CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING MUNUTES
For Thursday, October 25th, 2012

I. Call to Order.

Greg Busch called the meeting to order at 7:00 p.m. in the Assembly Chambers.

II. Roll

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

The following member was absent: Eric Kueffner.

III. Approval of Agenda.

MOTION by Mr. Williams: TO APPROVE THE AGENDA WITH ITMES MOVED DOWN SO THAT ITEM #1 (PUBLIC MEETING ON REGULAR BOARD START TIMES) IS AT THE END OF THE MEETING.

The motion passed without objection.

IV. Approval of September 27th, 2012 Regular Board Meeting Minutes.

Hearing no objection, the minutes from the September 27th, 2012 Regular Board Meeting were approved as presented.

V. Public Participation on Non-Agenda Items.

There were none.

VI. Items for Action.

1. Approval of the 2013 Board Calendar.

Mr. Busch presented the new Board Calendar for 2013 for approval.

Mr. Bush asked if changing the meeting times for the Regular Board Meetings would effect the Calendar.

Mr. Busch said we can make adjustments to the meeting times later. We can still approve the meeting dates only.

Mr. Donek said the only concern he had is if there was a conflict of meeting space with the change of time.

Mr. Gillette said Teena checked on 5:00, 5:30 and 6:00p.m. meeting times and on Thursdays that time was generally open. The Assembly does have the power to preempt that time for a special meeting.

VI. Items for Action. (continued)

MOTION by Mr. Williams: TO APPROVE THE 2013 REGULAR BOARD MEETING CALENDAR DATES AND TIMES SUBJECT TO AN AMENMENT CHANGE FOR THE TIME LATER ON AND ASK UNANIMOUS CONSENT.

The motion passed without objection.

2. CBJ/ADOT Avalanche Cameras.

Mr. Greg Patz said ADOT is requesting an easement in the area known as the little rock dump for a camera to view the avalanche paths. What they are asking for is an easement of 170 square feet at the little rock dump and egress for construction and periodic maintenance after construction. He gave a brief power point presentation about avalanche control.

He said they would like to place cameras at strategic locations where avalanches may occur. In the event that an avalanche does occur, they can rewind the camera and make sure that nobody is caught in the avalanche area. ADOT is planning on putting in two cameras in the snow slide creek area. One camera will go on AJT property and the second camera they would like to put at the little rock dump.

Mr. Jardell asked on the easement, if the city has use for the property in the future, could the camera be moved if necessary. He asked if the easement was permanent.

Mr. Patz said the camera could be moved if necessary.

<u>Public Comment</u>

Dixie Hood asked about the camera that was farther along on thane. She thought it looked like it was in an avalanche zone itself. She also asked how high the camera was up on the pole.

Mr. Patz said it could be in an avalanche zone and the camera is up about 20 ft.

Mr. Logan asked if the easement extended into the same area that Juneau Port Development LLC. is requesting a lease extension.

Mr. Jardell said it does extend into that area.

Mr. Williams said he thought the camera was a good idea for Thane resident’s safety.

Mr. Busch asked if this item needed approval by the Assembly.

Mr. Gillette said this item may go to the Lands Committee before it goes to the Assembly for approval.

VI. Items for Action. (Continued).

MOTION by Mr. Williams: TO APPROVE THE EASEMENT WITH ADOT TO INSTALL AN AVALANCHE CAMERA AT THE LITTLE ROCK DUMP AND ASK UNANIMOUS CONSENT.

The Motion passed without objection

VII. Items for Information/Discussion.

1. Snow storage update.

Mr. Rorie Watt, Engineering Director for CBJ said they also have an interest in using lands managed by Docks & Harbors on the southerly end of the rock dump lands that are currently leased to Juneau Port Development, LLC. They need a snow storage site that is in close proximity to where the snow is coming from in the downtown area. Down town the current practice is to push snow into the channel which we will not be able to continue in the future. There are not a lot of options in the downtown area. We are looking for a fairly big area, roughly 2/3 to ½ the size of a football field. This allows for large snow loads and requires less use of loaders to stack the snow.

Mr. Logan asked if an environmental assessment had been completed.

