CBJ DOCKS & HARBORS BOARD
OPERATIONS/PLANNING COMMITTEE MEETING MINUTES
For Wednesday, December 13th, 2017

I. Call to Order The meeting was called to order at 5:06 p.m. in City Hall Conference Room 224.

II. Roll Call The following members were present: Don Etheridge, Tom Donek, Mark Ridgway (by phone), Bob Janes, David Seng, Weston Eiler (by phone), and Budd Simpson.

Also Present: Carl Uchytil-Port Director, David Borg-Harbormaster, Gary Gillette-Port Engineer, Matthew Creswell-Harbor Operations Manager, and Rob Edwardson-Assembly Member.

III. Approval of Agenda

MOTION By MR. ETHERIDGE: TO APPROVE THE AGENDA AS PRESENTED AND ASK FOR UNANIMOUS CONSENT.

Motion passed with no objection.

IV. Public Participation on Non-Agenda Items – none

V. Approval of Wednesday, November 15th, 2017 Operations/Planning Meetings Minutes

MOTION By MR. ETHERIDGE: TO APPROVE THE NOVEMBER 15th, 2017 MEETING MINUTES AS PRESENTED AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

VI. Consent Agenda - None

VII. Unfinished Business - None

VIII. New Business

1. People's Wharf Lease Request

Mr. Simpson recused himself.

Mr. Uchytil said attached is a letter from Mr. Bill Heumann requesting 360 square feet of more space in addition to his existing lease with Docks and Harbors. There is a drawing showing the requested property in the agenda. Last year, the lease arrangement was for the southeast corner of the People's Wharf and the propane tank area. Mr. Heumann is now asking for and additional area adjacent to the right of way. In the agenda is the discussion from last year to show the process that was followed. In September 2016, Mr. Heumann approached the Board indicating interest in the open space area seaward of the

People's Wharf. At the time he was looking for 2,000 sq. ft. to develop from the total open space of 4,700 sq. ft. There was discussion whether to allow development of the open area and if it was consistent with the Long Range Waterfront Plan. It was then discussed that the Urban Design Plan should create a plan to handle numerous requests for small parcels. In November 2016, the Board placed a moratorium on leasing any small parcels along the sea walk until a comprehensive plan was developed. Concurrent with the Docks & Harbors actions, the Lands Committee and Assembly adopted a process of allowing a license for certain restaurants to use rights of way to sell food and beverages as ordinance in 2017 which is included in the agenda. In January 2017, Tracy LaBarge asked the Board for reconsideration of the November 2016 moratorium. The Board requested Mr. Heumann provide a design plan which would allow the restaurant to operate. He provided a plan and asked for 45-70 sq. ft. which was granted as a use permit after being appraised. There was significant staff and Board time debating this issue last year. The question is: what is the public policy on the use of Docks and Harbors properties alongside CBJ managed lands? One side will argue that by allowing development we are disenfranchising brick and mortar stores and the other side will say we are not allowing economic growth of Juneau. Included in the agenda are letters in support of and regarding the management of the Seawalk. Several actions could be taken tonight: begin the lease process for the requested, begin the lease process for less than requested, or decline the lease request. One letter included asks for the addition of an ATM along the sea walk. Whatever the decision is there will be downstream ramifications and it should be crafted in a consistent manner. With the adoption of the Urban Design Plan, in some ways you have already established some policy in what we want this area to look like.

Board Questions

Mr. Ridgway asked since the Assembly tabled the Urban Design Plan at the Committee of the Whole Meeting does that impact the adoption of that plan and is it still the plan?

Mr. Uchytil said yes it is still the plan that the Board adopted. We are intending to take it to the Assembly to be adopted as well but not quite yet. We will ask the Planning Commission if they would like to adopt it or brief them as an information item. We haven't had the direction to say make this an amendment to the Long Range Water Front Plan. Right now there is no plan to present this to the Assembly. We are negotiating the issues presented at the Committee of the Whole Meeting regarding the Archipelago Lot.

