

CBJ DOCKS & HARBORS BOARD
FINANCE MEETING MINUTES
For Tuesday, October 28th, 2014

I. Call to Order The Finance Committee meeting was called to order at 5:00 p.m. in **Room 224, City Hall.**

II. Roll Call The following members were present: Greg Busch, Dave Logan, Mike Peterson, Scott Spickler, and Tom Donek.
Also present were Carl Uchytel – Port Director, Gary Gillette – Port Engineer, Robert Janes – Board Member, Amy Mead- City Attorney, Howard Lockwood- Juneau Port Development LLC.

III. Approval of Agenda.

MOTION: BY DR. LOGAN TO APPROVE THE AGENDA AS PRESENTED AND ASKED UNANIMOUS CONSENT.

Motion passed with no objection.

IV. Public Participation on Non-Agenda Items – None

V. Approval of September 23rd, 2014 Finance Committee Meeting Minutes.

MOTION: BY DR. LOGAN TO APPROVE THE SEPTEMBER 23, 2014 FINANCE MEETING MINUTES AS PRESENTED AND ASKED UNANIMOUS CONSENT.

Motion passed with no objection.

VI. Consent Agenda - None

A. Public Requests for Consent Agenda Changes - None

B. Committee Member Requests for Consent Agenda Changes - None

C. Items for Action - None

VII. Old Business - None

VIII. New Business

1. Salmon Creek Development New Lease ADL 102934 (Tim Smith et al)

Presentation by the Port Director-Carl Uchytel

Mr. Uchytel advised the Salmon Creek Development Lease is expired. Mr. Tim Smith has applied for a new lease. We have obtained an appraisal from Horan & Co. Based on the appraisal we are recommending a lease rent of \$12,500.00 per year. The previous rent was approximately \$550.00 less. Mr. Tim Smith from the Salmon Creek Development agrees with the increase. Once the full board agrees to terms of the lease we will forward to CBJ Law for the new lease language. We will need to get approval from lands committee.

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Committee Questions

Dr. Logan asked how long the lease term is.

Mr. Uchytel answered it can be for 35 years. Every 5 years it will be re-evaluated for possible fee increases which may include another appraisal.

Mr. Tom Donek asked what percentage of the appraisal value is the lease rent.

Mr. Uchytel answered it was based on square footage fee.

Mr. Spickler asked how much the appraisal was.

Mr. Uchytel answered about \$3,000.00.

Public Comment - None

Committee Discussion/Action

Dr. Logan asked Mr. Uchytel to also provide for the full board what the evaluation was and how the lease rent compares to the evaluation. Previous appraisal vs. the current appraisal and the lease rents.

MOTION: BY MR. GREG BUSCH TO RECOMMEND APPROVAL OF THE SALMON CREEK DEVELOPMENT LEASE APPRAISAL; TO RECOMMEND AN ANNUAL RENT RATE OF \$12,500 PER YEAR; AND TO SEND TO THE REGULAR BOARD FOR APPROVAL AND ASKED UNANIMOUS CONSENT.

Motion passed with no objection.

2. Statter Harbor Funds Transfer

Presentation by the Port Engineer – Gary Gillette

Mr. Gary Gillette referred to a memo that was present with the agenda. We have enough funds to award the bid at \$11.2 Million which was slightly higher than the estimate. He advised we need an additional amount of \$800,000.00 taken from the Harbors funds balance and appropriate it to the Statter Harbor Project to cover the construction administration inspection along with a small percentage for contingencies.

Committee Questions

Mr. Peterson asked what caused the minimum bid to be higher than our estimated construction costs.

Mr. Gillette answered the biggest discrepancy is the process to put in drains and stable materials as well as flush out water to put in a wall. The engineers estimate was \$460,000 off. There were other items that were off as well. PND engineering designed the plan for this area to be able for the construction to work from land rather than from a barge. The difference is related to having to bring in materials. Once there is a contract we can negotiate this.

