

CBJ Docks and Harbors Board
REGULAR BOARD MEETING MINUTES
For Thursday, May 30th, 2013

I. Call to Order.

Mr. Busch called the Regular Board Meeting to order at 5:30 p.m. in the Assembly Chambers

II. Roll Call.

The following members were present: John Bush, Tom Donek, Eric Kueffner, David Logan, Budd Simpson, Scott Spickler, Michael Williams and Greg Busch.

Absent: Kevin Jardell

Also present were the following: Carl Uchtyl – Port Director, Gary Gillette – Port Engineer, Loren Jones- Assembly Liaison, Howard Lockwood – Manager of Juneau Port Development LLC, Randy Vigil- Army Corp of Engineers, and Michael Salyer – Alaska District, Army Corps of Engineers.

III. Approval of Agenda.

Mr. Uchtyl said there is a separate revised agenda separate from the packet.

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

Motion was approved with no objection.

IV. Approval of Previous Meeting Minutes.

Hearing no objection, the April 25th Regular Board Meeting Minutes and the May 7th, Special Board Minutes were approved as presented.

V. Public Participation on Non-Agenda Items - None

VI. Items for Action

1. Approval of Taku Dock Modifications Bid Results

Mr. Gillette said bids were opened yesterday for this part of the Cruise Ship Berth enhancement project, and Trucano Construction had the low bid of \$940,517.03. If the Board recommends this, it will move forward to the Assembly for final approval to accept this bid. This is a little more than the Engineers estimate, but Docks & Harbors has enough in the budget for this project and would be able to award this.

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Board Questions-

Mr. Williams asked why there was an increase from the Engineers estimate?

Mr. Gillette said they could only get a 10 day quote for the HDPE sleeves, which are the plastic sleeves that go on the pilings, because the price is escalating so fast.

Mr. Kueffner asked where Taku Dock was?

Mr. Gillette said the Taku Dock is where Taku Fisheries is and modifications are needed to accommodate for the Cruise Ship Berth.

Public Comment – None

Board Discussion/Action

MOTION By MR. KUEFFNER: TO APPROVE THE BID RESULTS AND RECOMMEND TO SEND TO THE ASSEMBLY JUNE 3RD AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

3. 05 CBJAC 20 and 05 CBJAC 40 Regulation Changes.

Mr. Uchytel said at the April 25th meeting there was a public hearing for input on the recommended changes to harmonize the regulations to not include DeHarts. At the hearing, the Board recommended to send this back to the Finance Committee for further review because public input was that some of our rates are inconsistent. Some are tied to the CPI adjustment and some are not. The public input was that Docks & Harbors should take a realistic view of all the rates and make the rate changes consistent. At the Finance meeting on Tuesday the Committee liked the idea to link all the rates to the CPI, but the recommendation was to just clean up the regulation with the removal of “DeHart’s” and move forward. This change was advertised to the public indicating Docks & Harbors would be taking public comment through May 8th and did not receive any comments. If the Board approves this, it will go to CBJ Law to write up the final draft and then go to the Assembly for final action.

Board Questions-

Mr. Busch said at the Operations Committee meeting, the Committee was looking at other changes to Section 40. Would it be better to wait for the final on the commercial changes or move forward with this and then go back through the process again?

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Mr. Uchytel said he recommended to approve the changes tonight, and then move on with other changes later rather than trying to bundle all the changes together.

Mr. Kueffner commented that Mr. Uchytel said the Finance Committee thought it was a good idea to apply CPI to all the rates, and it was recommended, but wanted to clarify that it is still in the discussion stage.

Mr. Williams asked how much time was spent on changes to regulations?

Mr. Uchytel said it is time consuming.

Public Comments – None

Board Discussion/Action

MOTION By MR.WILLIAMS: TO APPROVE THE CHANGES TO 05 CBJAC 20 AND 05 CBJAC 40 BY THE PORT DIRECTOR AND MOVE TO THE ASSEMBLY FOR FINAL APPROVAL AND ASK UNANIMOUS CONSENT.

