

CBJ DOCKS & HARBORS BOARD
OPERATIONS/PLANNING COMMITTEE MEETING MINUTES
For Wednesday, March 29th, 2017

- I. Call to Order** The meeting was called to order at 5:00 p.m. in City Hall Conference Room 224.
- II. Roll Call** The following members were present: John Bush, Tom Donek, David Lowell, and Budd Simpson.

Also Present: Carl Uchtyl – Port Director, David Borg – Harbormaster, Gary Gillette – Port Engineer, Matthew Creswell – Senior Harbor Officer.

III. Approval of Agenda

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

Motion passed with no objections.

IV. Public Participation on Non-Agenda Items – None

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

MOTION: BY MR. LOWELL TO APPROVE THE FEBRUARY 15th, 2017 MEETING MINUTES AND ASK UNANIMOUS CONSENT.

Motion passed with no objections.

VI. Consent Agenda- None

VII. Unfinished Business- None

VIII. New Business

1. Shorepower access Fees ([05 CBJAC 30.010](#))

Mr. Borg said after wrapping up the fee review process, we have addressed the last one which was the power usage and fees. The graph on page two shows the current rates and the rounded up rates in which we would like to change to. We also addressed keeping the monthly power fee as is for now and addressing it on an annual basis or as rates change for AEL&P. After much discussion we have arrived at a motion.

Committee Questions - None

Public Comment - None

Committee Discussion/Action - None

MOTION: BY MR. DONEK TO USE 80% MAX USAGE IN CALCULATION FOR DAILY POWER USE AND ROUND PRICE PER DAY COLUMN UP TO

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THE NEAREST FULL DOLLAR ON ALL IN THE CHART AND ADOPT THE CURRENT SUMMER AND WINTER MONTHLY SHOREPOWER ACCESS FEES WITHOUT CHANGING THE RATES, DELETE THE SENTENCE IN 05 CJBAC 30.010 SHOREPOWER ACCESS FEES SUBSECTION (b) *(With approval of the Docks and Harbors Department, a person may use a 50 amp service and be assessed a 30 amp fee provided the service is current limited to 30 amps)*, AND ADD A COST ADJUSTMENT PROVISION TO TRACK INCREASES IN THE COST OF OUR RATES IMPOSED BY AEL&P ON AN ANNUAL BASIS SUBJECT TO REVIEW BY THE BOARD AND ASK UNANIMOUS CONSENT.

	Volts	amps	KW per hour	KW per day	Cost per KW from AELP	% of realistic max usage, per day	Price per day	Rounded rate	current
3 phase 100 AMP	208	100	36.0256	864.6144	0.124	0.8	\$85.77	\$86.00	\$48.00
3 phase 60 AMP	208	60	21.61536	518.7686	0.124	0.8	\$51.46	\$52.00	
3 phase 100 AMP	480	100	83.136	1995.264	0.124	0.8	\$197.93	\$198.00	\$120.00
1 phase 30 AMP	120	30	3.6	86.4	0.124	0.8	\$8.57	\$9.00	\$7.20
1 phase 50 AMP	208	50	10.4	249.6	0.124	0.8	\$24.76	\$25.00	\$24.00
1 phase 20 AMP	120	20	2.4	57.6	0.124	0.8	\$5.71	\$6.00	\$4.80

Motion passed with no objections.

Mr. Uchytel stated that Mr. Dennis Harris has arrived and requested for his convenience, to move number four under information to the beginning of the information items.

Mr. Simpson said we will move Transportation Network Companies to the beginning of the information items.

2. Daily Commercial Launch Permit

Mr. Borg said that on page 25 of the agenda is the recommendation by the harbor fee review committee to implement a \$30.00 daily launch ramp permit fee for commercial users as one does not currently exist.

Committee Questions – None

Public Comment – None

Committee Discussion/Action

MOTION BY MR. LOWELL: TO ADOPT STAFF RECOMMENDATION FOR AN ABLF DAILY COMMERCIAL LAUNCH RAMP FEE OF \$30.00 AND ASK UNANIMOUS CONSENT.

Motion passed with no objections.

3. Alignment of the Facility Security Plan with Title 85

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Mr. Uchytel said on page 26 of the agenda is 85.02.045 (F). Mr. Uchytel stated the Facility Security Plan has sensitive security information and should be on a need to know basis. The board only needs to know that the plan has been developed and submitted to the Coast Guard for their approval. If any member of the board would like to discuss the facility risks he would be glad to discuss privately. Contrary to the current regulation, it is unnecessary for the Facility Security Plan to go through the City Manager and the Harbor Board before submitting to the Coast Guard and he would like to delete it.