Mr. Watt said for the downtown area they have not completed an environmental assessment but they have obtained a corps for Engineers permit. That appears to be the only permit required for that site.

VI. Items for Action (Continued)

3. Juneau Port Development LLC – 2 year lease extension request.

Mr. Jardell said there is a letter in the packet from Mr. Lockwood detailing that there were discussions regarding the DOT cameras and the snow dump facility. Mr. Lockwood has agreed with the City that those were not going to be a problem if the Board does grant and extension to the lease.

Mr. Uchytil said the issue today is weather we should extend the Juneau Port Development Lease another two years. He has been working through Mr. Lockwood's attorney, Jim Clark. Mr. Clark does not believe the permits will be in place in the next two years. He does feel that in two years they will be in a determination point with the project as far as whether the project will proceed. Mr. Uchytil said he has the authority in the lease to extend it. There is no financial interest going forward yet. That will not come until the Mega Yacht Harbor is in place. Mr. Uchytil's recommendation was to approve the lease extension for two more years.

Mr. Simpson said in Mr. Uchytil's memo that if the project is determined non-feasible by the Docks & Harbors Board by the end of the two year period then the lease would not be renewed. Mr. Simpson was concerned about how that feasibility determination would be made.

VI. Items for Action (Continued)

Mr. Uchytil clarified that Mr. Clark indicated that the project permits may not be in place in two years, but in that time we will know if the project is feasible. Mr. Clark felt that the lease will need to be modified or a new lease written after the two years expire. Mr. Clark has assured Mr. Uchytil that he will meet with the Board on a periodic basis and update them on the progress so we will know what it looks like as it unfolds.

Mr. Jardell said Mr. Uchytil, your letter is not a part of the lease so your explanation about whether or not the project is feasible is your interpretation of how Mr. Lockwood is going to have to make a go or no go decision on it. It is not a defining term in the contract as to whether the lease is extended automatically or not. He believed the lease says the permits have to be issued or demonstrate due diligence to secure the permits.

Mr. Uchytil said that was the discussion he had with Mr. Clark and those were his words.

Mr. Simpson said what he is hearing is that the term feasibility is basically shorthand for due diligence and substantial progress towards securing the permits. The financing concerned him more than the permits.

Mr. Logan asked if the CBJ had another use for that area what would happen to the lease.

Mr. Uchytil said there are clauses in the lease that allows the city to use the land as needed. The City's position is that that property is in play for other city needs.

Public comment

Mr. Howard Lockwood said he was available to answer questions.

Mr. Jardell asked Mr. Lockwood if he was in agreement that he would not object to the snow dumping or the sighting of the avalanche pole. The contract terms as they currently exist are still the contract terms and nothing in the letters changes how those terms are going to be implemented.

Mr. Lockwood said he did not have a problem with either of the other uses for the property.

Mr. Uchytil asked Mr. Lockwood to give a recap of what he hopes to accomplish in the next two years.

Mr. Lockwood said they have a solution for removing the contaminants from the soil. As soon as he gets the permits in place he will go to market. They will have a complete plan for the project and market what it will cost per slip.

Mr. Simpson asked if this item needed to go before the assembly.

Mr. Jardell said it does not need to go before the assembly, Mr. Uchytil can approve it. Our extension does not mean we are applying the current work done so far constitutes due diligence.

VI. Items for Action (Continued)

Mr. Logan said it sounds like the terms of the lease are somewhat contentious between Mr. Lockwood, his attorney, the CBJ attorney and Mr. Uchytil. He was in favor of amending and redefining the lease before the Board approved a new one.

Mr. Jardell said the issue with that is if we do amend the terms then the lease goes before the Assembly and it is a different process.

Mr. Busch said he would like to give Mr. Lockwood the benefit of the doubt to him to get his project going.

Mr. Uchytil said he feels it is a step forward bringing Mr. Clark in to bring some perspective to the process. He has agreed to keep the Board informed of progress. He has never been comfortable with the lease it's self and he would not have approved a lease like this.

Mr. Williams agreed with Mr. Logan but he also thought Mr. Lockwood has worked with the Board to be fair.