Motion Passed with no objection.

4. Planning Commission Decision of Statter Harbor Conditional Use Permit.

Mr. Uchytel said with the Planning Commission's decision to reconsider, there is not anything more on this item at this time. There will be a meeting tomorrow with the opposition on this project with ideas, and to hear their concerns to work on a common ground.

Board Question - None

Public Comment – None

Board Discussion/Action

No Action

5. Contract Services – Modification to Admin & Inspection Services at Statter harbor.

Mr. Gillette said this is an amendment to PND's original existing contract for \$65,950 which is a time and materials estimate to complete their services on the Statter Harbor project. The project has had some changes and additional work. If this is approved tonight, it does not need to go to the Assembly.

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Board Questions

Mr. Spickler asked if staff is provided with a weekly time and materials calculation?

Mr. Gillette said it is monthly.

Mr. Kueffner said he thought this project was finished.

Mr. Gillette said Monday or Tuesday will be the final walk through and then they will demobilize within the next few days, and then it will take a couple of weeks to finalize.

Mr. Logan said he thought the project was completed on May 15th.

Mr. Gillette said additional tasks were added so their contract was extended to allow time to complete the extra work. After the work is completed they will still have to clean up.

Mr. Logan clarified that this is just agreeing to pay an amount for the extra work.

Mr. Gillette said yes, because the contractor agreed to do the extra work Docks & Harbors needed PND to inspect it.

Mr. Busch asked if the delay was caused by the contractor?

Mr. Gillette said staff felt they were justified for the extension because extra work was added to their contract.

Public Comment – None

Board Discussion/Action

Mr. Williams said there was extra work and this is a great product. They did the work plus extra work, and the staff and patrons will be happy with this.

MOTION By MR. WILLIAMS: TO APPROVE THE \$65,950 AND ASK UNANIMOUS CONSENT

Motion Passed without objection

6. Alaska Glacier Seafood's – Lease Amendment

Mr. Uchytel said Alaska Glacier Seafood lease amendment to provide access between the ABLF and their facility has expired. He said he sent a letter that the lease amendment expired and he was not interested in another amendment because of non-compliance. AGS wants to renew this access.

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Mr. Uchytel said he put this item on the Finance Committee agenda. The Finance Committee recommended to work with Alaska Glacier Seafood to provide access for this fishing season and for them to be more compliant. To avoid future conflicts, steps need to be taken to protect Docks & Harbors marine users at the Auke Bay Loading Facility. Mr. Uchytel said he is asking the Board's approval to move forward with Amendment 2 for Alaska Glacier Seafood.

Board Questions

Mr. Kueffner asked why the jersey barrier requirement was eliminated?

Mr. Uchytel said that is the one thing that was put in place after the letter was sent to Alaska Glacier Seafood pointing out the non-compliance issues.

Mr. Kueffner recommended to have something in Amendment 2 to maintain the jersey barrier.

Mr. Spickler asked if when the non-compliance issues were noticed, was Alaska Glacier Seafood contacted?

Mr. Uchytel said they were told periodically that there were issues.

Mr. Spickler said in the future he recommends having all non-compliance issues in writing.

Mr. Busch said there were documented issues in e-mails and the video showing non-compliance.

Mr. Uchytel said Auke Bay Loading facility is not a secure Coast Guard facility.

Mr. Logan asked if this was a short term lease and if the video camera would be watched periodically to make sure AGS is compliant?

Mr. Uchytel said the Finance Committee recommended to work with Alaska Glacier Seafood to provide access for this season and then do more research for intent of this lease.

Public Comment – None

Board Discussion/Action

Mr. Kueffner said he is okay with this because it is temporary. They acknowledged they were not being compliant. This will give them a chance to be compliant.