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Public Comment - None

Committee Discussion/Action - None

MOTION: BY MR. GREG BUSCH TO RECOMMEND TO THE FULL BOARD FOR APPROVAL TO SEND TO THE ASSEMBLY THE MOTION TO MOVE \$800,000.00 FROM THE HARBORS FUND TO THE STATTER HARBOR IMPROVEMENT CIP ACCOUNT AND ASKED FOR UNANIMOUS CONSENT.

Motion passed with no objection.

3. Cathodic Protection Funds Transfer

Presentation by the Port Engineer – Gary Gillette

Mr. Gary Gillette requested to move \$500,000.00 from the Dock Funds to the Cruise Ship Enhancement CIP fund. This would provide cathodic protection and corrosion protection to some of the elements at the steam ship wharf. There is a steel wall that needs to be recoated and steel piles that will need new cathodic protection systems and coating.

Committee Questions

Dr. Logan asked if there are any other financial commitments that will need funding.

Mr. Gillette answered not that he is aware of.

Mr. Busch asked if this could be tied into the similar services we may need for Statter harbor protection services.

Mr. Gillette answered not really as it is different and we would need to go out for competitive bids.

Public Comment

Mr. Dennis Watson – Juneau, AK

Mr. Watson asked if in the budget presented for FY16 the amount allocated for Cathodic Protection is something different or additional.

Mr. Gillette answered no but the estimate came out higher and we like to have contingencies amount in our funds for unexpected costs.

Committee Discussion/Action - None

MOTION: BY MR. GREG BUSCH TO RECOMMEND TO THE FULL BOARD FOR APPROVAL TO SEND TO THE ASSEMBLY THE MOTION TO MOVE \$500,000.00 FROM THE DOCKS FUND TO THE CRUISE SHIP ENHANCEMENT CIP ACCOUNT AND ASKED FOR UNANIMOUS CONSENT.

Motion passed with no objection

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4. Statter Harbor Bid Award

Presentation by the Port Engineer – Gary Gillette

Mr. Gillette advised that Miller Construction was the apparent low bidder for the Statter Harbor project. We would need to take this to Assembly for approval.

Committee Questions

Mr. Peterson asked Amy Mead, CBJ Attorney, if there would be a conflict of interest since he does work for Miller Construction from time to time.

Mrs. Amy Mead answered only if you are currently employed by them now.

Mr. Peterson answered he is not.

Public Comment – None

Committee Discussion/Action - None

MOTION: BY DR. DAVID LOGAN TO RECOMMEND TO THE FULL BOARD TO APPROVE AND FORWARD TO THE ASSEMBLY TO ACCEPT THE MILLER CONSTRUCTION BID FOR \$11,212,800.00 FOR STATTER HARBOR IMPROVMENTS.

IX. Items for Information

1. Juneau Port Development Lease Extension/Mineral Rights

Presentation by the Port Director/CBJ Law

Mr. Uchytel stated last time we reviewed the lease extension for Juneau Port Development that is set to expire October 30, 2014. Mr. Lockwood would like another extension. Ms. Amy Mead, CBJ Attorney is also here to assist with questions. There has been on-going dialog for several years regarding mineral rights, mining, and required development permits for this lease.

Mr. Uchytel read from the attached lease to clarify what is required in order to extend the lease. He referenced page 6 of 22 Appendix A #5(a-e) and read the “Authorized Use of Leased Premises”. This section describes what is allowed and required of the land and the time frame. If these are not met the lease would be terminated.

The next section is page 10 of 22 Appendix A #6(h) “Pre-Construction Audits” required. The next section that is germane to this discussion is page 11 of 22 Appendix A #7(a-c) “Special Conditions Regarding the Leased Premises” this section references the mining claims and rights.

The next section is page 16 of 22 Appendix B #3 (20) “Use of Material” refers to mining the certain portions of the land.