Committee Questions – None

Public Comment – None

Committee Discussion/Action

Mr. Donek said that this has never been an issue before and we can delete it.

MOTION BY MR. DONEK: TO DELETE 85.02.045 (F).

Motion passed with no objections.

IX. Items for Information/Discussion

1. Transportation Network Companies (i.e. Uber, Lyft)

Mr. Uchytel said as summer is approaching he would like to discuss with the Board regulating transportation network companies. There are already regulations in place for pedicabs but if senate bill 14 passes we will need to discuss how TNCs will operate in our facilities.

Committee Discussion

Mr. Simpson asked to please describe what we do now for taxi cab companies in our facilities.

Mr. Uchytel answered that we have three companies in town which each have independent operators that work for them. We charge \$300 per company and \$7 per seat. That is a B zone permit allowing them to operate in the B zone areas.

Mr. Simpson asked what is meant by operate, are they quickly picking up or do they park there and wait?

Mr. Uchytel answered that they can stage for up to ten minutes then need to keep moving. He mentioned that some questions need to be discussed with the Board. Will Uber jam up our lots? Do we have to allow them to operate in our lots? Should we set up separate spaces for TNC (transportation network companies)?

Public Comment

Dennis Harris owner of 12th Street LLC and Custom Juneau Tours, Juneau, AK

Mr. Harris said that section 8 of the bill is written so that cities are exempt from regulating TNCs in any way. Senate bill 14 has had several amendments introduced attempting to allow cities to regulate TNCs but none have passed. There will be a hearing

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on the senate version of the bill, as it passed the senate and they will incorporate the amendments that have passed the house side on Friday March 31st. The City of Anchorage has passed a new ordinance to regulate TNCs in the city, but TNCs are defined as not being a commercial passenger vehicle under this proposed statute, so cities will not be able to regulate them. There were amendments proposed to allow state airports to negotiate for access and fees but the cities and Docks & Harbors were not included in these. The way the bill is currently written the cities do not have the ability to charge sales tax either. He would be willing to submit to a city police department check and have his drivers go through background checks. Federal rules require taxi drivers to have background checks to have access to airports. There may be similar rules for access to ports. Uber and Lyft have stated they do not want their drivers to have background checks and will not operate in cities that require them. Uber and Lyft are the two big TNC companies but some cities have local companies as well. In many cases the passengers do not pay the drivers directly. He would be willing to pay for Docks and Harbors fees as well as sales tax if he had to operate as a TNC. The Alaska Municipal League is against this bill. This bill may be stopped in the house as many are not in favor of the way it is currently written. This bill has an immediate effective date clause so if it passes it would be in effect very quickly.

Mr. Simpson asked what other communities with ports are doing to regulate and manage TNCs.

Mr. Harris answered many ports and airports have had problems with TNCs. The Port of Seattle operates both the port and SEA/TAC airport, they eventually arrived at an accommodation making TNCs pay access fees and are only able to come in response to a call request. They have a small pick-up spot at SEA/TAC airport. New York and LAX went through very long litigation to regulate TNCs. Michigan decided to put TNCs under the state taxi cab provisions and gave them the same restrictions. Uber is saying they are not a transportation company and that they are instead a network technology company. They are operating in all states but Alaska right now. Customers are pushing for it to be brought to Alaska. He is concerned about the congestion that will occur as we already have a very busy downtown area on big ship days. Adding Uber and Lyft will further congest the area.

Mr. Uchytel asked what are the restrictions that one can place on Uber and Lyft.

Mr. Harris answered that according to section 8, it will end up in litigation. He feels that if you are operating a separate facility off the street you should be able to restrict access. You will need to consult with your attorney. TNCs without glacier day permits will not be able to drive to the glacier and the Forest Service will be able to stop them.

2. Annual Moorage CPI Adjustment

Mr. Uchytel said on page 29 there is the 2016 Anchorage CPI, the percent change is at 0.4%. When that 0.4% is applied to downtown harbor rate of \$4.25 it would increase by 2 cents. Because our regulations say we only increase by 5 cents, there will be no change to moorage rates this year.

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Committee Discussion/Public Comment

Mr. Uchytel asked when did we last raise the moorage rates.

Ms. Raster answered that the rates in 2013, 2014, and 2015 increased by \$0.05 each but 2016 and 2017 did not raise.