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Mr. Williams said he agrees with Mr. Kueffner and because this is a temporary lease he is willing to recommend this.

MOTION By MR. LOGAN: TO APPROVE MR. UCHYTIL'S PROPOSED LEASE AMENDMENT AND GIVE HIM THE LATITUDE TO WORK WITH ALASKA GLACIER SEAFOODS IN THE PARAMETERS PRESENTED AND ASK UNANIMOUS CONSENT.

Mr. Kueffner added friendly amendment to add "Alaska Glacier Seafood will maintain the jersey barriers".

Mr. Logan accepted Mr. Kueffner's friendly amendment.

Motion passed without objection.

VII. Items for Information/Discussion.

1. Mega Yacht Harbor and Snow Storage Facility Update

Mr. Lockwood, Manager of Juneau Port Development LLC. He said in the packet are letters and aerial photos taken a few weeks ago. He asked if there was any questions at this time over the information in the packet? The impact of the snow storage plan facility that is ongoing now on ATS 556A has impacted the plan design for the Mega Yacht Harbor facility. The question has been raised on how this snow storage project was started without any public participation.

One question he would like answered;

- Was the snow storage project properly designed, permitted and put to bid according to CBJ ordinances?

Mr. Lockwood said after he gets an answer to that question he will then know how much land is left to go forward with the Mega Yacht plan and marketing. This project is completely funded by private capital. The snow dump storage area has wiped out about 1/3 of the potential income for that property. That is a very critical item for the total marketing of the project on the international market.

The next question he would like answered;

- What CBJ Commissions and Boards will be reviewing this project in its next phase?

Mr. Lockwood said it is very important for Juneau Port Development LLC to establish a very stable administration situation and a very clear position as to what's designed, accepted, and what will be presented to the market.

Mr. Lockwood went on to talk about the letters in the packet.

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Mr. Busch asked with the additional delays if there would be a problem with getting needed permitting by the end of the extension?

Mr. Lockwood talked about the complicated process to gain clear title to ATS 556A, but said he doesn't see any problem with getting the needed permitting by the time his extension expires.

2. Environmental Permitting Update

Mr. Uchtyl introduced two employees of the Army Corp of Engineers, Randy Vigil and Michael Salyer. Mr. Vigil is local in Juneau now and Mr. Salyer works for the Alaska district in Anchorage. Mr. Salyer flew to Juneau just for this meeting. Mr. Uchtyl said he also invited the EPA field manager, but he was unavailable to come tonight. He requested that Mr. Vigil and Mr. Salyer brief the Board on the dredging project at Douglas Harbor.

Mr. Salyer said Mr. Vigil and himself have different levels of participation on this project. Mr. Salyer comes at it through engineering services and through environmental resources, and he is not in the regulatory agency but the technical side. Mr. Vigil is the regulatory side of the project.

Mr. Vigil said he works in the regulatory division, and this is the permit decision side. At this time the project is in a State Resolution process with two federal agencies, the National Marine Fisheries Service and the Environmental Protection Agency. What that means is those two agencies during public comment period in 2009 sent letters that triggered the dispute resolution which allows them to express the environmental concerns they have with regard to aquatic resource and preserve their right to elevate decisions that the regulatory agency might make in the future regarding the permit. During the process, the agencies have reached a point of negotiating what it would take for the resolution to be dropped and sign off on a plan to allow the project to move forward. At this time the two agencies have agreed to a frame work that would allow the Corps to issue a permit. The EPA is working on a letter to outline the steps and details of a plan they envision the agency would sign off on with the dispute resolution. The finish to this is just details of the plan for the dredging operation on how the dredge material will be disposed that would allow it to be capped in a manner that would isolate the contaminated soils.

Mr. Salyer said what Mr. Vigil is talking about when a dispute resolution is discussed is that an analysis was done that showed that there is some level of mercury contamination in Douglas Harbor. There is a disagreement on the level of contamination.

