

CBJ Docks and Harbors Committee
Finance Meeting Minutes
For Tuesday, March 26th, 2013

I. Call to Order

Mr. Kueffner called the Finance Committee Meeting to order at 5:00 p.m. in CBJ Room 224.

II. Roll Call

The following members were present: John Bush, Tom Donek, Michael Williams, Scott Spickler, Kevin Jardell, and Eric Kueffner.

Also in attendance were the following: Carl Uchytel – Port Director, Dwight Tajon – Harbormaster, and Robert Loiselle – Goldbelt President/CEO.

III. Approval of Agenda

MOTION BY MR. DONEK: TO APPROVE THE AGENDA AS PRESENTED AND ASK 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 February 26th, 2013 Finance Committee Meeting Minutes were approved as presented.

VI. Items for Action.

1. Mt. Roberts Tram Lease Rent Adjustment

Mr. Uchytel said Goldbelt has an open invitation to present and discuss the e-mail the Board received from Robert Loiselle, the President/CEO of Goldbelt.

Robert Loiselle, President/CEO Goldbelt Inc, Juneau, AK

Mr. Loiselle said there are a number of issues that are problematic and one of them is the calculations of the base rent. The Docks and Harbors Dept. and Goldbelt are miles apart on the appraisals. He said this is a legal issue since appraisals are based on the instructions the appraisers are given. For the Goldbelt appraisal, the legal opinion from attorney Mr. Spitzfaden was for the appraisal to be based only on the allowed use under the lease for the parcel of land being used for an aerial tramway.

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He said Docks & Harbors and the committee have a different opinion from the city attorney, Ms. Mead. He said Goldbelt understands rent may increase but based on Horan appraisal it would triple.

Mr. Loiselle said another issue is the royalty rent. He said in 2006, it was decided to not include royalty payments and Goldbelt thought that was gone permanently. Also in 2006, the adjustment to the percentage rates used to determine rent was dropped from 10% to 8% of the value and Goldbelt thought this was permanent too.

Mr. Loiselle said Goldbelt thought of ways to get around this issue. He discussed with the City Manager doing a parcel trade with land by the Seadrome building for the land the Tram is on. It would have value to CBJ, but if Docks & Harbors trades parcels they may lose revenue. Goldbelt would like to pursue a trade of sorts if Docks & Harbor can figure out how to still generate revenue. Goldbelt talked about having a different lease process review rather than every three years. Goldbelt would entertain mediation if that would help solve this issue.

Committee Questions –

Mr. Jardell asked if Docks and Harbors and Goldbelt are at the point to advance to a third appraiser to reach a conclusion?

Mr. Loiselle said Goldbelt has done everything they can to provide additional information. They obtained additional appraisals for purposes of negotiation based on a sales comparable approach and had their initial appraisal reviewed. They believe their appraisal is correct and have exhausted their ability to provide any other additional information.

Mr. Jardell said it is hard to find a way forward when both parties are so far apart.

Mr. Kueffner asked if Mr. Loiselle saw the 8% used to figure the rent rate and the royalty rate a legal issue too?

Mr. Loiselle said their attorney, Mr. Spitzpaden, believed those were permanent changes to the lease. He recognizes it was not a formal amendment, but he could expound on the legal theory.

Mr. Kueffner said with respect to the discussion to trading parcels, the Board cannot do land negotiations; we can only administer the leases, but Mr. Kueffner asked what happened with that discussion?

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Mr. Loiselle said CBJ deferred Goldbelt to Docks & Harbors since it is in Docks & Harbor's domain and integral to the budget.

Mr. Bush asked if we can't work out a negotiated settlement, are we going to court?

Mr. Loiselle answered that is premature. He explained when he talked about a legal issue, he meant legal issue based on the theory of which the appraisal is based is a question of legal interpretation of the lease. The Goldbelt attorney and the CBJ attorney interpretations are different. The Goldbelt appraisal is no economic value and Docks & Harbor's appraisal is \$3,300,000.

Mr. Kueffner said there is no improving upon the appraisals to get a better answer. We need to go back to the basic assumptions of each appraisal.

Mr. Loiselle said if it were a matter of fine tuning or finding the flaws on each appraisal and they were on the same basis, we could get to an answer. We are dealing with different theories on each one.

Public Comment –

Dennis Watson, Juneau, AK

Mr. Watson asked why aren't we looking at the total package of the tram? The bottom and the top can't succeed without each other. Without a lease at the bottom the tram can't operate.

Mr. Jardell answered the lease at the top is an AEL&P lease and not Harbors. Within the contract, it specifies it is just an evaluation of an update on the price of the lease.

Committee Discussion/Action

Mr. Kueffner said Docks & Harbors is constrained by the terms of the lease to get an appraisal, listen to the other appraisal, negotiated in good faith, and if we can't agree then we are entitled to go forth with a third appraisal. The third appraiser picks one or the other appraisal. He said this Committee should go to the full board and recommend a third appraisal.

Mr. Jardell said the board needs a basis to come up with an answer that is justifiable. The contract established a method to make a final

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determination and it may be Docks & Harbor appraisal or the other appraisal, then we live with that answer.

