

CBJ DOCKS & HARBORS BOARD
OPERATIONS/PLANNING COMMITTEE MEETING MINUTES
For Wednesday, February 15th, 2017

- I. Call to Order** The meeting was called to order at 5:03 p.m. in City Hall Conference Room 224.
- II. Roll Call** The following members were present: Tom Donek, David Summers, Bob Janes, and Budd Simpson. John Bush via phone.
Absent: David Lowell
Also Present: Carl Uchtyl – Port Director, Dave Borg – Harbormaster, Gary Gillette – Port Engineer, Matt Creswell – Senior Harbor Officer.
Rick Shattuck – Shattuck & Grummett Ins., Tracy LeBarge – Owner, Tracy’s Crab Shack; William Heumann – Owner, People’s Wharf Building; Doug Trucano – Owner, Trucano’s Construction; Cedar Stark – Duck Boat Tours.
- III. Approval of Agenda**
Mr. Uchtyl requested to have Item #1 under Items for Information moved to the beginning of the meeting for Mr. Rick Shattuck to present insurance requirements.
MOTION: BY MR. TOM DONEK TO APPROVE THE AGENDA AS AMENDED AND ASKED UNANIMOUS CONSENT.
Motion passed with no objections
- IV. Public Participation on Non-Agenda Items**
Mr. Jim Becker – Fisheries Development Council, Juneau, AK
Mr. Becker said he has been on the Fisheries Development Committee for quite a while and they did a survey with all the Juneau fisheries people and they came up with a list of things that they’ve been working on. Some of the items have been put to rest like the cold storage because there did not seem any will from the city to get that done. They did get a few road side fisheries developed and they asked the University to put a fisheries education program together and UAS is starting to do that. He stated the main thing they do is write letters or resolutions for the Assembly to pass on. The committee does not have the authority to do it. He said Carl Uchtyl does come to most of the meetings. The one thing they’ve really been working on is getting a larger boat yard with a bigger boat lift which is in the plans with Docks & Harbors at Norway Point. He stated they are out of things to do right now. Mr. Becker stated Carl had suggested they become an ad hock committee to Docks & Harbors. He said they would be interested in that if the Board was interested so they can help with waterfront projects.
- Mr. Uchtyl said Mr. Becker has expressed their struggles with having quorums for the Fisheries Development Committee in order to have a meeting. Mr. Uchtyl said he understands the struggle because the Harbor Board has had such a hard time getting a commercial fisherman on the Harbor Board. He thinks there is real value in the organization and how that can play in to Docks & Harbors and the Board could figure that out. Whether there are applications or it is a standing committee or just an ad hock committee. Mr. Uchtyl thinks there is value from getting input from the fishing community and He did make it clear Docks & Harbors would not be involved with any roadside fisheries.

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Mr. Simpson asked even though we are not in charge of roadside fisheries, didn't we get put in charge with Channel Drive roadside fishery amenity.

Mr. Uchytel answered we were offered an opportunity to swap some tidelands. It would have costs Docks & Harbors \$25,000 a year in lease payments so we didn't want to lose that.

Mr. Janes asked is this something we can continue to have information presented to the board so we don't lose track of the Fisheries Development Committee.

Mr. Uchytel answered he wanted to make sure this is something the board would support.

Mr. Simpson stated he thinks there is a natural synergy and a lot of overlapping interests and issues and He thinks Mr. Becker's suggestions should be considered. We can figure out a way to do it.

Mr. Uchytel stated at the last Human Relations Committee, the Chair was directing Law to disestablish the Fisheries Development Committee.

Mr. Simpson stated maybe we can un-disestablish it within Docks & Harbors.

Mr. Donek stated he thinks it would be appropriate to have Mr. Becker come to the full board as an information item. The simple way to get it started is to create a special committee. It would only last one year but we could re-appoint it. He stated we can test this thing and see how it goes.

Mr. Simpson asked if we could go outside of our board to bring other people in.

Mr. Donek answered we can't do that.

Mr. Uchytel stated it is important to get Mr. Mosher's opinion since he is not here tonight.