Public Comment

William Heumann, Juneau AK

Mr. Heumann said he bought his building in 1985. At that time the right of way did not exist and it was created by the City at his request to be able to make it possible to develop his building further. The City at that time was willing to work with people. Chris Garrison, previous owner of Alaska Litho got a lease all the way to the existing plot which was never developed but the lease still exists. Taku Smokeries were granted a lease to develop that property and business. A lease was created for the Tram as well. He was approached along with Effy and Tripp and asked to develop that property with a new building. It was proposed to them that they would lease their current buildings to create the Seawalk. At that time he owed $250,000 on his old building before tearing it down. Now he owes north of $3 million on that building. They were asked by the City and stepped up to the plate without asking for anything in return. The four of them built 35,000 sq. ft. of space there. It's amazing what can get done when the City just gets out of the way. There are many leases along the waterfront. The largest lease is actually held by the person who objects to his request the most. The City policy is essentially to help businesses flourish and help anyone they can. From the City Manager to all the Assembly members, my understanding of that Committee of the Whole meeting was that the Assembly wants to accommodate these people and they would interject themselves, and that they have a bigger picture than Docks and Harbors. For example, if companies are turned down for more space and are not accommodated due to policy, that doesn't make sense. He is not talking about simple hot dog stands, but a business with around 40 employees in the summer and sales tax around $200,000 in a year, paying around $80,000 - $90,000 a year in property tax to the City. There are a lot of economic aspects to this. This is confusing and perhaps he should be going to the Assembly for this rather than this Docks and Harbors Board. They pretty strongly said that they may step in regarding this issue. He's not sure that the Board wants to abdicate that. The Assembly may make the decisions for the Docks and Harbors Board. He believes the Assembly would welcome a lease extension.

David Summers, Juneau, AK

Mr. Summers said he appreciates the review and history provided by the Port Director. He was on the Board at the time of the initial asking for temporary permit. At the time, the motion was a two part issue. First, it was an existing land holder asking for a utility, of addition of the propane tanks. Second, the landholder owner was asking for a public space lease. Which was reasonable at that time as land owner was asking for use of a space that was otherwise unusable. Today, he sees this is a problem as it is a public policy issue. Historically this may have been possible as there was more space available and a less direct plan. Today we've reached a maturation point where there is almost no public space remaining on the dock. Things are different in terms of this ask. We have created the opportunity for a restaurant to operate with outdoor propane crab pots, allowing them to operate without needing to invest in a commercial kitchen. To expand out further out onto the dock, especially for the purposes of outdoor cooking, creates unfair advantage over the competition and as a public policy, and opens up a can of worms. It is not a good idea to abdicate the decision making process here, the Docks and Harbors Board is an Enterprise Board and exists to stand alone as experts and advisers to the Assembly, not the other way around for the specific and specialized needs of the Docks and Harbors area. There is little space left and right now it is not a good public policy to piecemeal out land for seating for an existing restaurant. They were already approved to be on CBJ land, and are now asking for more land from Docks and Harbors. This business is entitled to a yes or a no as they need to plan for next season. He suggests the Board should give them a no. He is looking at purchasing private property and one of the primary talks of discussion is about what is the public space around the area as it could be unknown what would happen to the surrounding area, maybe doled out to a competitor. There is a natural maturation process of incubator businesses, no different than maturation of homes and their mortgages. As a public entity, circumventing that by creating an advantage for one business over another is bad public policy. If you are going to create a policy it needs to be fair and available to everyone.

Mr. Eiler asked Mr. Summers if he was speaking of expansion in regards to Merchants Wharf or as a separate entity.

Mr. Summers answered no; he is just a lease holder at the Wharf.

Mr. Eiler asked if the person requesting the ATM on the dock is an individual or company.

Mr. Uchytil answered individual.

Mr. Janes asked Mr. Heumann if there is room in the existing building to add a commercial kitchen.

Mr. Heumann said he is not a restaurateur so he does not know all of those details. That is not the reason we asked for the lease. The reason was to have crab pots outside where they can be viable and be an attraction.