MOTION by Mr. Spickler: TO APPROVE THE LEASE EXTENSION FOR TWO MORE YEARS TO 10/30/2014 AND ASK UNANIMOUS CONSENT.

The motion passed without objection.

4. Petro Marine Fuel Dock Lease Agreement.

Mr. Uchytil said this lease has been in progress over two years. At the Finance Committee Meeting in June 2012, we negotiated portions of the proposed lease with Petro Marine. They agreed to pay a 5 cent fee on each gallon of fuel sold subject to CPI adjustments every seven years. At that point Mr. Uchytil was given direction to go back to the CBJ Law department for redrafting of the lease.

He provided a new lease agreement for Board approval.

Mr. Simpson said this is the current fuel provider at the end of the Deharts Dock. He asked if this lease superseded the previous lease and if there was a competitive bidding requirement on this lease and if that had been waived.

Mr. Uchytil said the current lease with Harbor Enterprises runs for another couple years. This project was already in negotiation when he took the Port Director position. He was assuming that the correct procedure was followed.

Mr. Simpson was concerned that no competitive bids have been taken in this matter. The fuel float will be built at the public expense and we are just handing over a new 35 years lease in exchange for a 2 year lease.

VI. Items for Action (Continued)

Mr. Uchytil said the fuel float that is at Deharts right now is owned by Petro Marine so they are responsible for demolishing that portion. They are investing 1.5 million dollars in the new fuel float so they are paying for that investment. They are on the hook for the float infrastructure.

Mr. Spickler asked about the insurance for potential oil spill.

Mr. Uchytil said Tim Allen with CBJ risk management has taken a look at the lease as well. Petro Marine is a large Company and he is presuming that they have insurance that will cover any spills that may occur.

Mr. Jardell asked to postpone this item for a month to bring it before the CBJ Attorney.

4. Public Meeting on Regular Board Start Times.

Mr. Jardell said there has been a discussion about having an earlier start time for the Regular Board Meeting so that more public can attend right after work. We are looking at 5:30 or maybe 6:00 as a new meeting time.

Mr. Spickler said he felt having the meeting earlier would be better for public participation and could conserve fuel so people are not making two trips to town.

Mr. Busch said the new time would be more of an inconvenience for him, but may be better for the public.

Public Comment

Ms. Dixie Hood said she attends P&R Advisory Meetings that start at 6:00pm. and that has worked well for the PRAC and they are well attended.

Mr. Dennis Watson said he is apposed to the idea. He attends a lot of the assembly meetings and they are also at 7:00pm. and they are well attended. He said the public that normally attends is here tonight and the current time seems to work well.

Mr. Uchytil said he serves at the pleasure of the Board and he was flexible.

Mr. Donek said the only thing he didn’t like about the 7:00 time is when there is a large agenda, meetings can go passed 9:00pm. He suggested if they were going to change the time to make it a big change and go to 5:30pm.

Mr. Williams agreed with Mr. Donek.

Mr. Simpson said the 5:30pm. suggestion might allow for more public to attend.

VI. Items for Action (Continued)

MOTION by Mr. Spickler: TO MOVE THE REGULAR BOARD MEETING TIME TO 5:30PM STARTING WITH THE JANUARY 2013 MEETING AND ASK UNANIMOUS CONSENT.

The motion passed with 6 members in favor and 2 apposed.

VII. Items for Information/Discussion.

1. Snow Storage Update by Rorie Watt (Presented with items for action)
2. Ethics and Alaska Open Meeting Act. (Presented at the end of the meeting)
3. Goldbelt to present update on Mt. Roberts Tram Lease.

Mr. Jardell said the representatives from Goldbelt are not at the meeting tonight but he wanted to provide an update on lease negotiations. He and Mr. Uchytil met with Goldbelt and they are working diligently to come up with an idea to present to us for a different way of looking at the valuation of the property.

VIII. Committee and Board Member Reports

1. Operations Committee Meeting – October 16th, 2012

Mr. Busch said the OPS committee did meet and discussed multiple launch permit purchases as well as moving forward with an online purchasing program for L/R Permits. The Port staff is busy doing the end of season shut down of the Port office.

