise industry even as it has treated similar industries differently, including ones that hold passengers in close quarters. For example, the CDC has not shut down the airline industry—focusing instead on "cleaning of aircraft" and "recommendations for hand hygiene."[16]

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[14] https://www.cdc.gov/quarantine/cruise/management/technical-instructions-for-cruise-ships.html; https://www.cdc.gov/quarantine/cruise/instructions-local-agreements.html.

[15] https://www.cdc.gov/media/releases/2021/p0402-travel-guidance-vaccinated-people.html.

[16] https://www.cdc.gov/quarantine/air/managing-sick-travelers/ncov-airlines.html.

Florida's Irreparable Harm

43. As a result of Defendants' actions, Florida has suffered hundreds of millions of dollars in harm, perhaps more. During the pandemic, Florida's ports have suffered a decline in operating revenue of almost $300 million, and this figure is projected to increase to nearly $420 million by July 2021.

44. In 2019, before Defendants shut down the cruise industry, Florida received approximately $102.8 million in tax revenue from embarkations.

45. And even the above numbers do not fully account for the economic impact on Florida of Defendants' actions. For example, since March 1, 2020, at least 6,464 former cruise industry employees have filed for state Reemployment Assistance benefits. Florida has paid them approximately $20 million in state benefits. And Florida receives other taxes as a direct or indirect result of the cruise industry, such as employment taxes and ground transportation taxes.

46. Finally, if the U.S. cruise industry does not reopen soon, cruise lines are considering relocating abroad. They may never come back.

47. Florida now seeks relief from this Court to prevent the irreparable harm Defendants' actions are causing.

CLAIMS

COUNT 1

Agency action not in accordance with law and in excess of authority

(Violation of the APA)

48. Florida repeats and incorporates by reference ¶¶ 1–47.

49. Under the APA, a court must "hold unlawful and set aside agency action" that is "not in accordance with law" or "in excess of statutory . . . authority, or limitations, or short of statutory right." *See* 5 U.S.C. § 706(2)(A), (C).

50. The Conditional Sailing Order purports to derive its statutory and regulatory authority from 42 U.S.C. § 264 and 42 C.F.R. § 70.2 (the regulation implementing Section 264).[17] Ex. 1 at 2, 20.

51. The Order is in excess of that authority in several ways.

52. *First*, neither 42 U.S.C. § 264 nor 42 C.F.R. § 70.2 authorizes the CDC to make or enforce regulations that suspend the operation of cruise ships, much less every cruise ship in the country. Such a reading of those provisions would be "tantamount to creating a general federal police power." *Skyworks, Ltd. v. CDC*, 2021 WL 911720, at *10 (N.D. Ohio 2021).

[17] Any other authorities the CDC has relied on are related to these two authorities, and fail to justify the CDC's actions for the same reasons discussed below. *See, e.g.*, 42 U.S.C. § 268; 42 C.F.R. § 71.31(b).

53. *Second*, Sections 264 and 70.2 permit the CDC to act only if it first "determines that the measures taken by" a state "are insufficient to prevent the spread" of a communicable disease "from such State . . . to any other State." 42 C.F.R. § 70.2. But here, the CDC has made no valid determination that the measures taken by Florida to protect the health and safety of its residents and tourists are insufficient. And any such determination would have to first take into account that people are now traveling with protective measures like vaccines, sanitation, and social distancing, and that the cruise industry has safely and successfully resumed sailing outside of U.S. waters.

54. *Third*, the CDC's reading of its authority under 42 U.S.C. § 264 is wrong because it is divorced from context. The statute gives the CDC the authority to "make and enforce such regulations as in [its] judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession." 42 U.S.C. § 264(a). But in the next sentence, the statute clarifies that to "carry[] out and enforc[e]" those regulations, it authorizes the CDC to conduct "such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in [CDC's] judgment may be necessary." *Id.* This second sentence clarifies the narrow nature of this