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Mr. Uchytel wanted to point out that the Alaska District has funded the additional studies being conducted for the last year.

Mr. Kueffner said he would like to know what exactly the dispute is?

Mr. Salyer said a Tier IV analysis was conducted and they engaged their Engineering Research and Development Center to do a Tier IV analysis on contaminants and provide a result. That was a huge effort and a lot of funding went into this analysis. The requirement with the engineering regulation is laws that set the framework about analysis which is specific to a particular region and has to be agreed to by all the agencies. When the analysis was conducted everyone at the time felt it was well documented and everyone agreed to that framework, but during this time, people retired and moved on and then a scientific dispute arose about what went into the analysis. There were different sampling methods conducted whenever they did a sample. The samples came up with some legacy contamination of methyl mercury. All the agencies agreed the Tier IV analysis produced a certain level of methyl mercury that did occur, however, the risk level from the Civil Works Engineering Research and Development Center felt that the risk was acceptable with minimal amount of risk. This has been a very delicate topic. Mr. Vigil has worked very hard to try to work this out with the different agencies, but they had a different view on the science that went into the analysis. So rather than to try to resolve the small science issues, they are working on the risk with the analysis. The outcome was that there was methyl mercury. Rather than go back and spend a lot more money, it would be more cost effective to just work with CBJ and try to come up with a cap. The result of this would be litigation at some point with the agencies. Going with the cap was the cheaper route to take because Mr. Salyer's point of view is that it wouldn't take a very large cap. The dispute is not on if there is contamination but the level of it, and the risk associated with it.

Mr. Busch said this has been a long standing issue. Is there a chance that EPA will come up with a cost effective method to finish this project?

Mr. Salyer said with the Civil Works program they feel like they are very close to getting a resolution on the Corps regulatory permit. There is not much science left to do to answer the questions that are in dispute with EPA. This is maybe a month away to come up with an answer to move forward. Civil Works is waiting on one more letter and then they will work with CBJ to resolve those issues. Mr. Salyer said he thinks this is really close to being resolved.

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Mr. Busch asked if EPA was working on a letter now?

Mr. Vigil said the letter would be ready possibly tomorrow for final edits and then send to his supervisor for review and signature.

Mr. Salyer said on his side of this process he has been working with EPA also but with a different perspective.

Mr. Kueffner asked if the letter was going to consist of a list of things needed to be done?

Mr. Salyer said bottom line is EPA still has some questions that need to be answered. There are primary items left to deal with.

- Define the size of the disposal area in the open water.
- Agree to arrange a possible quantity of disposal area to achieve a 6" cap.

Mr. Salyer said these issues are just about resolved to be able to move forward with the permit.

Mr. Logan asked if after the EPA agrees to everything, will this go before the agencies again to see if they agree or not?

Mr. Vigil said no.

Mr. Logan asked if EPA is actually the last barrier to overcome?

Mr. Vigil said what comes out of the EPA could be changes to the disposal plan and area. Then there would be a revised plan to allow his agency to make a decision.

Mr. Donek asked if after the EPA letter is received and it is turned into a plan, does it go back to EPA to make sure it meets their approval?

Mr. Vigil said the final plan would be shared with them and what recommendations were incorporated or not.

Mr. Salyer said regardless of what EPA comes back with, Mr. Vigil's division has the final say and can still issue the permit.

Mr. Vigil said the final plan would be offered to the disputing agencies and if the dispute is dropped the Corps could move forward with the permit. The Corps tries to resolve all disputes, but if an impasse is reached, the process requires to move to another level and it will be out of his hands, but this is not what is anticipated.

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3. Environmental Permitting Update- No report

VIII. Committee and Board Member Reports

1. Operations Committee Meeting – May 21st, 2013

Mr. Busch reported the Committee discussed the following for action;

1. Review of Statter Harbor Management regulation - The Committee was looking at incorporating section 25 into section 40. After the corrections from tonight it will go back to the Committee for further review and changes.
2. Harris Harbor lift station is not working - The Committee approved repairs for \$13,000.