Mr. Uchytil said because not all Board members were at the Committee of the Whole Meeting this is what he interpreted happened there. We had received questions about food carts and Morris Group was very clear in saying that there would not be 15 food carts in the new development area. One of the Assembly members asked what about those who will not have booths and will you provide space for them. Mr. Uchytil answered that he does not speak for the Board but in the past they haven't made tracks of public lands available as one offs for people selling t-shirts, trinkets or art along the Seawalk. At the Assembly Committee of the Whole meeting, City Manager brought up that one of the reasons the Board struggles with this is we are not business developers by our mission statement and it is not something we regularly do. The City Manager made the comment that the Assembly has a broader vision of what's best for the City. That is how the discussion went.

Board Discussion/Action

Mr. Donek said two things are happening; one is a business owner asking to expand his own property onto Docks and Harbors land. The other is leasing space to sellers such as hotdog carts. The Long Range Waterfront Plan did not envision having vendors lining the Seawalk. He sees no problem with what Mr. Heumann is asking. He would like to question what other leases we have up and down the waterfront at this time. In our Urban Design Plan is a potential deck over which is leased to someone. To tell Mr. Heumann no when we have another nearby doesn't make sense.

Mr. Ridgway said he agrees with Mr. Donek that this is two separate issues. If this was the only space being asked to lease he would understand keeping it simple. Since this is not the only one, and there is no policy to look to, can we request guidance from the Assembly to develop some policy to guide harbor staff when these are requested.

Mr. Etheridge said we should come up with a policy and then send it to the Assembly for approval rather than the other way around.

Mr. Donek said one way to take this to the Assembly would be to take the lease request to them and explain why we will or will not accept it.

Mr. Janes said he disagrees with Mr. Donek and believes we should come up with a comprehensive policy before we make a final decision on this individual request. It is irresponsible to take individual requests without a policy in place. We should have something to fall back on and make final decisions easier. Until this happens Mr. Heumann should be granted the same temporary lease that was granted last year so as not to interrupt business.

Mr. Ridgway said he agrees with Mr. Janes that we are in a difficult spot. He had called the Ketchikan Port Director today to discuss how they handle this issue; they however don't have enough space to have leases like this. It may help us to look at other areas where they have a similar system.

Mr. Uchytil said in answer to Mr. Donek regarding what leases we have out the Franklin Street Dock has some submerged lands leased to Franklin Dock LLC and the Seawalk itself is CBJ land. Taku Smokeries is private land. The Taku parking lot is half ours and half Taku Smokeries. The Tram building has a lease and Mr. Heumann has a 425 sq. ft. lease. The space in front of Pier 49 is leased to Mike Tripp. There really aren't many one offs.

Mr. Eiler asked to see a visual of all that area plotted out if possible. He asked if there was discussion at the Committee of the Whole Meeting about the decking over of the areas left?

Mr. Uchytil said we presented the belief that the public input wanted for more open space. Phase II of the Urban Design Plan has this non-descript waterfront attraction. As we progress we will deck over depending on available funds.

Mr. Seng said looking at minutes from over a year ago; we are covering the same ground again. He agrees with Mr. Janes and we do need a policy to be in place. This goes to the original intent of the Board to put a moratorium on these small ideas until we have a plan. Mr. Heumann has a building there and is just asking for a little bit more, it makes sense. But as he reviews these letters, it will turn too busy. Business development helps the community but unbridled, unmanaged development does not help communities. We need to create a policy before getting in any further. Last year this was created as a temporary thing and here we are again with no policy trying to decide.

Mr. Donek said he agrees with Mr. Seng this needs to be covered by a policy. We have other property all over and we need to be careful. Without a policy we will be right here again next year if we just say yes to the request.

Mr. Janes said he agrees but we should give some assurance to Mr. Heumann that we are working to make a policy. Businesses need to plan and hire ahead of time they need a final answer sooner rather than later. We should give them a temporary yes, same as before so the business can continue for this summer.

Mr. Donek said that is a good point.

Mr. Seng asked Mr. Heumann if the outside seating permitted area in the right of way will be his to access again this year regardless of what Docks and Harbors does?

Mr. Heumann answered yes it has been applied for and approved.