authority. *See, e.g.*, *Paroline v. United States*, 572 U.S. 434, 447 (2014) (discussing catch-all terms that "bring[] within a statute categories similar in type to those specifically enumerated"); Antonin Scalia & Bryan Garner, *Reading Law: The Interpretation of Legal Texts* 199 (2012) ("Where general words follow an enumeration of two or more things, they apply only to persons or things of the same general kind or class specifically mentioned (*ejusdem generis*)."); *K Mart Corp. v. Cartier, Inc.*, 486 U.S. 281, 291 (1988) ("In ascertaining the plain meaning of [a] statute, the court must look to the particular statutory language at issue, as well as the language and design of the statute as a whole."). In other words, the "second sentence . . . lists illustrative examples of the types of actions the CDC may take," and those examples limit the scope of the CDC's authority. *Skyworks*, 2021 WL 911720, at *9 (so holding); *accord Tiger Lily, LLC v. Dep't of Hous. & Urb. Dev.*, 2021 WL 1165170 (6th Cir. 2021) ("Plainly, government intrusion on property to sanitize and dispose of infected matter is different in nature from a moratorium on evictions.").

COUNT 2

Arbitrary and capricious agency action

(Violation of the APA)

55. Florida repeats and incorporates by reference ¶¶ 1–47.

56. Under the APA, a court must "hold unlawful and set aside agency action" that is "arbitrary [or] capricious," as Defendants' actions are here. 5 U.S.C. § 706(2)(A).

57. *First*, Defendants ignored important aspects of the problem. *See Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); *see also Michigan v. EPA*, 576 U.S. 743, 751–53, 759–60 (2015). The lack of an FDA-approved vaccine in October 2020 was central to Defendants' decision to impose a burdensome framework on the cruise industry, yet Defendants did not consider the fact that vaccines would be available long before the Order expires in November 2021. And they have made inadequate efforts to consider the significant developments on that front since. Moreover, Defendants have made no effort to account for the success of foreign cruise companies, which operate safely with reasonable COVID-19 protocols. Instead, Defendants rely on stale information from the beginning of the pandemic before industries and public-health officials learned how businesses could operate safely.

58. *Second*, Defendants' reasoning is inadequate. *See Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2125 (2016). "The agency must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made." *Id.* In addition to the issues discussed in the preceding paragraph, the

Conditional Sailing Order states that it is necessary because "measures taken by State and local health authorities regarding COVID-19 onboard cruise ships are inadequate," but the Order does not identify the measures taken by States and localities and the cruise industry itself, much less explain how the measures are inadequate. *See* Ex. 1 at 19.

59. *Third,* Defendants failed to consider lesser alternatives, *see DHS v. Regents of the Univ. of Cal.*, 140 S. Ct. 1891, 1913 (2020); *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009), such as imposing reasonable COVID-19 protocols, which have proved successful abroad.

60. *Fourth*, Defendants failed to explain their differential treatment of the cruise industry versus other industries. It is "textbook administration law that an agency must provide a reasoned explanation for . . . treating similar situations differently." *W. Deptford Energy, LLC v. FERC*, 766 F.3d 10, 20 (D.C. Cir. 2014) (cleaned up). "[A]n agency must treat similar cases in a similar manner unless it can provide a legitimate reason for failing to do so." *Kreis v. Sec'y of Air Force*, 406 F.3d 684, 687 (D.C. Cir. 2005).

61. *Fifth*, Defendants have acted in an arbitrary and capricious manner by failing to meaningfully follow their own Conditional Sailing Order. The Order provides that cruise lines will have an opportunity to complete a four-phase framework and "return to passenger operations," *see* Ex. 1 at 16–17, but the CDC has neither provided cruise lines an opportunity

to complete the framework nor allowed any cruise line to return to passenger operations, notwithstanding that the "benefits of" opening "outweigh the costs of not allowing cruise ships to sail," Ex. 1 at 16.

COUNT 3

Agency Action Unlawfully Withheld or Unreasonably Delayed

(Violation of the APA)

62. Florida repeats and incorporates by reference ¶¶ 1–47, 57–61.

63. In the alternative, and for the same reasons stated in Count 2, Defendants' failure to allow the cruise industry to safely reopen constitutes final agency action unlawfully withheld or unreasonably delayed, in violation of 5 U.S.C. § 706.