1. CIP/Planning Committee Meeting – Cancelled

2. Finance Committee Meeting – Cancelled

3. Member Reports

Mr. Simpson said a hearing was held in lieu of the CIP Meeting to discuss the Aurora Harbor rebuild project.

Mr. Jardell welcomed Mr. Jones as the new Assembly Liaison.

IX. PRAC Representative Report.

Ms. Hood said there was no meeting this month.

X. Port Engineer's Report.

Mr. Gillette's Report was in the packet.

XI. Harbormaster's Report.

Mr. Tajon said he and Mr. Uchytil just returned from the Pacific Harbormasters meeting in Sitka. Johanna Young has been selected as Employee of the Year. She was recognized for dedication, attitude and willingness to provide top notch professional service.

An individual decided to drive through the gate at the ABLF. We were able to find him through surveillance video and JPD was called.

XII. Port Director's Report.

Two Employees will be leaving the Department: Ronda Davis and Ben Merritt.

The USS Juneau memorial we are still on track to have that installed before the 13th of November and we will have some kind of dedication.

Gary will be attending an Assembly retreat and presenting some Docks & Harbor projects on Saturday.

The 16B Appeal process we owe a response to the opening brief to the City Clerk tomorrow.

We should be setting up a joint Assembly/Docks & Harbors Board Meeting in the near future so Committee Members should start thinking about what they would like to communicate to the Board.

We have received information from Mirad that they will not be funding the wash down facility at the ABLF.

XIII. Assembly Liaison Report

Mr. Jones said there is a retreat on Saturday from 8:30 to 4:30. Most of the day they will discuss the new Assembly's objectives for the next year. They gave out various committee assignments last week.

The DOT cameras lease is on the Agenda for the Lands Committee on Monday. The hearing on 16B is set for the 26th of November, 2012.

XIV. Committee Administrative Matters

a. Operations Committee Meeting – November 13th, 2012

b. CIP/Planning Committee Meeting – November 15th, 2012

c. Finance Committee Meeting– November 27th, 2012

d. Board Meeting – November 29th, 2012

1. Ethics and Alaska Open Meeting Act.

Mr. Hartle, CBJ Attorney, gave a presentation on the conflict of interest code. He asked Board Members with questions about conflict of interest to call him anytime. He can be reached at work at 586-5340 or by cell phone 321-2889. Conflict of interest issues are dealt with on a case by case basis and we keep a log of advice that is given. He said he would go through it quickly and suggested members take it home and read it more carefully. Mr. Hartle recapped some of the more common situations.

The assembly can set the mill rate because it is a matter of public interest even though they may have a personal interest if they own a home.

If your spouse can not be involved in a financial situation you can not either. If you expect to receive compensation from the entity the issue affects it would be a conflict.

Mr. Hartle said they did set the limitation to 3 years for financial interests. There is nothing nefarious about having a conflict of interest; we all have them. Just don't take any gifts from patrons especially if they are intending to influence your decision. The value of the gift must be under $50.

Under the Open Meetings Act you must give public notice of an event if the public can not attend.

Mr. Logan said we all belong to a number of organizations that we may attend at the same time.

Mr. Hartle said it could be a problem if more than three Board Members attend a gathering. He said just don't discuss Harbor Board matters.

Mr. Jardell said your attendance doesn't cause a problem, it's what you talk about while your there.

Mr. Hartle said if you're going to have a meeting, give the proper notice.

Mr. Busch said he understood that you also could not have a mass discussion through email either.

Mr. Hartle said avoid the reply all button when using email for Committee purposes. Those emails are public record no matter what computer they come from.

Mr. Jardell said it's more than 3 members or a majority of the Committee that makes a public meeting. He asked if texts are public record.

Mr. Hartle said it looks like texts will be public record. Through a subpoena, we could go to a provider and get a record of texts if we must. We have avoided having to do that so far.

Mr. Bush asked about Facebook.

Mr. Hartle said Facebook would be public record.

XIV. Adjournment

Motion by Mr. Busch: TO ADJOURN THE DOCKS & HARBORS BOARD AND ASK UNANIMOUS CONCENT.

The meeting adjourned at 8:50p.m.