

CBJ DOCKS AND HARBORS BOARD
REGULAR BOARD MEETING MINUTES
For Thursday, December 20th, 2018

I. Call to Order

Mr. Etheridge called the Regular Board Meeting to order at 5:00 pm in the CBJ Assembly Chambers.

II. Roll Call

The following members were present: Weston Eiler (via Telephone), James Becker, Mark Ridgway, Bob Wostmann, and Don Etheridge.

Absent: Bob Janes, David McCasland, Dan Blanchard, Budd Simpson

Also present were the following: Carl Uchtyl – Port Director, Gary Gillette – Port Engineer, Dave Borg – Harbormaster, Matt Creswell – Deputy Harbormaster, Teena Larson- Administrative Officer and Mary Becker – Assembly Liaison.

III. Approval of Agenda

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

Motion passed with no objection.

IV. Approval of November 29th, 2018 Regular Board Minutes

Hearing no objection, the November 29th, 2018 Regular Board Minutes were approved as presented.

V. Public Participation on Non-Agenda Items –
Dan Hickok, Juneau, AK

Mr. Hickok wanted to discuss the parking situations at Harris, Aurora, and Douglas Harbors. They are permitted for three and fourteen days. There is grid parking and handicapped for up to four hours and you can get a free permit from Docks and Harbors between the hours of 8:00am and 4:30pm. He said he brings this to the Board because on November 14th he received a citation. He parked at Harris Harbor which he has done for over 20 years to help his father on his boat. He was there at 7:45am and returned to his vehicle at 10:55am and he received a citation. He said you can get a free permit, but you have to be at the office between 8:00am and 4:30pm. If you decide to take off Sunday night and return Monday morning, you will receive a citation. If you can get a free permit, you should be able to get it 24/7. He said the Harbor has someone monitoring dogs and parking lots and everything else seven days a week that can write you a citation, but if you take off after the harbormaster office closes, you cannot get the free permit. There is no way to pay money to get a permit so you don't get a citation. He thinks this is odd that it is a public facility and you can't go walk the docks Sunday afternoon or go buy fish Friday afternoon without possibly getting a citation. He is willing to pay the \$25.00 citation but it is odd that you can only get the free parking permit during certain hours but you are able to park in the parking facility 24/7 and there is always someone on duty that can write a citation.

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Mr. Becker asked if he has parking stickers from years past?

Mr. Hickok said no. He said he has gone with his father in his boat who has had a stall in the Harbor for over 25 years. They have done winter hunts and summer time fishing and he said he never received a citation. He said he did not even realize it was an issue in the winter time. He said he is aware of Statter Harbor paid parking in the summer time but they also have 30 minute free parking stalls. Harris, Douglas, and Aurora Harbors do not have the 30 minute free parking stalls that he knows of. He wanted to bring this to the Board's attention.

Mr. Becker said he has a lot of parking stickers on his vehicle and he received a reminder to get a new current parking sticker one time. He asked if there is no sticker present, do harbor officers just assume they are in violation and give them a ticket?

Mr. Hickok said Mr. Borg informed him that was how they keep the derelict vehicles out of the Harbors parking areas. He said he understands that, but it seems like there are already several derelict vehicles in the parking lots with flat tires. They have parking permits and are totally legal, but they are the derelict ones and he was only there for four or five hours and received the ticket. There could be a three day pass or if a vehicle is there for over 24 hours, then give them a violation.

Mr. Wostmann said he is sympathetic to this situation because it has happened to him. He went to help a friend in the harbor on the weekend and he is always suspicious if his stickers are no longer valid because he no longer has a vessel of his own and he wonders if he is going to get a ticket. During what hours are the parking lots patrolled and tickets issued? Is it only during the office hours, or is it seven days a week?

Mr. Borg said it is the office hours and seven days a week. On the weekends there is a Harbor Officer on duty but just during the hours of 8:00am and 4:30pm.

Mr. Wostmann said but the office is not open on the weekend. If he shows up at 1:00pm Sunday afternoon to help a friend work on his boat, is he risking a ticket if he parks in Harris Harbor?

Mr. Borg said there is an opportunity you could get a ticket if they are giving out tickets that day. However, if you come in Monday morning with your ticket and explain your situation, we can give you a temporary parking pass which is good for three months. He said we also void tickets, which he explained to Mr. Hickok, but he just left and was not interested in waiting for that process. The Officer who wrote the ticket is the only one that can void the ticket. At the time Mr. Hickok came in the office, the Officer was on Jury Duty and he needed to come back.

Mr. Ridgway asked if the Harbor Officer is still willing to void the ticket?

Mr. Borg said yes, but only the Harbor Officer that wrote the ticket can void the ticket which is CBJ wide. He said it is against the law for an officer to void another officer's ticket.

Mr. Ridgway asked if it was correct that the parking lots are manned 24/7?

Mr. Borg said they are not manned 24/7.

Mr. Ridgway asked if there is anything that can be put in place to make it easier for Mr. Hickok to obtain a temporary parking pass after hours in the future?