Mr. Spickler asked if the process for Docks & Harbors is to recommend our appraisal and move it to the board. Goldbelt would then go to the Assembly to appeal it or do we go with a third appraisal for some movement?

Mr. Kueffner said no Assembly action is required. We are still negotiating with our tenant what the rent rate will be, within the terms of the lease. Board action would be helpful. The third appraisal may be another \$5,000.00.

Mr. Uchytel asked if the legal determination of this parcel should be ignored?

Mr. Kueffner answered the burden is on the third appraisal to pick one of the appraisals. If the appraiser can't do that because he can't figure out the legal basis then we will know.

Mr. Williams asked if Docks & Harbors still go by guidelines from 1997 in regards to the 8% and royalty payments?

Mr. Kueffner answered that is not for the appraiser that is something for the board to determine. Mr. Kueffner said the original agreement was 10% of the assessed value and a minimum of \$30,000.00 royalties.

Mr. Jardell said Amy Mead can give her legal opinion and then we can present that.

Mr. Uchytel said the contract with Goldbelt does not allow for zero lease rent. There is a minimum of \$60,000.00 rent and a minimum of \$30,000.00 royalties. So at a minimum it would be \$90,000.00 and Goldbelt is paying \$104,000.00 currently.

MOTION BY MR. SPICKLER TO MOVE TO RECOMMEND TO THE BOARD FOR ACTION TO GET A THIRD APPRAISER AND ASKED FOR UNANIMOUS CONSENT.

The motion was opposed.

The motion was then seconded.

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Vote on Motion

4 – Yes

2 – No

Motion passed

Mr. Donek asked for point of order: requested to have the e-mail from Robert Loiselle attached to these meeting meetings.

Mr. Uchytel asked how the Committee wanted him to work with Goldbelt to get a third appraiser?

Mr. Kueffner answered to provide a list to Goldbelt with as many appraisers as you can and then have Goldbelt pick.

Mr. Jardell said to wait until Board takes action before getting a list of third appraisers. Goldbelt may present a different path.

2. Harbor Truck Purchase

Mr. Tajon read the attached memo regarding the state of the Harbor vehicles and the truck procurement request. Mr. Tajon requested the finance committee to approve the purchase of the new truck and forward the recommendation to the full board for approval.

Committee Comments –

Mr. Williams asked when a vehicle goes to surplus does it get close to the blue book value?

Mr. Tajon answered that it goes to the highest bidder.

Mr. Jardell asked if the heat selector and speedometer are easy to fix?

Mr. Tajon answered they are a pricey fix because you have to remove the entire dashboard.

Mr. Williams said getting rid of two trucks for the price of one new truck is good for staff to have good equipment, good resources, and good training.

Mr. Donek asked if Harbors dept. gets the proceeds back from the surplus sale?

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Mr. Tajon answered yes it goes back to our vehicle fund.

Mr. Spickler asked who does Harbors maintenance?

Mr. Tajon answered we use mechanics.

Public Comment – None

Committee Discussion/Action

MR. DONEK MOVED TO RECOMMEND THAT THE FULL BOARD APPROVE THE PROCUREMENT OF A NEW TRUCK AND SURPLUS THE TWO OLD TRUCKS PER MR. TAJON'S RECOMMENDATION AND ASKED FOR UNANIMOUS CONSENT.

Motion passed without objection.

3. DOT Round – About Easement

Mr. Uchytel said he and Amy Mead are still in negotiations with ADOT for the permanent easement. He asked for the approval from the Finance committee in the amount of \$86,600 for the easement?

Committee Questions

Mr. Kueffner said he wants assurance of the retaining wall from ADOT.

Mr. Uchytel said ADOT doesn't have their design yet to confirm a retaining wall and we are holding up ADOT's plans. Docks & Harbors plans are too premature to give them to ADOT.

Mr. Kueffner asked if this would buy any goodwill with ADOT if we sell land to them?

Mr. Uchytel answered they did delay our Franklin Street project and did not care. There were a lot of unanswered emails from them. Our project is 12 million and this is not worth haggling over. ADOT is in charge of the private driveway for Dick Deams not us. ADOT asked for our drawings to build a retaining wall for us. Docks & Harbors is just not at that point yet.

Mr. Bush asked if there is a way to give ADOT the okay to go ahead but still guarantee our retaining wall?

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Mr. Uchytel answered there are so many unknowns. ADOT said they will honor the commitment.

Public Comment – None

Committee Discussion/Action

MOTION BY MR. SPICKLER TO ACCEPT MR. UCHYTIL'S RECOMMENDATION TO ACCEPT THE \$86,600 FOR THE EASEMENT AND TAKE IT TO THE FULL BOARD FOR APPROVAL AND ASKED FOR UNANIMOUS CONSENT.

Motion passed without objection.

VII. Items for Information/Discussion – None

VIII. Staff & Member Reports –

Mr. Uchytel showed the Ad for the on-line purchasing for Launch Ramp Permits in the Juneau Empire.