COUNT 4

Failure to Provide Notice and Comment

(Violation of the APA)

64. Florida repeats and incorporates by reference ¶¶ 1–47.

65. The APA required Defendants to provide notice of, and receive comment on, the Conditional Sailing Order because it is a substantive rule that "affect[s] individual rights and obligations." *Chrysler Corp. v. Brown*, 441 U.S. 281, 303 (1979); *see* 5 U.S.C. § 553.

66. Defendants, however, failed to conduct proper notice and comment rulemaking. As a perennial excuse, Defendants seem to rely on the "good

cause" exception to the notice requirement, *see* 5 U.S.C. § 553(b)(B), and lean heavily on the year-old "emergency" of COVID-19. *See, e.g.*, Ex. 1 at 19, 20. But that exception "is to be narrowly construed and only reluctantly countenanced." *Mack Trucks, Inc. v. EPA*, 682 F.3d 87, 93 (D.C. Cir. 2012).

67. Good cause to depart from notice and comment does not exist when the agency has sufficient time to provide notice and comment. *See Kollett v. Harris*, 619 F.2d 134, 145 (1st Cir. 1980); *Regeneron Pharm., Inc. v. Dep't of Health & Hum. Servs.*, 2020 WL 7778037, at *11 (S.D.N.Y. Dec. 30, 2020) (noting that an agency's contemplation of rulemaking for two years "suggests that the agency could have acted sooner and complied with the notice and comment requirements"). So even if the good cause exception were applicable in March 2020, it no longer applies in April 2021.

68. Moreover, even if an emergency could still be said to exist one year later such that it justifies "good cause," this exception to notice and comment is supposed to be temporary. *See Am. Fed'n of Gov't Emp., AFL-CIO v. Block*, 655 F.2d 1153, 1158 (D.C. Cir. 1981).

69. And although the CDC solicited information from the public, the CDC did not respond or even attempt to address in any meaningful way the comments provided to it. Ex. 1 at 14–15. This suggests the CDC did not view that process as satisfying the notice and comment requirements, and even if it did, its failure to respond is fatal. *See Perez v. Mortg. Bankers Ass'n*, 575 U.S.

92, 96 (2015) (explaining that "[a]n agency must consider and respond to significant comments received during the period for public comment").

COUNT 5

Unconstitutional Exercise of Legislative Power

(Violation of U.S. Const. Art. I, § 1)

70. Florida repeats and incorporates by reference ¶¶ 1–47.

71. Article I, Section 1 of the U.S. Constitution states, "[a]ll legislative powers herein granted shall be vested in a Congress of the United States." Under Article I, Section 1, only Congress may engage in lawmaking.

72. If the Conditional Sailing Order does not exceed the authority under 42 U.S.C. § 264 and the relevant regulations, then Section 264 constitutes an unconstitutional exercise of lawmaking by the executive branch, affording the CDC the power to determine the rights of millions of citizens, to decide on the survival of countless businesses, and to make a host of sweeping policy decisions absent meaningful accountability.

PRAYER FOR RELIEF

For these reasons, Florida asks the Court to:

a) Hold unlawful and set aside the Conditional Sailing Order.

b) Issue preliminary and permanent injunctive relief enjoining Defendants from enforcing the Conditional Sailing Order.

c) Postpone the effective date of the Conditional Sailing Order.

d) Declare unlawful the Conditional Sailing Order.

e) Declare that the cruise industry may open with reasonable safety protocols.

f) Award Florida costs and reasonable attorney's fees.

g) Award such other relief as the Court deems equitable and just.

Respectfully submitted,

Ashley Moody
ATTORNEY GENERAL

John Guard (FBN 374600)
CHIEF DEPUTY ATTORNEY GENERAL

/s/ James H. Percival
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REGULATIONS OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Amendment of Title 05, Chapter 20
SMALL BOAT HARBOR FEES AND CHARGES

PURSUANT TO AUTHORITY GRANTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, THE DOCKS AND HARBORS BOARD PROPOSES TO ADOPT THE FOLLOWING AMENDMENT TO REGULATIONS:

Section 1. Authority. These regulations are adopted pursuant to CBJ Ordinance 01.60, 85.02.060, and 85.02.100.