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Mr. Borg said this works great at Statter Harbor because there is paid parking, but we don't do this at the other harbors because we don't charge for parking.

Mr. Etheridge said this would be a good item to bring up at the next OPS meeting.

Mr. Hickok said it would make more sense being a public facility with mechanics, fish buyers, and people walking the docks to not have to go get a permit before they can park their vehicle.

Mr. Etheridge said he was on the Board at the time when the parking regulation was being redone. There were people at that time wanting to store vehicles, park at the harbor and go other places, and school personnel were also using it which is the reasons for the parking restraints.

VI. Consent Agenda - None

VII. Unfinished Business

1. FY20 Marine Passenger Fee – Request

Mr. Gillette said in the packet starting on page 15 is the list and description of items staff proposes to submit to the City Manager for funding under the Marine Passenger Fee program. Most of this list has gone through the Operations Committee. He went over the items on the list that are new or changed on the list;

- On page 21 in the packet is an EMS response vehicle that has been added which was a request from the Harbormaster. This would be available if there was an emergency on a ship. Often ships arrive at the dock and have someone that needs to be transported to the hospital. With the large number of people getting off the ship, EMT and fire personnel currently take a gurney and go through the crowd to get the person needing medical assistance. Staff would like to get an electric vehicle built for this type of purpose to be able to carry a gurney and get to the ambulance quicker.
- On page 22, staff is asking for funds for the Docks Division operations. This is because the Dock personnel of our enterprise are primarily connected to serving the vessel while they are in port with security, maintenance issues, and other similar things.
- One other item is the Area Wide Operations on page 15. Staff is asking for \$225,000 which is \$75,000 more than in previous years. This is to add two personnel that was already discussed with the Board in the past and it was recommended to go forward with the additional personnel.

Mr. Gillette said this is the list that will go to the City Manager for his consideration.

Board Questions

Mr. Ridgway asked what does year round maintenance and monitoring of Marine Park entail?

Mr. Gillette said maintenance refers to garbage, power washing, putting up banners, and monitoring is for general security.

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Mr. Wostmann clarified that the items on the list is requested to be paid out of Marine Passenger Fees. He asked if the items are all affected by the Judge Holland ruling and if they are all appropriate?

Mr. Gillette said correct.

Mr. Wostmann asked if staff has any input if there is going to be push back on any of the items on the list.

Mr. Gillette said at this point there are still discussions going on. Staff feels we can make a case for all items listed and they are connected to the vessel.

Mr. Wostmann asked when Docks & Harbors would know if there is going to be a dispute for the requested items?

Mr. Gillette said he is not aware of any issues and the Assembly has had two executive sessions to discuss these items, but they have not released any public information on their intentions.

Mr. Becker asked if the \$225,000 is correct with the staff additions.

Mr. Gillette said the \$225,000 includes the additional staff.

Mr. Uchytel said the City Manager is still going with the guidance provided in December and the requests are due on January 2nd. The City Manager, in consultation with the Assembly, will make the final decision of what projects get funded and what doesn't. There is no risk to Docks & Harbors because it will be sorted out with guidance from CBJ Law, the Assembly, and the Manager office.

Mr. Ridgway asked if the CBJ Parks & Rec Maintenance Landscaping is year round and how they come up with that number?

Mr. Uchytel said Parks & Rec landscaping division uses an algorithm with so much grass, trees, flowers, and square footage that they maintain is how the price is determined. The services they provide is only in the summer. He said this request is likely not to meet the Judge Holland ruling.

Public Comment-None

Board Discussion/Action

MOTION By MR. RIDGWAY: THAT THE BOARD APPROVE THE FY20 MARINE PASSENGER FEE REQUEST AS PRESENTED AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

2. Yankee Cove Lease – Rental Adjustment objection

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Mr. Uchytel said he handed out an 11 page separate packet which he put together today with a logical order of events for this lease. Mr. Hobbs dropped off a letter on November 6th which is in the main packet where he is asking for compensation for the services to Horan & Company for the Appraisal. He said Mr. Horan is also on the telephone to answer questions. He went page by page of his separate handout to point out the history of this lease and the convoluted path that has led us to where we are today. He said he is not prepared to discuss any of the nuances of the appraisal and that is why Mr. Horan is on the telephone. Mr. Uchytel went over the packet he provided.

- Page one of the packet the City received 251 acres of State Tidelands and ATS1347 was one of the parcels CBJ was originally going to acquire only .9 acres. It wasn't until about 2007, after Mr. Hobbs built the breakwater and dock that we received the different area that Mr. Hobbs, Yankee Cove Development, is leasing currently.
- On page two, Yankee Cove Development proposed moving from the original area we were going to receive to inside Yankee Cove. At that point there was a proposal by Yankee Cove Development to build a dock.
- On page three it shows the proposed dock and dredging in support of the floating dock plus the filled in area for a gravel pad.