IX. Committee Administrative Matters.

1. Next Finance Committee Meeting April 23rd, 2013 at 5:00 p.m. in CBJ room 224.

X. Adjournment

The Finance Committee adjourned at 6:09pm.

From: Bob Loiselle [<mailto:bob.loiselle@Goldbelt.com>]
Sent: Tuesday, March 26, 2013 9:58 AM
To: Carl Uchytel
Cc: Derek Duncan; Robert Spitzfaden (spitz@gci.net)
Subject: Tram Rent

Carl,

Please pass this on to the full Docks and Harbors Board.

Gentlemen,

For many months now our respective organizations have been grappling with the issue of the rent calculation for the land on which our tram base facility sits. Let me take this opportunity to outline where I think we stand from Goldbelt's perspective.

You obtained an appraisal from Charles Horan which valued the property and the attendant air rights at \$3.3 million. We obtained our own appraisal from Reliant of Anchorage, which was based on the legal opinion of Robert Spitzfaden which concluded that the parcel must be appraised for tramway use only per the restrictions in the lease. Based on that opinion, Reliant determined that the parcel has no economic value for that purpose, since no rational investor would make such an investment given the return.

The Finance Committee obtained its own verbal opinion from city attorney Amy Reid that the Spitzfaden opinion was incorrect and that Horan had used the correct technique.

In order to help clarify matters, we obtained a couple of review appraisals of the Reliant appraisal and at the suggestion of the Chair we obtained an appraisal (Kim Wold & Barry Thompson) for purposes of negotiation only - using a sales comparable approach similar to Horan's. The summary of the report was presented to Messrs. Jardell and Uchytel but was not found to be compelling by them.

We have also listened to Mr. Horan make a presentation to the finance committee which we did not find to be compelling. While it was a good "Appraisal 101" course, it really did not address the main differences between the two appraisals.

Given the wide disparity in the two appraisals, we have also suggested taking a different approach, using the 2006 value as a base and escalating it by the change in the Anchorage CPI and this suggestion was also rejected.

We also understand that at least certain members of the finance committee believe that imposition of royalty rent, which was dropped in 2006 is now back on the table. We do not concur, believing this to be a permanent change. The percentage used in calculating the base rent was also dropped from 10% to 8% at that time and again we consider this a permanent change.

Recently, in trying to find a less contentious way of resolving the issue we approached the Mayor and City Manager about the interest that the CBJ may have in trading the parcel in question for waterfront property we own at the Seadrome. While this is not a short-term fix, perhaps it can help us from having to go through this process every three years.

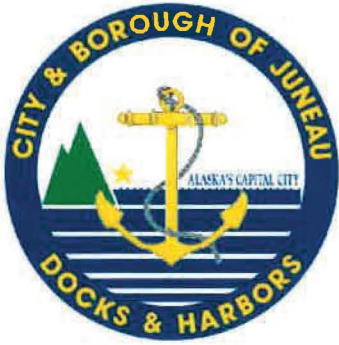
We don't believe that we can provide any additional information at this time that would change the committee's mind regarding the rent calculation. We reiterate our offer to negotiate a more manageable lease given that strict adherence to the terms of the lease as written means that we will be back at the table every three years. We are also open to some form of mediation if the committee or board would find that to be useful.

Finally, we understand that some may consider Goldbelt's appraisal some ploy to cause our rent to drop significantly, but that is clearly not the case. We have offered to negotiate a rent that is higher than the current rent, not the \$30,000 minimum rent that our appraisal would indicate. This was rejected. We must now look to the committee to suggest a solution.

Regards,

Bob Loiselle

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To: Finance Committee
From: Dwight Tajon- Harbormaster
Date: March 14, 2013
Re: Truck Procurement

Docks and Harbors has two vehicles that have mechanical and plow issues that prevent them from being used during the winter months.

They are as follows:

Vehicle #475: 2004 Chevrolet 2500HD with 75,624 miles. The check engine light will not reset, speedometer is broken, heat selector switch does not work, Meyers snowplow not working and the drivers side door opens up beyond its hinge stops. Blue book value is estimated to be \$10,310 dollars.

Vehicle #473: 1998 Chevrolet 3500 with 122,417 miles on the body with about half as much on its second engine. This vehicle has a non-operational Meyer snow plow and heat selector switch issues that do not make it safe to utilize during the winter. Blue book value is estimate to be \$3,670 dollars.

In a report generated by the CBJ Streets Department their replacement schedule for vehicles for their section is at every 8-9 years and dump trucks every 12 years. Our replacement schedule has not been on par with the Street Department.

The intent Docks & Harbors has is to surplus vehicles #473 & #475 and replace them with one new 1 ton truck that is plow ready. Plow ready is meaning that we will also purchase the plow frame so that we can utilize the plow from our gravel spreader truck on the new 1 ton.

Price for the new truck from the State Procurement website is at about \$28,849.00. The City utilizes the State Procurement website since they have already completed the leg work on procurement of vehicles varying in size and equipment.

Recommendation:

The Finance committee approves the purchase of the 1 ton truck for 28k and forwards the recommendation to the full board for approval.