Section 2. Amendment of Section. 05 CBJAC 20.050 is amended to read:

05 CBJAC 20.050 Residence surcharge.

(a) *Definition.* A fee assessed to the owner of a vessel when the vessel is used by any person as a residence, dwelling, or abode for three or more calendar days in any calendar month, unless

(1) The owner pays daily moorage in accordance with 05 CBJAC 20.030 for all days in the calendar month during which the vessel is used for three or more days as a residence, dwelling, or abode; or

(2) The Harbormaster in writing authorizes the owner to use the vessel as a residence, dwelling, or abode for more than three calendar days in any calendar month, provided such authorization may be given only for short term, temporary use of the vessel as a residence, dwelling, or abode of not more than seven days in the calendar month for which the authorization is given.

(b) *Residence surcharge period and duty to report.* The residence surcharge will be assessed on a calendar month basis. The owner of the vessel is responsible for paying the residence surcharge. The owner of the vessel is responsible for immediately notifying the Harbormaster when their vessel is being occupied and used, rented, or leased as a place of residence. Once a vessel is used as a residence, the Docks and Harbors Department will continue to assess the residence surcharge until the owner of the vessel gives written notice to the Harbormaster that the vessel is no longer used for a residence.

(c) *Payment deadline.* The owner must pay the residence surcharge in advance before the first day of the calendar month for which the owner is planning to use the vessel as a residence. An owner that does not or cannot pay the residence will be assessed a daily moorage fee in accordance with ~~Section [05 CBJAC 20.030] 30~~ 05 CBJAC 20.030 of this regulation in addition to any annual or monthly moorage that may have been paid.

(d) *Residence surcharge.* Beginning August 1, 2021, t~~T~~he owner shall pay a residence surcharge of ~~$69.00~~ $138.00 per calendar month, or portion thereof, for each vessel

used as a residence. For a vessel with more than four residents, the owner shall pay an additional surcharge of $23.00 per calendar month, or portion thereof, for each additional resident. Each year, beginning July 1, 2022, the residence surcharge will be adjusted by the Consumer Price Index for Urban Alaska as reported by the Alaska Department of Labor for the preceding calendar year, rounded to the nearest cent. The residence surcharge will be subject to review by the docks and harbors board every five years, starting on July 1, 2026.

Section 3. Notice of Proposed Adoption of a Regulation. The notice requirements of CBJ 01.60.200 were followed by the agency. The notice period began on [DATE], which is not less than 21 days before the date of adoption of these regulations as set forth below.

Adoption by Agency

After considering all relevant matter presented to it, the agency hereby amends these regulations as set forth above. The agency will next seek Assembly review and approval.

Date: _____

_____
Carl Uchytil
Port Director

Legal Review

These regulations have been reviewed and approved in accordance with the following standards set forth in CBJ 01.60.250:

(1) Its consistency with federal and state law and with the charter, code, and other municipal regulations;
(2) The existence of code authority and the correctness of the required citation of code authority following each section; and
(3) Its clarity, simplicity of expression, and absence of possibility of misapplication.

Date: _____

_____
Teresa Bowen
Assistant Municipal Attorney

Assembly Review

These regulations were presented to the Assembly at its meeting of _____. They were adopted by the Assembly.

Date: _____

_____
Elizabeth J. McEwen, Clerk

Filing with Clerk

I certify, as the Clerk of the City and Borough of Juneau, that the following statements are true:

(1) These regulations were accepted for filing by the office of the clerk at ___:___ a.m./p.m. on the _____day of _____, _____.

(2) After signing, I will immediately deliver or cause to be delivered copies of this regulation to the attorney and the director of libraries.

(3) A permanent file of the signed originals of these regulations will be maintained in this office for public inspection.

(4) Effective date: _____.