Mr. Uchytel said the following pages of his report is broke down into facts, his opinions, and recommendations. Under facts;

- March 2005 is when Docks & Harbors Board approved entering into a lease on a parcel inside Yankee Cove and at that point the City asked for the survey instructions for ATS 1347 from DNR.
- After the Board approved the lease, Yankee Cove Development started building the breakwater and float and finished in 2006.
- In April of 2006, the City received the As Built from Mr. Hobbs and needed to ask DNR for an amendment from the ATS 1347 .9 acres area to the 3.9 acre area inside Yankee Cove.
- Mr. Uchytel said on pages four and five in his packet shows the two tracts on the map that was in Yankee Cove Development application to the Corps of Engineers which was a much larger foot print back then from what he currently leases. The one tract is .75 acres where Mr. Hobb's built his breakwater and the other tract is 3.15 acres where he built his dock.
- In 2006 an appraisal was requested and Horan & Company conducted the appraisal which came up with a lease value of \$9,750 annually.
- On page six of his packet, later in the year of 2006, the Port Director recommended to the Board to adopt the market rate of \$9,750 annually. There was back and forth with Mr. Hobbs and the previous Port Director after which he recommended Mr. Hobbs getting a second appraisal if he didn't agree with the 2006 appraisal.

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- In 2007, without the second appraisal, the Board approved a lessor amount for the smaller foot print that resulted in the current annual rate of \$1839.30. Even though the City went back to DNR and said based on the application for development of 3.9 acres, the Board approved a much smaller foot print that amounted to .84 acres.
- Mr. Uchytel said the .84 acres is reflected on pages seven and eight in his packet. This is a much smaller area and the Board agreed to \$.05 per square foot.
- It wasn't until February of 2008 that the lease contract was signed by the City and there was a contractual agreement with Yankee Cove.
- In 2009 CBJ received the survey instructions from DNR for ATS 1347 which was the first parcel back in 2001. It took eight years to receive the survey instructions. When the state conveyed all the tidelands to the City, that gave us the right to manage the land but not until the land is surveyed and replatted that we have a title to the land. After the survey instructions were received, Docks & Harbors then needed to find a surveyor and have the new area surveyed.
- In 2013 we received a plat for the new area which is now ATS 1677. Mr. Hobbs current lease still has ATS 1347 and it needs to be changed to the new number of ATS 1677.
- On the top of page nine shows the new ATS 1677 map. However, in the lease the City signed with Yankee Cove Development it is just a small portion of which the City now has in patented tidelands.
- It is important to bring up what is in the terms of the lease; *that every five years the lease calls for readjusting the annual lease payment.*
- In 2013 we made a policy decision to not reappraise this property because the new survey as well as the annual lease was less than \$2,000. For small dollar leases we made the decision to not reappraise at that time.
- On page nine, in the lease it states; *the lessee will pay all appraisal costs associated with reevaluating and making adjustments to the annual lease payment.*
- On page ten, as far as leases go, he has been told that what is in a signed lease between two parties if things aren't clear, you would then go to regulation and ordinances. Also on page 10 shows the dispute resolutions in regulation; *if the lessee disagrees with the initial appraisal the lessee shall pay for another appraisal. If they are not happy with the second appraisal then Docks & Harbors Board will get a third appraisal and if there is still disagreement it will go to the Assembly and the Assembly decision will be final.*
- He said more recently in October of 2017 a new appraisal was ordered and established a new lease rent of \$.12/square foot which is \$4,414.00 per year. The lease amendment was sent to Yankee Cove to update the lease with the new ATS number and it was not signed because of the disputed items within the lease.
- In February of 2018, the new appraisal was brought to the Ops/Planning Committee and they approved the lease rate. It was not forwarded to the full Board because he wanted Mr. Hobbs present with the lease adjustment.

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- In November 2018 staff received the letter from Mr. Hobbs. In the appraisal it talks about the amount of revenue that is collected for Yankee Cove Development in 2007 it was \$10,000 a month and it is adjusted annually by the Anchorage CPI.
- It does appear Yankee Cove Development does sub-lease to Coeur Alaska but we do not have any record of that in our lease documents as well as Yankee Cove Development also serves the Fjordland Express during the summer.

Based on facts, he came up with his opinions which are;

1. Yankee Cove Development did benefit by postponing a lease adjustment in 2013.
2. Yankee Cove Development did benefit financially by beginning operations in 2006 and not paying rent until 2008.
3. In the lease, the Lessee is responsible for paying the lease rent appraisals and challenging any lease rent adjustments.
4. Mr. Hobbs did not challenge the appraisal and has not exercised that right within six months of the Port Directors proposing a lease rent.
5. In 2006, the Lease rent was proposed and the Lessee did not obtain a second appraisal when asked.
6. The current proposed lease rent is not excessive which is less than 3.5% of the revenue collected by Yankee Cove Development by serving the Coeur Mine Boats.

Mr. Uchytel said his recommendation is to invoice Yankee Cove at the current appraised rate.