Mr. Bush stated he agrees to move this to the full board as an information item.

V. Approval of Wednesday, November 9th, 2016 Operations/Planning Meetings Minutes

MOTION: BY MR. BOB JANES TO APPROVE THE NOVEMBER 9, 2016 MEETING MINUTES AND ASKED UNANIMOUS CONSENT.

Motion passed with no objections

Items for Information/Discussion

1. Vessel & Boat Shelter Insurance Options

Presentation by the Mr. Rick Shattuck

Mr. Uchytel introduced Mr. Rick Shattuck and stated that we have had meetings with him before to help us figure out our regulations regarding insurance requirements. At this time, we require patrons to provide a copy of their boat insurance. If they do not provide proof of insurance or are uninsured then there is an additional monthly surcharge of \$0.25 per foot per month. The money goes in to a fund to help salvage or raise a vessel.

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Mr. Shattuck stated in prior meetings with Docks & Harbors he has given some basic 101 insurance information such as coverages, premiums, availability and some of the issues with these. Carl has sent him some regulations about insurance from other Harbors like Seward and Bellingham. He stated he also has reviewed the Alaska Clean Harbors task force letter from July and the proposed regulations. He stated he can talk about any specific details the board may have or answer any questions.

Mr. Uchytel stated in previous meetings we have had discussions where we need to ensure that boats in the harbor have some kind of insurance and that we need to protect the interest of the city. He asked what would that look like if we are to require insurance. We have a project where we are going to relocate the boat shelters and do we require the boat shelters to have insurance and what would that look like. Are boat shelters even insurable.

Mr. Shattuck answered marine insurance is similar to home and auto insurance where you insure the thing itself and the liabilities arising from it. From the Harbor standpoint, he assumes the harbor is more concerned about the liability. Whether there is a claim of an injury and if there is liability for the harbor, or pollution, or wreck removal those all can get included under the liability portion of the insurance. A lot of the larger vessels are going to have hull and machinery insurance. There are a lot of different vessels in the harbor and insurance can have a lot of different options like watercraft liability or protections and indemnity. These can include bodily injury or property damage. Insurance can get in to crew liability, pollution, and wreck removal coverage. As far as the question can every boat get insurance it just all depends. There are uninsurable vessels based on age and condition. Old wood boats are very difficult to insure. The bigger the boat the more likely the owner has to get a survey on it in order to get insurance and it may require things to get fixed first. For some smaller vessels or sailboats you can get your boat covered under your home owners' policy. Costs can vary from \$400 a year to \$50,000 a year and up, it just all depends.

Mr. Shattuck stated shifting to the boat shelters, these can also possibly go under a home owner's policy or owners may be able to get the most basic fire policy insurance. He said as he reviewed the documentations for the draft bill, the derelict vessel section is too vague to create an insurance policy from it. The regulation would want to clarify a marine liability insurance requirement. He recommended staying away from secondary liability insurance for someone that sold a vessel.

Mr. Uchytel stated he wanted to elaborate on the secondary liability. In Washington if someone sells a boat then that owner still may have liability for up to a year or something like that so people just can't walk away from a derelict vessel. Juneau is years behind Washington with handling derelicts.

Mr. Shattuck stated the Bellingham regulation is a good example that is general enough but it says it must be a 12 month policy and sometimes our company writes shorter policies. He assumes the harbor wants to stop a short term policy where people drop it

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after they show proof. He stated CBJ should be named as an additional insurer if possible.

Mr. Summers asked about house boats and insurance availability.

Mr. Shattuck said it depends and can be difficult to insure. It is less desirable for insurance companies when it is a floating live aboard that does not operate.

Mr. Summers asked how do you figure out a value of a vessel. Is there a blue book.

Mr. Shattuck answered it is generally based on the appraisal from a survey. For the insurance liability amount \$300,000 is a good standard to require. It can increase based on charters and whale watchers.

Mr. Uchytel asked what would the plausible risk be that Docks & Harbors would want to protect ourselves from. An example being a boat shelter had an electrical issue and a dozen boats caught fire, what would be our liability.