Date: _____

_____
Elizabeth J. McEwen, Clerk

REGULATIONS OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Amendment of Title 05, Chapter 15
FEES AND CHARGES

PURSUANT TO AUTHORITY GRANTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, THE DOCKS AND HARBORS BOARD PROPOSES TO ADOPT THE FOLLOWING AMENDMENT TO REGULATIONS:

Section 1. Authority. These regulations are adopted pursuant to CBJ Ordinance 01.60, 85.02.060, and 85.02.100.

Section 2. Amendment of Section. 05 CBJAC 15.030 is amended to read:

05 CBJAC 15.030 Dockage Charges.

(a) *Definition.* The charge assessed to vessels for berthing at the Steamship Wharf, the Cruise Ship Terminal, the Intermediate Vessel Float (IVF), the Port Field Office Float (PFO), and the Inside of the Cruise Ship Terminal (ICT)

(b) *Basis for computing charges.* Dockage charges are assessed upon length-over-all (LOA) of the vessel. Length-over-all is defined as the linear distance, in feet, from the forward most part at the stem to the aftermost part of the stern of the vessel, measured parallel to the base line of the vessel.

Length-over-all of the vessel, as published in "Lloyd's Register of Shipping" will be used and, when not published, the Port reserves the right to measure the vessel or obtain the length-over-all from the vessel's register.

(c) *Dockage period; how calculated.* The period of time which dockage will be assessed shall commence when the vessel is made fast to an allocated berth or moored, or comes within a slip and shall continue until such vessel casts off and has vacated the position allocated. All time is counted and no deductions shall be allowed because of weather or other conditions, except when the Port Director provides for such allowance for good cause shown.

(d) *Charges when a vessel shifts to different berth.* When a vessel is shifted directly from one position to another berth or slip, the total time at such berths or slips will be considered together when computing the dockage or charge.

(e) *From May 1 to September 30, dockage for all vessels, except those vessels paying dockage fees set out in 05 CBJAC 15.030(f) and (h), will be assessed for each 24-hour period or portion thereof as follows:*

(1) $~~1.50~~ $3.00 per foot for vessels less than 65 feet in length overall;

(2) $~~2.50~~ $5.00 per foot for vessels with a length overall from 65 feet up to 200 feet; and

(3) $~~3.00~~ $6.00 per foot for vessels greater than or equal to 200 feet in length overall.

(f) From May 1 to September 30, fishing vessels will be assessed dockage at $~~0.75~~ $1.50 per foot of length overall for each 24-hour period or portion thereof, except there will be no charge to vessels staging to offload at Taku Dock, provided the duration of staging is less than four hours.

(g) From October 1 to April 30, dockage will be assessed as set out in 05 CBJAC 20.030 and 05 CBJAC 20.040.

(h) From May 1 to September 30, vessels loading passengers as part of a for-hire tour or experience with a duration less than 24 hours shall comply with the requirements set out in 05 CBJAC 20.080(c) and shall pay passenger-for-hire fees as set out in 05 CBJAC 20.080(d).

(i) *Dockage specials.* The Docks and Harbors Board may after public hearing establish special and promotional rates of a temporary nature in order to encourage use of facilities, to respond to unusual economic circumstances, or to promote revenue development.

Section 3. Notice of Proposed Adoption of a Regulation. The notice requirements of CBJ 01.60.200 were followed by the agency. The notice period began on [DATE], which is not less than 21 days before the date of adoption of these regulations as set forth below.

Adoption by Agency

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Date: _____

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Carl Uchytil
Port Director

Legal Review

These regulations have been reviewed and approved in accordance with the following standards set forth in CBJ 01.60.250:

(1) Its consistency with federal and state law and with the charter, code, and other municipal regulations;
(2) The existence of code authority and the correctness of the required citation of code authority following each section; and
(3) Its clarity, simplicity of expression, and absence of possibility of misapplication.

Date: _____

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Teresa Bowen

Assistant Municipal Attorney

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(3) A permanent file of the signed originals of these regulations will be maintained in this office for public inspection.

(4) Effective date: _____.