Board Questions

Mr. Ridgway said in review of the Yankee Cove Development letter, does the lease speak to services being provided by the City or Docks & Harbors?

Mr. Uchytel said no.

Mr. Ridgway asked if the lease speaks to utilizing comparison between a percentage of income and what the lease should be?

Mr. Uchytel said it does not.

Mr. Ridgway asked if the \$9,750 that was recommended in 2006 appraisal based on the same parcel size of usage?

Mr. Uchytel said he is pointing out that in 2006 it was a larger size and Horan appraised it at \$2,500 per acre.

Mr. Ridgway said in 2006 the value placed on this property was significantly higher than what was paid and what was recently done in the 2017 appraisal. He wanted more information on the appraisals.

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Ms. Larson said the 2006 appraisal was done on the entire size and ended up being \$.04 a square foot.

Mr. Becker said he felt the comparisons were slanted. There wasn't a direct comparison with other sites. The only one close was the one in the Auke Bay complex where the crew boats leave to go to Greens Creek. They are different parcels and they have utilities in Auke Bay. He asked to describe the differences between the subject lease and the one that leaves Auke Bay.

Mr. Horan said he believes the Auke Bay site referenced is the Gitkov Dock. They have two tideland leases at that location which is ATS1525 and ATS1170. Together they are about 2.8 acres. He said he believes the rent on ATS 1170 is \$11,030 annually and the rent on ATS 1525 is \$7,200 so together the rent is \$18,200. There are a lot of other operations at the Gitkov dock in addition to the Greens Creek boat arrivals and departures. In comparison, the departure dock at Yankee Cove for Kensington, the rent is estimated at \$4,414 for similar functions. He said he also looked up what the receiving dock at Young's Bay charges Greens Creek which is \$6,200 annually. The Kensington receiving dock at Slate Cove is \$6,770 annually. Looking at this on a dock site/dock site basis, they are similar.

Mr. Becker said he thought Yankee Cove Development, because it is connected to the highway, had greater value than the two remote sites but the functions are the same. The Gitkov dock has utilities where Yankee Cove Development does not. He wanted to have the one Gitkov lease area that has the dock for the Greens Creek boat compared to the Yankee Cove Development dock.

Mr. Horan said the Gitkov dock is composed of two different tideland leases. The one lease with his dock is ATS1170 and the latest rent set in 2012 is \$11,030 annually or \$.15 per square foot for the 1.7 acre site.

Mr. Ridgway asked Mr. Horan how he addresses one facility that has services and one that doesn't in his appraisal? He said he is not sure it is relevant because the lease does not speak to services.

Mr. Horan said to use the remote sites off the road system would be inferior. The market for this information is limited. You can't make discreet adjustments for every difference, but you can look at the qualitative difference and brace and rate what is better or worse. This is done specifically in the appraisal. There is a range of rents from \$.06 a square foot which represents the end of the road Cascade Point large acreage site which is inferior to the Yankee Cove site because no power and further out the road to the Auke Bay sites, which are superior because they have utilities and more convenient to get to. In his comparisons he shows better and worse sites and determines if the subject site is more like the worse ones or the better ones.

Mr. Ridgway asked Mr. Horan if he took into account in his appraisal when he was evaluating other properties such as Glacier Seafood, Allen Marine, and the Smith properties that they had services and utilities and the Yankee Cove does not?

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Mr. Horan said yes.

Mr. Ridgway asked how much an appraisal costs?

Mr. Horan said about \$5,000, more or less. If his company is able to do several that are very similar it could be as low as \$3,500.

Mr. Ridgway asked if there are other appraisers in Southeast Alaska that can perform this work?

Mr. Horan said his company is the only full service commercial appraisal firm in Southeast Alaska but there are companies in Seattle, lower 48, and Anchorage that provide these services.

Public Comment

Mr. Marion Hobbs, Juneau, AK

Mr. Hobbs said after he received Mr. Uchtyl's separate report, he has many questions. He said in his letter he addressed to the Board he believes it is fair to say that he is at a remote location and has a lot of hardships that is not involved with the other comparisons used in Mr. Horan's appraisal. He believes there is not a big difference per square foot between \$.12 a square foot for Yankee Cove and \$.15 or \$.16 per square foot at Allen Marine or the Gitkov dock for the services and location. Mr. Hobbs said the Gitkov's have two leases but on the picture he received last week there are three leases and it shows the Gitkov barge is divided with the City tidelands lease. It is not entirely encumbered so he has use of a lot of area that is probably State area. He said Mr. Uchtyl said there was a conveyance from the State to the City on the different tideland leases and he has record that in 2000 or 2001 the state notified the City that the original ATS was obsolete and no longer in use so we have been working with the original ATS number since then. One big problem Mr. Hobbs said he had was, and he asked the question to our previous CBJ Attorney Amy Mead, why is it that the Lessee every five years has to pay for an appraisal and if we disagree the Lessee has to go pay for another one. There is no logic in this. The subject was brought up that when the original agreement was made; at that time he contested the tideland lease rent rate so why didn't he contest it again? The reason he didn't contest it was he made an agreement in house with the previous Port Director for the \$.05 per square foot and so he had no reason to contest it. One of the subjects brought up earlier was he was notified by Coeur Alaska, Kensington Attorneys, prior to all this later stuff coming up, that there were things in the agreement that was not legal and needed to be adjusted. They are not huge but needed to be corrected, one being the leased area corrected and the other that he did not notify CBJ that he was sub-leasing directly to Coeur. However, CBJ knew he was sub-leasing to Coeur because that is why this dock was built in the first place was to supply Kensington with services which was done in 2003 or 2004. So the knowledge was there but it wasn't written down. In the whole scheme of things, this whole lease needs to be legally gone through and adjusted so there are not any of these disagreements anymore. One disagreement he wanted to point out to the Board is he showed on a map that Horan was using a specific map that contained the DOT right of way. He asked the question how