Mr. Simpson stated that the 5 cent regulation is accumulative so that over two or three years then we may reach a nickel eventually.

Mr. Uchytel stated that he agrees it should be accumulative but he's not sure that it is actually written that way in the regulation.

Mr. Donek stated that he believes it is written so that it does not accumulate year after year.

3. Statter Harbor Parking Lot Reconfiguration

Mr. Gillette stated he will be speaking about phase three design and plan for the Statter Harbor parking lot and launch ramps. On page 30 of the agenda, on the lower left there are blue squares on yellow which will be dumpsters as well as recycling containers. There will be some extra parking spaces because the truck and trailer parking will be relocated to the new Statter launch ramp area. The middle of the page shows the temporary configuration for buses. They will pull in from glacier highway across from Squires Rest. They can pull up at the blue line and drop off in the red line. The buses will then turn around and not need to enter the statter harbor parking area at all, relieving congestion problems. This is how they will operate when phase three is completed as well. On page 31 and 32 are a zoomed in photo of the configuration for the parking area and the bus drop off area.

Committee Discussion/Public Comment

Mr. Simpson asked how many single parking spaces are we gaining.

Mr. Uchytel answered 25 additional spots, which is a 30 percent increase.

Mr. Donek asked does the new configuration for the buses include the smaller buses.

Mr. Gillette answered yes it will be for all buses.

Mr. Borg added he will be putting a tent and port a potties in the new bus area, rather than at the top of the statter ramp. He will also be removing the bench and curb which are right at the top of the statter gangway.

Mr. Lowell asked if the old launch ramp is permanently closed now?

Mr. Borg answered yes.

Mr. Lowell asked what is in the island area in the middle?

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Mr. Borg said the plan is to have 40ft lanes where the buses can stage for a time while waiting for the tour to come in. We believe a couple of coaches as well as three or four 27ft buses will fit parked in that area.

Mr. Lowell asked if the entire guard rail in the middle will be removed?

Mr. Borg answered there has been some discussion about making that area more parking but he is against that as it will be such a busy area. He is not opposed to taking the guardrail out but does not believe more parking spaces are the best use of it. He would like to keep it as a commercial area, separate from recreational parking. He is looking at different options for the old DeHart's reserved parking in the existing statter parking lot.

Mr. Uchytel commented that we met with many companies today including, Alaska Coach, Gastineau Guiding, and HAP; Alaska Galore was out of town. They approved of the idea that the coach area is separate. He wishes that Mr. Doug Ward with Dolphin was there as he may not like this plan. He believes he wants to drop off directly at the gangway and is concerned that the 100 or so yards would take too long to get people there.

Mr. Borg said it is about an additional 120 feet further from where they drop now.

Mr. Uchytel stated that this is temporary for 2017 summer and next year it will be different.

4. Pedicabs Regulation

Mr. Uchytel said that they have treated pedicabs as a B zone permit. Last year was the first year any pedicabs have operated so we wanted to see how it would go. Mr. Hauck is the new owner of that company, Alaska Pedicab Tours LLC. This discussion is to bring up whether we should craft a new classification for pedicabs to operate along the sea walk, Marine Park to S. Franklin Street dock. JPD regulates pedicabs throughout Juneau. Mr. William Quayle was saying that as an independent operator, the Docks and Harbors operating fee at \$300 plus \$7 per seat should be lowered. JPD has a \$1500 dollar company fee for commercial passenger vehicles, which Mr. Quayle also has an issue with. We should discuss if the board would like to change our regulations for pedicab operations.

Committee Discussion/Public Comment

Mr. Bush asked what are pedicabs currently allowed to do?

Mr. Borg answered that they are currently allowed to operate on the seawalk, except alongside where the ADA ramp is located.

Mr. Uchytel added that this year, the decision was made that pedicabs will be able to operate along the ADA ramp, because the yellow barriers will be gone and it will be wider.

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James Hauck, owner of Alaska Pedicab Tours LLC

Mr. Hauck stated that we may operate in the area of the ADA ramp and it will be up to the drivers to decide if traffic is too heavy. They will not add to the congestion and will go around the block if need be. He understands that the ADA ramp is changing and will be modified.

Mr. Borg answered that not this year but soon, the ADA ramp will be taken out and the dock will be re-graded to have less incline.

Mr. Uchtyl said currently pedicabs are allowed to stage behind the visitors center and by the vender booths near the library. And there were no complaints last year about operating this way. Also, last year we didn't allow pedicabs to operate with advertising signs on them as it violated our no sign ordinance. The City Manager has made a unilateral change to the code which now allows small signs to be on Class C vehicles like pedicabs.