Date: _____ _____

Elizabeth J. McEwen, Clerk

Project	Status	Schedule	Contractor	Notes
Statter Master Plan Phase III				
Phase III A - Dredging, Blasting, Soil Compaction				
Army Corps of Engineers Permit	Complete		PND	
Incidental Harassment Authorization	Complete		PND	
Eagle Permit	Complete		PND	
CBJ Building Permit	Complete		Staff	
Construction Bid	Complete	July 16, 2019	PPM	
D&H Board Approval of Bid	Complete	July 17, 2019		
Assembly Approval of Bid	Complete	July 22 2019		
Construction	Complete	October 1, 2019	PPM	
Substantial Completion	Complete	May 29, 2020		
Dredge Basin Clean Up	Complete	September 26th & 27th		Dredging Complete
Final Completion	Complete	September 30th		
Project Close Out	In Progress			Project Close Out Underway
Phase III B - Retaining Wall, Float Installation				
Army Corps of Engineers Permit	Complete		PND	
Incidental Harassment Authorization	Complete		PND	
Eagle Permit	Complete		Staff	
Design - Bid Documents	Complete		PND	
CBJ Building Permit	Complete		Staff	
Bid/Contract	Complete		TCC	Trucano Construction
D&H Board Approval of Bid	Complete			
Assembly Approval of Bid	Complete	4/27/2020		
Construction	In Progress	Fall 2020	TCC	Floats complete, utilities and electrical progress
Substantial Completion	Hold	May 2, 2021		
Final Completion	Hold	June 6, 2021		
Phase III C - Uplands, Restrooms				
Eagle Permit	In Progress		Staff	
Design - Bid Documents	Hold		PND	
CBJ Building Permit	Hold		Staff	
Construction Bid	Hold		TBB	
Construction	Hold	TBD	TBD	

Pre-Bid Conference	Hold			
D&H Board Approval of Bid	Hold			
Assembly Approval of Bid	Hold			
Substantial Completion	Hold	TBD		
Final Completion	Hold	TBD		
Downtown Waterfront Improvements				
Phase I - Deck Over				
Geotech Report	Complete		PND	
Materials Procurement	Complete	June 15, 2019	Island Const.	
Army Corps of Engineers Permit	Complete		PND	
Incidental Harassment Authorization	Complete		PND	Seals only, new reduced zone size
Bid Opening	Complete	July 2, 2019	Staff	
D&H Board Approval	Complete	July 3, 2019		
Assembly Approval	Complete	July 8, 2019		
Early Entry by Archipelago Property LLC	Canceled	June 1, 2020		Archipelago Project On Hold
Substantial Completion	Complete	December 12, 2020		Substantial Completion Walk Through Complete
Final Completion	In Progress	April 15, 2021		Parking Striping remains
Phase II - Visitor Waiting Area and Restrooms				
Design - Bid Documents	Hold	TBD	PND	Working to 65% Plans with cost est
CBJ Building Permit	Hold		Staff	
Construction Bid	Hold		TBD	
D&H Board Approval	Hold			
Assembly Approval	Hold			
Phase II Construction	Hold			
Substantial Completion	Hold			
Final Completion	Hold			
Aurora - Harris Harbors Dredging - ACOE				Western Marine Construction
Breakwater Repairs	Complete	May 2020	ACOE	
Dredging Activity	In Progress	April & May 2021	ACOE	Aurora dredging underway, complete May 15th
Public Outreach	In Progress		Western	Project info on D&H website
Small Cruise Ship Infrastructure Study				
Fee Negotiations	Complete		PND	
Data Collection/Market Study	Complete		PND	
Planning/Conceptual Layout	Complete		PND	
Presentation to Board	Complete		PND	
Receive Comments from Board	Complete		Staff	