MOTION By MR. JANES: TO INITIATE A PUBLIC PROCESS TO CREATE A POLICY FOR OUR LAND HOLDINGS ON THE SEAWALK AND RELATED PROPERTY AND PUT A MORATORIUM ON ALL APPLICATIONS UNTIL A POLICY IS FINISHED, ALSO ALLOWING TRACY'S CRAB SHACK TO OPERATE AS THEY DID LAST YEAR FOR ANOTHER TEMPORARY YEAR.

Mr. Eiler said he has a comment on the motion but not an objection. He urges caution while using the word moratorium in a motion. It sounds like we are drilling down into the broader plan that was just passed. We don't want to get into a loop of repeating ourselves. We should move forward with thought.

Mr. Janes said this process and planning should include the public that are in the businesses that are in the area affected, those with space on the dock and those with brick and mortar businesses. Public input should be gathered and eventually this should be added to the overall plan.

VOTE:
David Seng – yes
Mark Ridgeway – yes
Tom Donek – yes
Weston Eiler – yes
Bob Janes – yes
Don Etheridge – yes

Motion passed with no objections.

2. New Regulation: 05 CBJAC 40.065 - Vessel anchoring requirements

Mr. Uchytil said this idea has been discussed for many months. If this is passed tonight, it can go out with the 21 day public process, then to the Board for public hearing, then to the CBJ Assembly meeting to adopt this new regulation. To summarize, we are trying to better manage our lands. We know that some vessels have been anchored for years. The main points of this proposal include not requiring a permit for those wishing to anchor for 24 hours or less and would prohibit the use of permanent mooring systems like what the Lumberman is using. If one was hoping to anchor for less than 2 weeks a free permit would need to be obtained. A long term permit, from 2 weeks to 3 months, would entail a $100 application fee for the permit and $0.25 per foot per day with the requirement of a US Coast Guard approved Marine Sanitation Device. This would give us authority to declare a vessel a public nuisance if not in compliance. Anchoring on our submerged lands would not require a vessel to move two miles away every two weeks like is required on state land.

Board Questions

Mr. Janes asked does this include the area south of the bridge where boats anchor in the summer?

Mr. Uchytil answered that area is not our tidelands.

Mr. Donek asked how can we enforce this and get rid of a vessel if it stays past their time?

Mr. Uchytil said on page two a vessel violating any of these regulations is deemed a public nuisance and may be impounded. This will be leverage for the Lumberman as well.

Public Comment

Mr. Summers said he holds a commercial crew members license and is a working guide on a boat in and out of Aurora Harbor. As a user of this space, he believes this is a great policy and supports it.

Board Discussion/Action

Mr. Uchytil said this will also prevent rafting of vessels to each other on anchor.

Mr. Eiler said he agrees and believes this is very important to have in place in light of the lives that were recently lost.

Mr. Simpson said it would be useful to have a map accessible to show where the CBJ tidelands are and where this policy will apply.

MOTION By MR. ETHERIDGE: TO APPROVE THE DRAFT REGULATION CHANGES FOR ANCHORING ON CBJ SUBMERGED LANDS AND BEGIN THE PUBLIC NOTICE PROCESS TO EFFECT THE CHANGE.

Motion passed with no objections.

IX. Items for Information/Discussion

1. FY2019 Marine Passenger Fee Request

Mr. Gillette said this list has been updated to be put forward to the City Manager for the request for Marine Passenger Fees. This includes two parts, on-going maintenance needs and capital improvement needs. There are descriptions to each item detailed in the agenda. These funds would not be available until July 1st. One new item this year is the TWIC security system at the cruise berths, as according to the federal government it is a requirement. We've talked with the private docks and may go in with them to purchase six readers, as we all need them.

Committee Discussion/Public Comment

Mr. Janes asked if the visitor kiosk and canopy will be in the original location or a new one.

Mr. Gillette said the plan is the same original location near the library. Travel Juneau approves of their current location.

Mr. Simpson asked if there was something to be done with the existing kiosk.

Mr. Gillette said if someone has a use for it, sure.