The next section is page 18 of 22 Appendix C (6) “Valid Existing Rights” regarding existing mining claims.

(see attachment for full descriptions)

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Mr. Uchytel added that these sections show that the mining claims and construction with permitting are two different conditions under the language of the lease. These should be considered separate when deciding on the lease extension.

Mr. Busch asked if there is an update on the DNR outstanding permit and if it has been secured by Mr. Lockwood. I understand Mr. Lockwood plans to mine and use those materials to help build the uplands for construction.

Ms. Mead answered after she spoke to DNR it is just a location preference for mining. It would need to be converted to a mining lease from just a location preference. As far as she knows with DNR there is no current permit for dredging or construction.

Dr. Logan asked Ms. Mead if Mr. Lockwood has met the terms of the lease regarding the permits.

Ms. Mead answered she has not seen the documentation yet.

Dr. Logan asked if the permits that are required are not in place has he met the terms of the lease.

Ms. Mead answered no he has not met the terms if the permits are not in place but to qualify he may have those in his possession.

Mr. Uchytel added to his knowledge there are no permits in place to start construction on Thursday October 30, 2014.

Mr. Howard Lockwood – Manager of Juneau Port Development LLC and owner of AMEx Mining.

Mr. Lockwood stated he had Mr. Uchytel include in the agenda packet information regarding the plans. He added the mining is required before the construction can begin and he has been working on this for years. The mining will help create usable uplands and finance the harbor plan and the mining would coincide with marketing to the user groups. Mr. Lockwood showed a power point presentation to show the plan for mining and concept plan for the harbor.

Dr. Logan asked Mr. Lockwood to go over the time table construction plan. The first step is for beach cleaning and do you have the permits and contractor set up.

Mr. Lockwood said it is being handled and as soon as weather lets us start we will.

Mr. Janes asked when the sewer treatment plant went in did Dr. Aikman provide them with permission to build the plant and to vacate that part of the mineral.

Mr. Lockwood answered that they did process that pile of material.

Mr. Janes said that would be a precedent if that was documented.

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Dr. Logan asked Mr. Gillette what permits would be required for the beach cleaning.

Mr. Gillette said depending on the elevation location and if it is not disturbing any land no permits required as far as he is aware.

Ms. Mead stated there were 5 Hayes cases litigated in the Supreme Court in the 60s and the relevant points are that the tailings are now considered real property and passed to the state. The city granted development to AJ for those properties. Mr. Hayes lost the case because he had lease hold interest and not mining rights therefore they were not considered his real property that was taken from him. His lease hold claim would have had to been converted to a mining claim then he would have had rights to the property.

Mr. Uchytel asked does any of this pertain to the lease.

Ms. Mead answered no. Although, if the lease is terminated Mr. Lockwood still has the right to perfect his mining claim.

Mr. Donek stated the mining information for Thursday's meeting is not relevant to the lease extension. All that is required by Mr. Lockwood is to present permits for construction.

Mr. Busch stated he believes that Mr. Lockwood mining is directly related to starting construction to fill the uplands if he perfects the mining claims.

Dr. Logan asked if he has the rights to deposit his mining soils on city property.

Ms. Mead answered he can use our surface to get to his minerals but there would have to be an agreement in place for him to deposit his soils on CBJ land.

IX. Staff & Member Reports.

Mr. Peterson reported that he and Mr. Uchytel met with Goldbelt again today and will also meet tomorrow and there will be more news for Thursday Full Board meeting.

Mr. Uchytel said there are two things for future discussion for the board. The Douglas Harbor project should be able to get the Core of Engineers to do the dredging. Also at Statter Harbor we will be losing the Horton lot for summer parking for next year and we are searching for alternate options that may cost the Harbor Department.

XI. Committee Administrative Matters.

1. Next Finance Committee Meeting November, 18th, 2014

XII. Adjournment.

The Finance Meeting adjourned at 6:33pm.