Mr. Hauck stated that he is glad the alignment has taken place so that small advertising signs are now allowed on pedicabs. He said that compared to all other expenses, the price of the Docks and Harbors permits is fair and he has no problem with paying them to stay on good terms with all other cab companies. He urges Dock and Harbors to continue to charge the fees as they are. Perhaps after a year of operation he would be willing to give a recommendation to the Board. He would like to make the pedicabs as useful as possible in the movement of people.

Mr. Donek asked what happened to the electric scooters that Bob Janes had?

Mr. Uchtyl answered that they are not used as a tour and are only used to move his staff around.

Mr. Uchtyl asked if we need to change anything about the way we run pedicabs?

Mr. Simpson said that it seems there were no issues and that we should continue on.

Mr. Uchtyl stated that Mr. Quayle is still interested in getting the B zone permit from Docks and Harbors to operate. The B zone permits will be increasing \$50 in FY18 to \$450 and another \$50 the following year.

Mr. Simpson stated that we will keep an eye on it and make changes in the future if needed.

5. USCG Live Aboard Boat Rental Requirements

Mr. Borg explained that the Coast Guard has produced a flier referencing title 46 of the United States Code, found on page 33 of the agenda. This states that using a vessel as a rental property, in which the owner receives consideration for someone to stay overnight on the vessel is deemed a commercial operation. These vessels would need to operate as a charter vessel such as a bare boat charter, an uninspected passenger vessel or as a Coast Guard inspected small passenger vessel. He wanted to make everyone aware of this Coast

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Guard regulation. He recommends incorporating some of this language in our own regulations when we go to re-write the liveaboard section this fall.

Committee Discussion/Public Comment

Mr. Simpson stated that a loophole could be that a person becomes a bare boat charter and assumes there are not a lot of requirements for that boat other than basic safety.

Mr. Borg stated that even a bare boat charter may have to also be registered with the state as a charter vessel.

Mr. Simpson asked if we already have a rule saying vessels cannot be rented out for housing?

Mr. Borg stated that we do not. As of now it is not considered commercial in our regulations.

Mr. Lowell asked if we are in conflict with the Coast Guards assertion that this is actually a commercial operation?

Mr. Borg answered that the Coast Guard can make that determination. We will fully cooperate with them if they approach us about this issue. He recommends adding to our regulations that patrons must be in compliance with this USCG code.

Mr. Lowell asked who the written bare boat charter contract with? Is it between the owner and the patrons?

Mr. Borg answered it would be a contract with the charter company.

Mr. Bush said we could in the future add a blanket statement to our regulations saying that everyone is required to follow all federal, state, and city rules and regulations.

6. MXAK Parking Request

Mr. Borg said that staff was contacted by Marine Exchange and they are asking to lease four parking spots in Harris Harbor. They have a completion date for the new building sometime in July. On page 34 and 35 of the agenda is the letter and diagram describing the request. Brett Farrell, the assistant director, is looking to improve that entire area and have it paved. He would like to work out some compensation in the price of the lease for the improvements. He would be willing to meet with the Board if they'd like. Marine Exchange has suggested \$50 a spot.

Committee Discussion/Public Comment

Mr. Gillette said they charge \$50 at the parking garage.

Mr. Simpson said at archipelago the lowest space is \$85 and he pays a \$100 a spot for an outdoor space. He believes \$50 is below the market value. If they are willing to pave they should get some consideration for it.

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Mr. Uchtyl said we need to have snow removal and maintenance considered.

Mr. Borg said there have been no problems with enforcement for the State of Alaska Fish and Game spaces near there.

Mr. Gillette said as we are working on the master plan we probably shouldn't enter into a long term lease.

Mr. Borg said he will respond to them that we tentatively may be able to work out a lease.

X. Staff & Member Reports

Mr. Uchtyl said that we had a hearing with Miller Construction about whether to assess up to a 10% penalty for failure to follow the award contract to their subcontractor for paving. Roger Healy was the hearing officer and he will make a recommendation to the City Manager.

Mr. Gillette said once Mr. Healy makes his recommendation the City Manager has 45 days to come to a decision.

Mr. Simpson asked what is the estimate about what will happen with this.

Mr. Gillette answered he does not know.

Mr. Lowell asked if the 10% is on just the subcontract or the entire contract?

Mr. Uchtyl answered only on the subcontract, up to \$72,000.

