CBJ Docks and Harbors Committee
<u>Finance Meeting Minutes</u>
For Tuesday, June 25th, 2013

I. Call to Order

Mr. Kueffner called the Finance Committee Meeting to order at 5:05 p.m. in CBJ Room 224.

II. Roll Call

The following members were present: John Bush, Tom Donek, Scott Spickler, and Eric Kueffner.
Also in attendance were the following: Carl Uchytil – Port Director, Amy Mead – City Attorney, Mike Peterson – future board member.

III. Approval of Agenda

MOTION BY MR. SPICKLER TO APPROVE AGENDA AND ASKED UNANIMOUS CONSENT.
Motion passed with no objection.

IV. Public Participation on Non-Agenda Items – None

V. Approval of the Finance Committee Meeting Minutes

Hearing no objection, the May 28th, 2013 Finance Committee Meeting Minutes were approved as presented.

VI. Items for Action

1. Tram Appraisal Methodology
   Presentation by Port Director, Carl Uchytil.

Mr. Uchytil gave a brief overview of the letter that was attached to the June 25, 2013 finance agenda. The letter was sent to Goldbelt on May 10, 2013 regarding the hiring of a third independent appraiser to review the two different appraisal of the land leased for the Mount Robert's Tram. The third appraiser is to select one of the two original appraisals to help determine the lease price. Mr. Uchytil stated the letter offered five different appraisers that the city would agree to for a third appraiser's opinion. Mr. Uchytil also gave a brief description of the June 2, 2013 letter that Goldbelt responded with regarding a third appraiser. The Goldbelt letter rejected going to an independent third appraiser at this time until Docks & Harbors goes in to good faith negotiations for an actual amount for the increased rent and determining royalties. Goldbelt believes that there has not been good faith negotiations for actual amounts of the increase and also believes the royalty rent had been permanently dropped in 2006. Mr. Uchytil believes Docks & Harbors are at a complete impass with Goldbelt.

Committee Questions

Mr. Kueffner stated that the finance board advised Mr. Uchytil to send the letter regarding going forward with a third appraiser without going to the full board for recommendations. Mr. Kueffner referred to the Goldbelt letter and stated he believed that the Harbor Board has been engaged in good faith negotiations all along. Mr. Kueffner stated Mr. Uchytil thought it would be good have the city attorney, Amy Mead, come to the meeting regarding this issue.

Mrs. Mead stated she believes that there is not a meeting of the minds on the methodology used for the two different appraisals. The lease agreement requires under section 5.D.3 that the appraisers use a certain approach in valuing the land at its highest and best use. There is a different legal opinion on the meaning of the highest and best use between the CBJ appraisal and the Goldbelt appraisal. Mrs. Mead believes that the third appraiser would have to give a legal determination of which appraisal is valid and it would not be appropriate. Mrs. Mead recommends having Goldbelt get another appraiser that uses the city methodology to determine the rent. The city can set the base rent according to the lease language and Goldbelt could appeal to the city assembly if they desire. The assembly approved the lease language in the first place. Mrs. Mead also advised the board could meet with Goldbelt and see if both parties could meet and come to an agreement of the methodology used.

Mr. Kueffner stated he feels the Board has already tried all options to come to an agreement and Goldbelt responds with disagreement. Mr. Kueffner asked since Goldbelt has a written legal opinion, does that make a difference?

Mrs. Mead answered it could be persuasive.

Mr. Donek asked if we could request to have a written legal opinion for the Harbor's position.

Mrs. Mead answered she can provide a written legal opinion.

Mr. Uchytil asked what would the written legal opinion include?

Mr. Bush stated we do have all the legal opinion in our Harbor Board meeting minutes.

Mr. Donek said we will need to have the full board refreshed of the history.

Mr. Kueffner recommended we decide what to present to the full board regarding the lease rent.

Mr. Bush stated we need to address the no royalty issue since it is not in writing.

Mr. Spickler requested a compilation of the meeting minutes from the staff.

Mr. Uchytil stated the lease is supposed to be looked at every three years, which has not been the case, to determine the rent and it has been at an impass since 2011.