Mr. Shattuck answered a lot of lawyers would argue whose fault it was. It would be about who was negligent. Maritime law is more absolute about liability in the policies. Most people are not going to have enough coverage to pay for all the damage. Hopefully each vessel has their own coverage. The city would be liable if it is a slip and fall, a bad power box, or a finger comes loose and boat gets damaged.

Mr. Janes asked if there is a secondary insurance or a high risk market. Is there somewhere we can refer people too.

Mr. Shattuck answered there is not a market that will provide marine insurance no matter what. Especially if they are not taking care of their boat. In his view the Bellingham example is a good one to model after and he would be happy to look at the regulation once it is complete.

VI. Consent Agenda

- A. Public Requests for Consent Agenda Changes - None
- B. Board Members Requests for Consent Agenda Changes - None
- C. Items for Action

1. Winter Management (05 CBJAC 25.080, 05 CBJAC 25.090, 05 CBJAC 40.050)

RECOMMENDATION: TO DELETE SECTION 05 CBJAC 25.080 AND 05 CBJAC 25.090 AND SUB-SECTION (D) IN 05 CBJAC 40.050.

MOTION: BY MR. BOB JANES TO APPROVE THE CONSENT AGENDA AS PRESENTED AND ASKED UNANIMOUS CONSENT.

Motion passed with no objection.

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VII. Unfinished Business

1. RECONSIDERATION – MORATORIUM ON SEAWALK PROPERTY LEASES

Presentation by the Port Director

Mr. Uchytel stated this goes back to September when Mr. Heumann came before the Ops Committee to request additional Docks & Harbors managed property be made available to lease on the sea walk in front of the People's Wharf building. Over the course of a couple months and a couple board meetings it was determined in November that the Board wanted to do a more comprehensive land use plan from Taku Dock to Marine Park before any decisions are made without a plan. Then in January, Tracy LeBarge came forward to ask for reconsideration from the Board for a lease on the sea walk. In order to re-open Tracy's Crab Shack in a portion of the People's Wharf building, she will need additional space on the sea walk for operations. She was able to obtain 400 square feet through The Assembly Lands Committee for a portion of the right-of-way for outdoor seating along Mr. Heumann's People's Wharf Building. That is an area outside of Docks & Harbors managed land.

Mr. Uchytel presented a map of the location where the People's Wharf building is located that Mr. Heumann owns, where the sea walk portion is that Docks & Harbors manages, and the right-of-way area where the seating will be. The ask of Tracy's Crab Shack is to have an 8' x 10' area on the sea walk in front of People's Wharf. The question before the board is if this is worth consideration or stay with the motion that was made in November to not consider any encroachments on the property until this urban plan is developed. After we complete the Bridge Park to Norway Point land use plan then we hope to have a good vision of the sea walk with public input hopefully completed by the fall.

Committee Questions

Mr. Bob Janes asked if we will have the comprehensive sea walk plan fully complete by the fall to include different places and different uses.

Mr. Uchytel answered we want to have it done this year so in 2018 we have a vision of how we are going to carve out the Docks & Harbors property. We want to find out if there is interest and if there is a compelling reason to acquire the Archipelago Property. In September we did not know what Mr. Heumann was considering in his ask. We often have requests from hot dog carts or native art sellers to sell on our property and if we don't have a plan in place it can be hard to say no. We need a plan that is real and makes sense so that everyone can get behind it. We need to consider the urban plan and the value of open space.

Mr. Summers asked to clarify where the right-of-way lines and property lines are and what is the lease property area.

Mr. Gillette answered by pointing out on the projected map where the right-of-way ends and Docks & Harbor property starts along the south side of the People's Wharf building. He also pointed out the portion of the building that is actually built on Docks & Harbors

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managed land and contains the two lease parcels. There is a 20 foot right-of-way along the parking lot.

Mr. Bob Janes asked if there is a white awning over the sea walk on the People's Wharf building.

Mr. Heumann answered he does have an awning over the sea walk.

Mr. Summers asked where the right-of-way ends and the Docks & Harbors property starts on the south side of the building.