Mr. Uchytil said the TWIC card reader is required by federal code. It is designed for truck drivers. We will only be checking ourselves and the dozen or so longshoreman. Unfortunately, this does not add security for the passengers.

2. Harris Bathroom Update
Mr. Uchytil said included are plans to recommission the old Harris bathrooms. There will be two small single use ADA restrooms. A key fob will be required for entry and it will be locked by deadbolt from the inside. Using the footprint of available space it will be around $125,000. There will probably be people waiting to use the toilet or shower, but there will still be port-a-johns adjacent to the restrooms.

Committee Discussion/Public Comment

Mr. Donek asked how you control the key fobs.

Mr. Uchytil said we can turn them on and off with the computer.

Mr. Simpson asked can you track who uses it when?

Mr. Borg said yes it is simple to control if there is bad behavior.

Mr. Simpson suggested they both be unisex. He asked has there been consideration to separate the shower area from the toilet area.

Mr. Gillette said the issue is space available. Needing to comply with ADA, this was the best use of the little space available.

Mr. Donek asked if this is coin operated shower?

Mr. Borg answered yes.

Mr. Simpson said there will be auto turn off so no water wasted. Signs should be added to remind people to lock the door behind them.

Mr. Seng asked if it could be auto locked when someone is inside.

Mr. Borg said it is easiest to have the deadbolt which can be locked from inside with an access code which can be given to Police Department if need be.

X. Staff & Member Reports

Mr. Borg said in regards to the Lumberman there have been several meetings with the Coast Guard over the last few weeks. There was an oily substance found on board. The Coast Guard directed Mr. Mattson to remove the oil but that has not been done. There was a meeting this morning but Mr. Mattson did not show up. The Coast Guard is concerned about another vessel that has rafted up to Lumberman that may be dangerous and asked us to move that vessel but we will not for safety reasons. Their main concern is to get the oil off the Lumberman. We had a vessel sink yesterday, Salty Dawg, one of our impounded vessels on H float. Divers came and raised it. We will advertise impounds soon for auction.

Mr. Uchytil said Salty Dawg was owned by Charles Cotten who was recently arrested.

Mr. Borg said Mr. Cotten will remain in jail for a long while. We have a total of around 14 boats impounded now.

Mr. Janes asked if these were liveaboard vessels.

Mr. Borg answered some have been. It'll probably cost around $150,000 - $200,000 to get rid of them all.

Mr. Donek asked did they recover the bodies from the accident?

Mr. Borg answered Mr. Cole was found.

Mr. Janes asked do we know why it flipped?

Mr. Borg said it was a small boat severely overloaded and it was windy.

Mr. Eiler asked what timeline is there for the next step with the Lumberman?

Mr. Borg said October 16th was the deadline for Mr. Mattson to remove the vessel off our property, he failed to do so. Mr. Borg has sent a request for legal services to Law but have not heard from them yet. This is a very sticky situation. We don't have anything in Title 85 that says trespassing is an impoundable offence. This will be a major issue and undertaking if we take this boat. The new regulation regarding anchoring will be a tool but there isn't anything else in Title 85 we can use to trespass it.

Mr. Eiler asked if the anchoring regulation passes then how long it will be until implemented?

Mr. Uchytil said the new regulation would be in place in 90 days.

Mr. Donek asked if the new regulation will apply to them since they existed prior to the law?

Mr. Borg said yes it will as there isn't a grandfather clause.

Mr. Donek said we need to compare the cost of impounding it and removing it while it's still floating versus the cost of raising it and removing it.

Mr. Borg said approximately a difference of $1.8 million.

Mr. Janes said added onto that is the staff time cost being spent on this week after week.

Mr. Borg said we are keeping track of our staff time as well.

Mr. Uchytil said to update everyone on Aurora Phase II, the boat shelters were moved and the new floats and piles should be here within a week. All the old pilings have been pulled. They still have a substantial completion date of March 31st, 2018.

XI. Committee Administrative Matters

1. Next Operations/Planning Committee Meeting- **Thursday, January 18th, 2018 at 12:00 p.m.**

XII. Adjournment – The meeting was adjourned at 7:04 p.m.