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Mr. Horan can include the right of way in the square footage? He said this is one of the many questions that keeps coming up. He said he is asking to simplify things here and now or dig into this a whole lot deeper and look into the legal matters within the lease. He asked the Board if they believe raising his lease rate from \$.05 to \$.12 is a fair rate considering the different situations and where his lease is located? He said if these problems can be solved now, we can put an end to this, but if they can't, we need to continue on.

Mr. Wostmann asked for a three minute at ease before Board Discussion.

Mr. Etheridge said he wanted to finish with questions and then would do the three minute at ease.

Mr. Uchytel said he wanted to clarify that Mr. Horan did not appraise the 3.9 acres but only the .844 acres which is what is in the lease.

Mr. Ridgway said there is a process that his lease goes through and he believes this is what the Board will have to follow but he asked Mr. Hobbs what is the one thing he believes has not been done correctly in the appraisal?

Mr. Hobbs said he would bring this up in Ordinance 2007-62 in line 23; whereas, April 30th, 2007 the State of Alaska conveyed tideland survey to the City and Borough and has been requested by Docks & Harbors in 2004. Whereas, shown in exhibit A the applicant seeks to lease .59 acres from the City and Borough tideland property for a dock facility and shown in exhibit B .25 acres from the City and Borough tideland property. Whereas, Docks & Harbors Board recently reviewed this lease proposal at its meeting on January 6th, 2005 and the Board reviewed and approved the final proposed lease area with the lease rental rate at the meeting of September 27th, 2007 and recommended the Assembly authorize the lease. Line 16 in the Ordinance, Whereas, following the Lands Committee meeting the applicant in 2007 submitted to the City and Borough the As-Built showing the exact boundaries and square footage of the tideland property. First of all it has already been discussed and he believes Mr. Horan and everyone agrees that the lease area is 3,600 square feet. What he said he disagrees with is why is staff saying that this is less considering 3 acres versus the small part that has already been accepted by the City and Docks & Harbors, this is all we are dealing with. The small amount in the As-Built survey is what was agreed upon. Why are we doing a new appraisal and a completely different method when it was done by Mr. Horan 10 years ago differently? Why are we saying you have all this acreage but you are only using a small amount so we want to charge you more? If Docks & Harbors has all that acreage, why don't they lease it to someone else to do something else with because it is not what he needs. He said he has a dock and the boats that dock there are 24 feet wide and he agreed to lease 30 feet on each side of the dock because that is where the boats sit. He also has some upland property. Why is an area that anyone can use at any time, just because the City owns it, is being taken into consideration on his lease?

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Mr. Ridgway said according to the Port Directors memo, in 2007 you did not agree with the 2006 appraisal. Was the issue similar back then?

Mr. Hobbs said it was a similar thing but the previous Port Director settled on the As-Built survey. When that was agreed upon, there was no reason to appeal it because it was also agreed upon by the Board.

Mr. Wostmann asked if his understanding is correct. At the time you reached the final agreement with the Board, they agreed the lease area would be reduced to the .8 acres and that is all you want and that is what the lease is written for.

Mr. Hobbs said the original way this was supposed to be put together was, there is an area requested, an As-Built done of the area requested, and that be used for the lease. The reason this is so messy is because all the exchange between the State and the City & Borough and he got hung up in the middle of it is because the original map area that went into the permit application to the Corps of Engineers was used that he requested years before. He said he had a sandy beach in Yankee Cove and at that time he thought he was going to have to dredge it out and put in riprap to avoid the infiltration of sand filling in the basin and that kind of stuff. He said when the work was actually done in 2004; he found it was rock so he did not need the large area originally requested from the Corps of Engineers. All he needed was the small area because he could dig and it would naturally find its own slopes and banks and so on. However, when the State and City did the exchange, they used the exact same map with the larger area that was used for the Corps of Engineers permit application not knowing what the ground material would be working with at the time. He requested a larger area because he didn't want to have to go back to the Corps and have to ask for more area.