Mr. Uchtyl stated that Phase II of Aurora Harbor will be an action item at the full Board meeting tomorrow. The owner of Northern Construction Service will be at the meeting to answer any questions. Mr. Uchtyl has asked the Department of Labor(DOL) to provide any information regarding the investigation between NCS and the project they completed in Sitka. DOL is not willing to give any information about an ongoing investigation.

Mr. Simpson encouraged all the Board Members to read the letter from NCS dated March 28, 2017 prior to the full Board meeting, due to its length.

Mr. Lowell asked if there has been any efforts made by the City to determine whether they are a non-responsible bidder in regards to their standing with previous contracts?

Mr. Gillette answered they are in good standing with the City of Juneau.

Mr. Lowell asked if the assertion from Mr. Trucano that he is owed \$200,000 on a previous contract not affect us?

Mr. Uchtyl answered that contract has been closed out. We have no legal standing with either party at this point as the contract has closed. We do not monitor prompt payment to subcontractors. A contractor may be disbarred by the City if they fail to pay their subcontractors in 30 days. This never happens. If the prime requests payment, we have 30

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days to make that payment. If the subcontractor asks for payment, we have the right to have 30 days to pay the prime their dues after their request.

Mr. Simpson stated in the letter, NCS gives their explanation about the Trucano issue. This issue is an ongoing dispute and there are two different positions.

Mr. Gillette said Trucano has filed a suit against them for payment.

Mr. Bush asked in their contract for Phase I, NCS signed papers that all subcontractors have been satisfied, if it is proven in court that they have not, does that create a problem for us?

Mr. Uchytel answered that if we want this project to move forward all we can do is use the information we have. He has no reason to believe they will get disbarred. We typically do not get involved in issues between a contractor and subcontractor.

Mr. Simpson stated that they have an explanation for each issue. This Committee is not in a position to judge either way.

Mr. Donek stated that reading the letter from NCS, it is not so cut and dry. It is a dispute between what Trucano thinks he's owed and what NCS thinks he's owed.

Mr. Simpson stated that it looks like Trucano put in charges months later after everything had been closed.

Mr. Donek stated it is not sufficient grounds for us to deny the contract.

Mr. Bush asked if we are in a position where we can move forward?

Mr. Gillette stated NCS was asked to prove that they are able and capable to do the project and they came back with an answer to every question. Our rules say the bid goes to the lowest responsible bidder and NCS is the lowest bidder.

Mr. Uchytel stated that the Board acts as quasi-judicial body at times and this Friday he will be the hearing officer for a vendor booth permit holder. He will render a decision based on available information, and if the decision is unfavorable to the permittee, he may render and appeal that decision to the Board.

The Tracys Crab Shack process is with CDD, they have made notice of a Planning Commission hearing on the 25th of April. The process will be a meeting with Charles Horan tomorrow to go through the appraisal process for the 60 sq. ft. CDD is making sure it is compliant. A motion will be made on the 25th, and then the Board will be asked for approval at the next Board meeting on April 27th. In addition, liveaboard regulations need to be looked at again. He asked if we should bring forward a regulations change or have public meetings to discuss how we manage and regulate liveaboards and the challenges we have and have the public suggest changes?

Mr. Donek stated he would not like to propose regulations but instead do outreach to gather public opinion.

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Mr. Simpson stated we should have a meeting at the yacht club and listen to public before we create regulations. This is a constant issue on many levels and it needs to be addressed.

Mr. Lowell said considering public attendance at the last meeting regarding liveboards, there are a lot of people wanting to be heard.

Mr. Bush asked if liveboards are helpful.

Mr. Borg answered yes there are a handful that are very helpful.

Mr. Simpson suggested that we assign a committee to this.

Mr. Borg stated that North Douglas launch ramp is back operational as of today. We are closing up CT lot and are cleaning it out. The Galatea/Crystal Dawn was crushed today. This was Jeremy McNeil's boat; he has been in contact with me multiple times today. Seasonal workers will be starting April 3rd. Crane 2 and 3 remain down at Fisherman's Terminal but they should be fixed by mid next week.

Mr. Uchytel stated that the language will be brought forward to the Board tomorrow in regards to the Auke Bay Marine Station agreement with UAS to acquire half the property. He thinks we are close to an agreement.

XI. Committee Administrative Matters

1. Next Operations/Planning Committee Meeting- **Wednesday, April 19th, 2017.**

XII. Adjournment - The meeting adjourned at 6:35 p.m.