Public Outreach	Complete		PND	
Final Report	Complete	Jan 2021	PND	
Final Presentation to Assembly	Complete	Feb 2021	PND	Follow up memo to Assembly in process
Large Berth Shore Power Design				
RFP Creation	Complete	May 19, 2020		RFP issued
Consultant Selection	Complete			Haight & Assoc Selected
Fee Negotiations	Complete			
Project Kick Off Meeting	Complete			
Stake Holder Interviews	In Progress		H&A	Haight conducting interviews with stake holders
Statter Breakwater Chain Repair No. 2				
RFP Creation	Complete			Plan set done, working on scope
Contractor Selected	Complete			
Construction	Complete			Kenter links ordered
Project Kick Off Meeting	Complete			
Construction Complete	Complete			Completed as part of SHI III(B)
Marine Park Deckover				
95% Design Review	Complete			
100% Design and Specs	In Progress			
Bid Project	Hold			Waiting on MPF
Taku Seawalk Redecking				
65% Design Review	Complete			
95% Design	Complete			
100% Design and Specs	Complete			
Bid Project	Hold			Waiting on funds transfer
Aurora Harbor Re-Build - Phase III				
Phase IIIA - Demolition				
Design and Bid Documents	Hold		D&H	Demo is complete
Phase IIIB - Dredging				
Army Corps of Engineers	Hold	Winter/Spring 2020/2021	ACOE	Completion expect May 15, 2021
Phase IIIC - Float Installation				
ADOT Grant Application	Complete		Staff/PND	Grant App Submitted
Design	Hold			
Auke Bay Marine Station				
Annual Report	March		Staff	2020 Report Submitted
Subdivision	In Progress		Staff	In review by Community Development Dept.
Shared Costs with UAS	In Progress		Staff	Awaiting UA response to Amendment #1

Harris Harbor Anodes				
Anode Design	Complete		Staff	Design in Progress
Anode Bid	Complete		Staff	Global Diving Apperatnt Low Bidder
Contract Award	On Hold		Staff	Waiting on grant accpeanct
Grant Accepatnct	In Progress		Staff	Working throgh Assembly process
Douglas Harbor Anodes				
Anode Design	Complete		PND	
Construction	Complete			Jun-2020
Substantial Completion	Complete	June 5, 2020		Complete
Final Completion	Complete	July 30, 2020		Complete
Sewage Pump-Out Improvements				
Statter Pump Upgrade	In Progress		Staff	Part of SHI III(B)
Harris Pump Replacement	In Progress		Staff	Working with Term Contractor
Douglas Launch Ramp Light Project				
Design	Complete		Staff	
RFP	Hold		Staff	Awaiting funding
Building Permit	Hold		Staff	
Construction	Hold		Staff	
D&H Managed Lands - Surveys				
ASLS 2013-15 - Uplands at Tee Harbor	Hold	2021	TBD	
ATS 1682 -DIPAC-Channel Construction	In Progress	2020	PDC	Field work complete, drafting plat
ATS 1693-DIPAC Wayside Park	In Progress	2020	PDC	Field work complete, drafting plat
ATS 1694-Tee Harbor Submerged Lands	Hold	2021	TBD	
ATS 1692 - N Douglas Boat Ramp	In Progress		PDC	Plat being recorded
ATS 1690-Indian Cove	In Progress		PDC	Working on ADNR review comments #1
Wayside Park Float				
Dredging as Float Grounds Out	Hold			Awaiting Funding
N. Douglas Boat Launch Expansion Study				
Conceptual Design	Complete		PND	Awaiting Board direction
Dockside Safety Guardrail				
Design	Hold			Awaiting funding - Passenger Fees FY22
Bid Opening	Hold			
Board Approval	Hold			
Assembly Approval	Hold			
Construction	Hold			

Harbor Security Upgrades				
Continued Project Development with Board	In Progress			New cameras in Aurora, Douglas and Harris Harb
Statter Breakwater Deferred Maintenance				
Continued Project Development with Board	Hold			
2020 Build Grant App - Fisherman's Terminal				
Draft	Complete		R&M	
Submission	Complete	May 18, 2020		Application Submitted - Project not selected
Statter Breakwater Safety Improvements				
Phase II	Hold			Awaiting funding
Auke Bay Loading Facility - Phase II				
TIGER Grant Reporting - Annual	On-Going	Sept. 2020	Staff	Report for Boom Truck till 2033; SeaLift till 2044