Mr. Becker said the area Mr. Hobbs is using and function is compared to part of what the Gitkov is providing. Mr. Becker asked the question if Mr. Hobbs land can be reduced to just the land he is just using or does he have to lease the whole parcel?

Mr. Uchytel said the Board and Assembly acted in 2007 and agreed to do the smaller cookie cutter portion. He said he would not recommend that today. He gave an example if you leased a parcel with your house on it, and only paid for the footprint of your house, you still need access. Mr. Uchytel said Mr. Hobbs still needed to dredge and there was other in water work necessary to support his development but the Board and Assembly agreed to give him only the .844 acre lease.

Mr. Ridgway asked if Mr. Uchytel is recommending staying with what is signed in the lease originally after the property transferred and what Mr. Horan evaluated was the full 3.9 acres or only the .844 acres?

Mr. Uchytel said he only evaluated the .844 acres in his appraisal and that is what he is recommending to stay with.

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At 6:10pm Mr. Etheridge honored the three minute recess requested by Mr. Wostmann.

6:13pm the meeting was called back to order.

Board Discussion/Action

Mr. Ridgway said he does not see how the Board can do anything but what is in Mr. Uchytel's memo because there is a signed lease with .844 acres, and there is a process. He believes the Lessee does have a point to come to the City in the future for a stronger lease or more appropriate lease but at this time it would be difficult to not agree with the Port Directors proposed way forward.

Mr. Wostmann said he has spent a lot of time on this matter. He was at the OPS Committee and spent time listening to Mr. Hobbs and had a lot of discussion. Again today he spent time reading in detail through the appraisal and lease. This boils down to two primary issues; one is an incorrect area appraised by Mr. Horan and that is not the case, he said as he reads the appraisal it is clear that he appraised the .844 acres and not the 3.9 acre parcel. The other issues are if proper comparables were used? Mr. Wostmann said that is out of his area of expertise and that is why staff hired Mr. Horan because that is his area of expertise. He said he does not see any critical flaw in the process and supports Mr. Uchytel's conclusion that we need to stay with his recommendation. However, he said if Mr. Hobb's is still unhappy with the appraisal that the Board extend the six month period to allow him to get another appraisal.

Mr. Becker said looking at the comparables, there wasn't any direct comparables. There are other comparables used that are tied up in different functions so he was unable to find a direct comparable, but he has no reason to change the Port Director's recommendation.

Mr. Ridgway said given this is a signed document, he would like the Board to consider a motion to allow an additional six months for Mr. Hobbs to seek a reappraisal if that is what he chooses to do. He said he is unsure if the six months can be extended or not but if the Board can he would be supportive of that.

Mr. Uchytel said he is unsure if he can render any advice on changes to the regulation. He said he does not know how much discretion the Board has to modify the regulation.

Mr. Ridgway said he was thinking of a motion that would include Mr. Uchytel's recommendation and if it turns out that Mr. Hobb's does pursue another appraisal in the next six months and wants to bring it before the Board, the Board could deal with it then but until that time he would support going with Mr. Uchytel's recommendation.

MOTION By MR. RIDGWAY: THAT YANKEE COVE DEVELOPMENT BE INVOICED AT \$.12 A SQUARE FOOT FOR .844 ACRES FOR AN ANNUAL RENT OF \$4,414.32 WITH AN EFFECTIVE DATE OF JULY 13TH, 2017 ALSO MR. HOBBS BE ALLOWED AN

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ADDITIONAL SIX MONTHS TO HAVE THE PROPERTY REAPPRAISED AND IF HE WANTED TO BRING THAT REAPPRAISAL TO THE BOARD IT WOULD BE DISCUSSED AT THAT POINT AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

VIII. New Business –

1. Fund Transfer

Mr. Gillette said on page 25 of your packet is a memo from the Port Director outlining transfer funds to meet the costs projected for some of our ongoing projects. On page 26 summarized the project costs and he went over the items.

1. The Amalga fish cleaning station - we received a grant of \$250,000 which is an amendment to the previous grant that we had of \$50,000. The first grant was to do a feasibility study and come up with a preferred option which we have done. We will add the additional grant money with the remainder of the \$50,000 and Fish & Game now says we have \$280,000. In order to take that money from the State, we need an appropriation ordinance approved by the Assembly. So this item is just accepting the money from the State.
2. Transfer money from the Taku Harbor Repairs project- This again is money from Fish & Game. We originally thought we were going to have to fund this ourselves but then we were able to get a Fish & Game grant. That money has been expended and we have \$142,000 left in the CIP which is our money. We felt this was related to the Fish & Game project so we want to transfer this in with the \$280,000 for contingency, inspection, and things beyond the \$280,000. This will be a transfer approved by the Assembly.
3. The new Visitor Information Kiosk-This desperately needs to be replaced due to safety and ADA issues. This item has been somewhat impacted by the Judge's ruling for the Marine Passenger Fees. We had planned to fund this and had approved funding for Marine Passenger Fees however, last year's funds of \$130,000 have not been obligated yet because we are out to bid currently. Staff pulled the Marine Passenger funds and is proposing to pay for this with Dock operations funds. The \$200,000 still needed represents what we think the bid will be, some contingency, inspection, and administration to complete this project. This action will require an appropriation ordinance that needs to be approved by the Assembly.
4. Last year's Marine Passenger Fee funds gave Docks & Harbors \$170,000 for the TWIC project -The Coast Guard was going to require every individual to swipe their card that went to the ship. They have since been put on hold and that money was put into our operations account. Staff has asked that money be reappropriated into our dock security check stations at the top of the ramp which is another required security issue. This will require an appropriation transferring from operations to a CIP and approved by the Assembly.
5. The Visitor's Information Kiosk- The remaining money of \$130,000 staff plans to move in with the \$170,000 which is the Dock Security Station project. Staff is unsure at this point if this money will cover both stations because we are in the early design of this project. This will only require a transfer because it is going from one CIP to another.