Mr. Gillette clarified the building ends right at the Docks & Harbors managed property. The right-of-way which is 20 feet is just a small finger from the street along the People's Wharf building that does not extend all the way to the dock. It stops about $\frac{3}{4}$ of the way along the building.

Mr. Simpson asked if the outdoor seating that The Assembly approved is the area along the parking lot.

Mr. Gillette answered yes he believes so but we have not been a part of that process since it is not our land.

Ms. Tracy LeBarge, Owner Tracy's Crab Shack

Ms. LeBarge stated originally when she came to the board it was her understanding that Mike Tripp had a tidelands lease out to the dock. Mr. Tripp had asked her if she wanted to buy the building where Tracy's Crab Shack was and if she wanted to keep the tideland lease. She had said yes. When that fell through, she went to Mr. Heumann for a lease to re-locate Tracy's Crab Shack to the People's Wharf building and they had talked about the tideland lease in front of his building and decking it over. It then became apparent that was not an option for this year. She had to move out of her 6000 square foot space last year and she is now trying to find a new location. Her plan is to lease from Bill Heumann in a smaller 2000 square foot lease but it will require her to build another \$150,000 commercial kitchen. She is asking to have a one year temporary lease that would allow her to operate this season from her 8' x 10' shack on the sea walk since there is not room for her shack on the right of way. She will also need space for a propane tank and dumpster. It is a popular eatery because it is a shack and not a restaurant or café. She wants to keep the historical value for this season. It has been a long process searching for a new location on the waterfront by the cruise ships. She is asking the Board to reconsider and allow this temporary lease for this season so she can wait to build out the new kitchen in the People's Wharf building.

Mr. Summers asked for clarification about the utilities and what she needs space for regarding the trash and propane tanks. Does she still need the area to cook and serve food too.

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Ms. LeBarge answered she wants to have the shack so she can cook there. It will be three pots and a shack so she does not have to spend the money to build out a brand new kitchen this year. She does have garbage and propane issues whether she builds the new kitchen this season or operates out of the shack on the sea walk. She will still need property on Docks & Harbors.

Mr. Janes stated as a board member and a community member he appreciates everything the Crab Shack does for Juneau. He stated he cannot feel good about her shack being on the sea walk because she does not want to spend \$150,000 on building a new commercial kitchen this year. If she could not install a kitchen there that would be another issue but because she does not want to spend the money this year then we have to look at and consider other restaurants in town that also provide food service to our community. He said we appreciate what she does for the community. We hope we can find a compromise. Mr. Janes said he knows she is leasing a legitimate space at the People's Wharf building and she is putting a lot in to that space. Mr. Janes asked if she has any other options for the propane and garbage.

Ms. LeBarge answered the propane tank has to be a minimum of 10 feet from the property so the only option is Docks & Harbors property.

Mr. Janes asked for the cooking itself even if you build the new commercial kitchen this year you still need space from us for the propane and dumpster.

Ms. LeBarge answered yes.

Mr. Janes stated he hopes that there is a compromise that we can make so we can provide a service corridor to local property owners which continues to promote commerce and our waterfront.

Ms. LaBarge stated she does not have a choice about the propane and the trash. It does have to be on Docks & Harbors property. She did look at having the shack against the People's Wharf building but would still need about 3 feet of additional space. She talked to Dave from Arrowhead about putting the propane tank under the dock and he said they would not do that and take on that liability because of the salt water corrosion. It has to be 10 feet away from any place that she cooks. The only option is on the dock.

Mr. Bush stated he recognizes the cost of the commercial kitchen being an item. The bigger item we have from our thought process and discussions is on the waterfront plan. We hope to have it completed this fall and to consider Tracy's Crab Shack in that plan for 2018 since she will be spending the money on that new location. He likes the idea of compromise and to figure out some way to get through this season so Tracy has an opportunity to promote the commerce that she does. He recognizes the quality and volume of the commerce of the Crab Shack. It is a benefit to the community and it is a tourist draw. We do not want to have temporary propane in the plans for 2018. We need a permanent plan after we develop the waterfront area.

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Ms. LeBarge stated just to clarify she will still need propane on the docks every year not just this year.