Mr. Busch said the information item was to not use stalls for passenger for hire at Statter. If there is a need for this it will be reevaluated in the future.

Mr. Kueffner asked who does the lift pump belong to?

Mr. Busch said it is Docks and Harbors responsibility to maintain it.

2. CIP/Planning Committee Meeting – May 23rd, 2013

Mr. Williams said PND gave a presentation on the North Douglas master plan. He said Docks & Harbors has a lot going on right now with projects needing to be completed before moving onto the North Douglas project. The other item for discussion was the Mike Pusich Douglas Harbor sign that will be installed sometime this summer.

3. Finance Committee Meeting – May 28th, 2013

Mr. Kueffner said the AGS lease was discussed and the regulation revisions that were both discussed here tonight.

4. Member Reports – None

IX. PRAC Representative Report- Ms. Hood was absent.

X. Port Engineer's Report – No report

XI. Harbormaster's Report – Mr. Tajon was absent.

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XII. Port Director's Report

Mr. Uchytel said Doug Unruh is the new Operations Maintenance Supervisor at Statter Harbor that replaced Mr. Craig.

Ashley Bruce was hired as an Administrative Assistant I that will be working at the Port/Field office.

Mr. Uchytel said he attended a gathering on the M/V Solstice at the AJ dock where he presented the Captain with a Docks & Harbors cutting board and on the way back he said there was a huge amount of traffic congestion to the point he was receiving complaints. Some of the Docks personnel were directing traffic, and that brought more complaints. There was a productive meeting to try to correct this issue so it doesn't happen again. Current practices will be revised a little to help the flow of traffic. JPD will give some training to the Docks personnel to help with temporary traffic control and will also provide additional traffic officers at the Columbia lot to help when the Solstice is in Juneau.

The MOA permanent easement with ADOT for the round – about is finished and signed. This agreement states that ADOT will reimburse Docks & Harbors up to \$100,000 for any additional site work and retaining wall to construct our project.

The Franklin dock lease was just reviewed and it was appraised by Horan & Co. The rent will go down \$34,000.

Mr. Uchytel said Mr. Gillette is working on gathering the art panel membership.

Mr. Gillette said the 1% for art panel consists of the following;

Mr. Logan is representing the Board,

Annie Calkins and Jeff Bush are the Arts and Humanities council representatives,

Kirby Day is the Managers representative,

Dan Fruits and Chloe Watson are the Assembly's selection.

Mr. Gillette said he is working on forming a meeting.

Mr. Uchytel said next Wednesday will be the interviews for Docks & Harbors three open seats for the Board.

Mr. Uchytel said he is open for suggestions on how to create a crowd for the Planning Commissions meeting for the reconsideration for the conditional use permit for the Statter Harbor launch ramp.

Mr. Logan suggested to put large signs at the head of the launch ramps.

Mr. Donek said to include Amalga Harbor.

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Mr. Logan suggested to put one at North Douglas ramp also.

XIII. Assembly Liaison Report

Mr. Jones said on Monday the Assembly is going to approve the Operational budget documents. Docks & Harbors Board has 11 applicants and interviews will be June 6th.

XIV. Committee Administrative Matters

- a. Operations Committee Meeting – Next meeting is June 18th, 2013 at the Aurora Harbor at 5:00 p.m.
- b. CIP/Planning Committee Meeting – Next meeting is June 20th, 2013 in CBJ Room 224 at 5:00 p.m.
- c. Finance Committee Meeting – Next meeting is June 25th, 2013 in CBJ Room 224 at 5:00 p.m.
- d. Board Meeting – Next meeting is June 27th, 2013 in the Assembly Chambers at 5:30 p.m.

XV. Adjournment

The regular Board Meeting adjourned at 7:20 p.m.