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Mr. Gillette said a transfer only requires one meeting and an appropriation ordinance has an introduction followed at the next meeting for a public hearing. The five items will be scheduled for Assembly action if the Board approves these recommendations.

Board Questions –

Mr. Etheridge asked if moving Dock Operation funds into the Visitors Information Kiosk money going to cause problems with operations?

Mr. Gillette said we have a fund balance and we have plenty to move the requested amount.

Mr. Uchytel said to be clear, we have a \$4M Dock fund balance reserve. A couple meetings ago, the Board approved moving \$2M for Mr. Bartholomew's plan for the Archipelago project leaving \$2M currently in the Docks fund balance. Even though it reads like it is coming out of our operating budget it is really coming out of our Dock fund balance.

Public Comment-None

Board Discussion/Action

MOTION BY MR. RIDGWAY: THAT THE DOCKS & HARBORS BOARD APPROVE THE FINANCIAL TRANSFER AND APPROPRIATIONS ORDINANCE OUTLINED IN THE MEMO OF 12/14/2018 AND RECOMMEND THE ASSEMBLY ADOPT THE SAME AND ASK FOR UNANIMOUS CONSENT.

Motion passed with no objection.

IX. Items for Information/Discussion-None

X. Committee and Member Reports

1. Operations/Planning Committee Meeting-Wednesday, December 12th, 2018 –

Mr. Eiler reported the Committee met last week and he said they received a thorough review of the Yankee Cove issue which exhausted the meeting but was hopefully productive for tonight's discussion.

2. Member Reports – None

3. Assembly Lands Committee Liaison Report- Mr. Eiler said the last Lands committee was cancelled. The one before the last he said he was out of country and Ms. Becker could fill in the Board on their discussions. He plans on attending the next one and will have more to report then. Mr. Eiler said Ms. Becker could also inform the Board with the Archipelago property issue that has not been to the Lands Committee yet but has been discussed at the Assembly.

4. Auke Bay Steering Committee Liaison Report- Mr. Gillette said the Community Development Department is following up on the Auke Bay plan that was approved by the Assembly three or four years ago to rezone part of the area to a town center multiple use type zoning. The Docks & Harbors land is not within that zone change. However, they also have another action that they are looking at creating an overlay zone/district and that would establish design standards to accomplish the town center concept and Docks & Harbors properties are within that area. The first step is to get the zone change and then they will move forward with the other. This will take

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some time and staff has not made any comments yet. The things in the overlay district include limit on height, provisions for views, and position of future buildings relative to right of ways and streets. All of the standards have not been developed yet but that would come after the zone change. Staff is tracking this and will keep the Board apprised of what is going on.

XI. Port Engineer's Report –

Mr. Gillette said his written report is in the packet. He reported;

- The Statter Harbor Phase III project has been pushed back due to the IHA permit. It has now been pushed back to late February before the permit will be issued. With it that late we won't be able to put it out to bid and have the project finished before the season.
- We put in three BUILD grants and none of those were awarded to Docks & Harbors.
- The Corps of Engineers has secured their funding to go forward with dredging of Aurora and Harris Harbors. The plan is to do it in the fall of 2019. For Aurora this mean we will move forward consideration of demolition of the north end of Aurora Harbor. Staff is strategizing for funding for that portion of the work. This will be broken down to three phases similar to what we did in Douglas Harbor. Take the entire infrastructure out, dredge, and put in new infrastructure. Putting in the new infrastructure will be dependent upon us receiving the legislative grant.

XII. Harbormaster's Report –

Mr. Borg reported;

- Plow trucks are working.
- Two derelict vessels going up for auction on Friday at 1300.

Mr. Ridgway asked if he thought they would sell?

Mr. Borg said probably not.