Mr. Summers asked for specific sizes of the propane tank and the dumpster.

Ms. LeBarge answered the dumpster is on wheels that is pushed to the street to be emptied each morning and it would be stored in a decorative planter area. It would be one dumpster emptied every day and since it is a smaller space and we recycle we should only need one. The propane tank is 9 feet long and approximately 125 gallons. The shack needs 8' x 10' feet of space.

Mr. Donek asked what is the total space she would need for trash, propane, and the shack.

Ms. LeBarge answered there are two plans with and without the shack included. The idea is to tuck the tank and trash behind the shack. We would need 16' x 10' if we are only looking at the propane and garbage.

Mr. Simpson stated we need to decide if we will allow the lease first then we can discuss the footprint if we get to that point.

Mr. Bush stated he agrees we need to decide if we are sticking with the moratorium. He believes we need to reconsider it and send it to the board.

Mr. Uchytel asked if the trash is once a day or twice a day pick up and when it is done.

Ms. LeBarge answered that it is picked up once a day by 6am before anything is open and is wheeled down to the curb.

Public Comment

Mr. Heumann stated he has owned the People's Wharf land since 1983. When he purchased the land, the city property went right to the edge of the building. The Assembly then established a right-of-way so he could meet building code requirements to have doors on the side of the building. In 2006, he was approached by the Assistant City Engineer, Rorie Watt to request property owners to upgrade what they had so they could build the first part of the sea walk. It was to create a more comprehensive presentation to the tourist industry. In his 35 years, he has done a lot of battles with the city but this was a collaborated effort where we worked together with the upgrades and the right-of-way. The tidelands were offered to him for a lease and were not put out for bid to the public. That is how he got where we are today. He stated during the endeavors of getting approvals for the tideland leases, it was a pretty easy process. He has one other tideland lease out at Auke Bay for a 400 foot private dock and Mitch Falk also has one. Those were done in favor of the upland property owners. To his understanding, even with the statehood act they always give favor to the upland property owners. You do not want a third party to come in and build something in front of someone else's property therefore causing them to lose waterfront or views and grossly devaluing their property. Things

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have gotten a lot more sophisticated in the city as time goes on. Mr. Heumann stated he naively thought he could easily get another tideland lease in front of the People's Wharf building and then realized it would not work with his timeframe. He then recalled he had the right-of-way so he went to the City Manager and the Assembly to see if he could get an area there for outdoor seating. They were very supportive. He thinks there is an oversensitivity in the press that area businesses are out to get each other or want to make things harder for others. He thinks every business owner pays attention to their own businesses. He also sat in on Reecia Wilson's conditional use permit with the planning commission. It was very clear to him the planning commission went out of their way to approve the permit to continue development along the waterfront. He stated that it is their vision to continue the development. It is a public private partnership. His question is why not. What is the problem with leasing the area on the sea walk. He believes there is room for everybody all along the sea walk. Tracy's Crab Shack will be employing 29 less people this year because she had to move to a smaller facility. We are in a recession so we want to go in the direction of providing business with what they need. This is a long lease they are seeking and they will accept the parameters. He stated they would use PND Engineering to design it and Trucano's to build it. It would all be done within the private sector. We would cover in the open area of the sea walk with no cost to Docks & Harbors. He stated he would want a financial analysis of the area to determine the lease price. He does not think we need all the barricades on the sea walk especially with the cruise ships docks being moved out. TSA and the USCG should not be telling us how to run our docks. He stated he also acquired a problem since the parking lot and docks development, the walkway now curves therefore losing the foot traffic he once had along the building. He lost two business leases because of the lack of pedestrians. It was an unforeseen circumstance. The goal of the sea walk was to alleviate the congestion of the foot traffic on Franklin Street but it is under developed and there is not a draw to the area. People head for the shops. If Tracy's Crab Shack did build a \$150,000 kitchen this year and then the Docks & Harbors plan does not allow for a propane tank or trash receptacle on the docks she would be out of business after spending all that money. For one year, until the land use plan is completed this fall the board should allow Tracy's Crab Shack to operate on the sea walk.