Public Comment

Mike Peterson – future board member – Douglas, AK

Mr. Peterson asked if it is in writing about the percentage of rent calculation being dropped from 10% to 8% & royalty being permanently dropped in 2006. And does the Port Director have the authority to negotiate the royalty rent out of the lease?

Mr. Kueffner answered the changes are not in writing and the city assembly wrote the lease and has the power to amend the lease. Docks & Harbors is supposed to administer the rent adjustment every three years and just collect the rent.

Dennis Watson – Juneau, AK

Mr. Watson advised he did all the research he could find in writing with the planning commission and the board. There is no document signed that proves the changes Goldbelt believes were permanent from 2006. The lease states there is a rent increase of every three years and Goldbelt should have come to the city regarding their rent increase and followed up with their obligations as a good tenant.

Committee Discussion/Action

Mr. Donek stated this is a city assembly and a planning commission lease and to stop any further delay we should go forward with our appraisal and go back to original lease.

Mr. Uchytil ask if we are moving forward with recommending the 10% of the rent calculation and the royalty rent based on what the original lease stated?

Mr. Donek answered yes.

MOTION BY MR. DONEK TO SEND TO THE FULL BOARD WITH RECCOMMENDATION TO USE THE ORIGINAL LEASE AND USE THE HORAN APPRAISAL TO DETERMINE BOTH THE GOLDBELT LEASE RENT AND THE ROYALTIES.

Mr. Bush seconded the motion. All were in favor.

2. Norway Point Beach Access Use Agreement
Presented by Port Director, Carl Uchytil
Mr. Uchytil advised he was approached by Jeremy Hansen from the Yacht club for permission to use the beach by Norway Point for the summer for catamarans. It would be an access user agreement allowing them to store the catamarans on the beach when not in use from April through October.
Mr. Uchytil used one half of the yearly skiff rate for a reasonable charge.

Committee Questions

Mr. Kueffner stated this is a great idea for working with the public.

Public Comment

Mr. Peterson – Douglas, AK

Mr. Peterson asked regarding the opening paragraph of the user agreement it did not specify only Norway Point? Are there other areas? Also, is there assumption that Docks & Harbors is not liable?

Mr. Uchytil answered it is only for Norway Point and this is just a draft and waiting for legal to approve.

Committee Discussion/Action

Mr. Kueffner stated it can add an indemnity clause if Mrs. Mead advises so.

Mr. Bush asked what does Docks & Harbors have for liability for moorage and launch agreements?

Mr. Donek answered there is none for the launch permits or the storage area at Norway Point. The only place we have insurance requirements is for floating vessels.

MR. BUSH MOTIONED TO TAKE THE REQUEST TO THE FULL BOARD FOR APPROVAL OF THE NORWAY POINT BEACH ACCESS USER AGREEMENT WITH THE REDUCED SKIFF RATE AND ASKED FOR UNANIMOUS CONSENT.

Motion passed with no objection.

VII. Items for Information/Discussion

1. Taku Oil Letter

Mr. Uchytil advised this is just an FYI to the board regarding a letter to Taku Oil clarifying what the .05 cent per gallon fuel surcharge applies to. It is a fee for delivery and sale of fuel at the Auke Bay Loading Facility. Per regulations it does not apply to fuel being pumped in to a holding tank then delivered to other communities.

Mr. Kueffner agreed with the letter and stated maybe Docks & Harbors should be charging for the fueling of the holding tanks and bladders since the filling is at the ABLF.

Mr. Uchytil stated there is another section where Docks & harbors does receive compensation for freight fees instead.

Mr. Spickler said it should be left alone since the additional fee would be passed on to the remote communities.

VIII. Staff & Member Reports –

Mr. Spickler stated he contacted the CFO from Bartlett to assist and train Docks & Harbors staff with a software program for running budget reports. It would be a great value to monitor Docks & Harbors financial progress.

Mr. Uchytil asked for the name and contact people from BRH.

Mr. Kueffner stated this was his last meeting as the finance committee chair and it has been a great pleasure.

IX. Committee Administrative Matters

1. The Next Finance Committee Meeting is July 23th, 2013. (It was canceled, so the next meeting is August 27th, 2013)

X. Adjournment

1. The Finance Committee adjourned at 5:57 pm.