XIII. Port Director's Report

Mr. Uchytel said he suspects every Board member has received a call by at least one member of the Amalga Harbor Neighborhood Association. He said he spoke with Chair Etheridge today to add The Amalga Harbor Fish Cleaning Station to the OPS Committee meeting next month and also the Board if necessary. It will be brought back for public comment and action to reaffirm the decision. In the meantime, staff will continue driving to final design with final plans and specs. Next week we will be submitting the Corps of Engineers permit to construct in the navigable water of the US and staff will make sure that every member of the Amalga Harbor Neighborhood Association is aware they can comment at that time. Mr. Borg and Mr. Creswell met with the Coast Guard today about the PATON, the private navigation structure that staff is proposing again as a result of the public input we solicited in October. The Coast Guard was very supportive of putting up a day board. They are thinking of a 24" red triangle day board with two sides. This is one of the bigger concerns of the community. Staff is trying to get this installed in June. If it doesn't happen then we will try again in October to not interfere with the recreational boaters. Mr. Uchytel said he is also meeting with Doug Larson and Rob Murphy on Monday.

Mr. Wostmann asked if there is that much objection from the surrounding property owners is it feasible to go with a floating marker as opposed to a day board like the green can.

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Mr. Uchytel said this has been talked about within the staff and it makes sense to put a fixed day board up.

Mr. Etheridge asked to have an update on the Archipelago property.

Mr. Uchytel said Mr. Watt is proceeding with no additional guidance for the Marine Passenger Fees. Staff feels good about the Judge Holland decision and does not see it affecting Docks & Harbors all that much. Staff has been working with the Law Department to craft the language with the whereas clauses. Everyone seems optimistic that the Archipelago project is one that CLIA supports and no one has said that project needs to go away. The strange thing about the Judge's decision is some of the things the cruise ships and CLIA wanted to have are now taken away. Nobody didn't want crossing guards and now they are no longer funded. It is a lose, lose for both parties. For the most part staff is continuing and the plan is the PSA, and the funding strategy will be introduced to the Assembly on January 7th and public hearing on January 28th. Something else staff moved forward today was soliciting for the steel pilings, rebar, and some other steel necessary to build the retaining wall. The reason for this is so the work can be completed during the fish window from April 15 to June 15. We are advertising for bids currently, bids will be opened on January 15th, and we will have a special Board meeting at the next month's OPS meeting. This is \$800,000 procurement and will go in the same packet on January 28th to the Assembly. Assuming the Assembly is still behind the project, they will approve the PSA, the funding strategy, and this bid award for materials. If this is not approved, we will pull the procurement and we won't award to the contractor. Staff is optimistic this will move forward. Mr. Uchytel said the Judge Holland decision may even work out better for Docks & Harbors because everything we do benefits the vessel. Another thing is the Small Cruise Ship Infrastructure master plan RFP. If the City can't use the Marine Passenger Fees for other activities, there may be the opportunity for funding for the small cruise ships infrastructure. He said he delayed the RFP's a week at the request of a proposer.

Mr. Ridgway asked how the cruise ships communicated with Docks & Harbors that we needed to provide more bus staging and then we respond by entering into a several million dollar project?

Mr. Uchytel said since the lawsuit, the City Manager and the Law Department has had that communication with CLIA. He said when he talks about the industry, what is the industry? Is it John Binkley or the Presidents of the different cruise lines or is the industry Kirby Day who has the busses and the excursions throughout the world under his umbrella. There is also Drew Green with CLAA that is probably closest to CLIA and he has not mentioned any apprehension about what we intend to do with the Archipelago lot.

Mr. Etheridge said he has talked to representatives from CLIA and asked the question if they will try to stop the project if Docks & Harbors moves forward with this project. The representatives would not give a direct answer but he didn't think so because it would be very beneficial for all. This project was requested by the shore side cruise ship industry and not the water side. This project is for their benefit.

Mr. Uchytel said Beth McEwin the City Clerk is asking for a Joint Docks & Harbors Board and Assembly meeting for January 31st which is our Board Meeting night. She wanted to know if it would be okay to have it for an hour before our meeting and then go into our Regular meeting if need be.

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Mr. Etheridge said to set it up.

Mr. Uchytel said six weeks ago, Mr. Blanchard tendered his resignation and he asked him to reconsider but has not heard back so Mr. Etheridge said to let the CBJ Clerks know they should be looking for a replacement for Mr. Blanchard.

XIV. Assembly Liaison Report –

Ms. Becker reported; the money that was scheduled to go to the Archipelago project will go to the Assembly on January 28th for public hearing. The Assembly approved the lease with Harri's Commercial Marine. Alan and Ellen Rogers land request transfer was approved so they would have enough land to subdivide. The next Lands Committee meeting is January 14th, the Finance meeting is January 9th, the COW is January 14th, the Planning Commission is January 8th, and the Public Works is January 14th.

XV. Board Administrative Matters

- a. Ops/Planning Committee Meeting – Wednesday January 23rd, 2019 at 5:00pm
- b. Board Meeting – Thursday, January 31st, 2019 at 5:00pm

Mr. Etheridge said the Legislature starts on January 15th, and on January 16th is the reception that is held at Centennial Hall which is open to the public.

XVI. Adjournment – The regular Board Meeting adjourned at 7:01pm.