Mr. Janes stated the board members are all about supporting local businesses. He stated he likes supporting local businesses and displacing the Caribbean businesses. He asked if the People's Wharf is traditionally leased to out of town businesses that leave in the winter.

Mr. Heumann answered yes and he is looking forward to leasing to local businesses. He has local businesses in the past prior to his rebuild. He believes he will be better off with reliable local businesses than with the other businesses that come and go.

Mr. Trucano stated he could easily build a temporary platform for the propane tank and the dumpster that would be over the water not taking up any dock space. It could be located right behind the Crab Shack. It could be there for one year and then be taken out. He has known Tracy for a long time and she has collected an enormous amount of sales

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tax for the city. He would like to see the city give back to the people. He would like to let her have the space for just one year.

Committee Discussion/Action

MOTION: BY MR. BUSH TO RECONSIDER THE MORATORIUM AND TAKE THE DISCUSSION TO THE FULL BOARD.

Mr. Simpson asked Mr. Bush to clarify that his motion was to take it to the board to discuss.

Mr. Bush answered yes.

Mr. Simpson stated let's hold the motion since we have other members that want to discuss it now.

Mr. Janes stated he would like to have a specific recommendation to take to the full board rather than just forward the discussion.

Mr. Summers stated in terms of reconsidering the moratorium on leases his answer would be no. It would be an exclusive use for a single operator. He would not support putting the shack on the docks for just one private business. However what he can support is that the land owner is asking for a utility by asking for space for the propane tank and the dumpsters. We should support that in one way or another. If we are going to take something to the Board, we need a specific ask for what the plan and sizes of where these items would go as a permanent structure. He stated he would be much more inclined to support a property owner wanting to get some utilities rather than a private business getting an exclusive opportunity to operate on the docks. He stated part of the reason is that we do not know if we are going to have tideland leases as part of the plan.

Mr. Donek stated if we are going to forward to the board he wants to see a specific drawing with a plan of locations and sizes of square footage for the tank and the dumpster. He needs a visual specific proposal.

Mr. Janes stated he agrees that Trucano's could build a structure over the water without driving any pilings. He would like to take that in to consideration that way we are not leasing out any existing sea walk space. The building owner would be paying to create new space for the propane tank and garbage. It conforms to a plan for the entire sea walk. Since we are doing something different, we are treating everyone fairly. It would be a win for everybody. He does stick with his original opinion. And in spite of the cost of a commercial kitchen, we can help with long term piece of the neighborhood and just do the propane tank and the dumpster which would allow Tracy's Crab Shack to open this summer.

Mr. Simpson stated he wanted to clarify she is also asking to put the 8' x 10' structure on the existing sea walk. He said we need a drawing of what she wants.

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Mr. Donek said we need to get a plan then we can go from there. He is sure Doug can build whatever she wants. He is not concerned how the planks will be laid out, that's for them to figure out. Define what space she wants and we can discuss that.

Mr. Simpson stated he has two competing considerations and policy issues to make. He completely agrees with Mr. Heumann that the upland owner does have some kind of priority position to control the seaward tidelands adjacent to his property. It does not make sense if anything is going to happen to the land that we can't go out to bid to let another business go up like a Texaco station. We can't allow that in our planning process. If Mr. Heumann did acquire a lease and he decides to put up a crab shack then that is not out of the question. You see those in other communities on the docks. The competing point is we don't have the comprehensive land use plan yet. Mr. Heumann was aware last year that we would not have that plan until this fall. The item he cannot agree to is that if someone has an urgent need to put a structure on docked over city land that costs us hundreds of dollars per square foot. If we do it one time then we could never say no to anyone else who has a pressing need. While Ms. LeBarge has a compelling argument then it allows just anyone to show up with a request. Mr. Heumann can make a request for his land then he can do whatever he wants with the space. We can do a short term lease for Mr. Heumann.

Mr. Donek stated he would be more comfortable if we were making a one year exception rather than taking off this moratorium. We need to have a plan in place so we can make the decision in the future and a crab shack makes sense rather than a five story building.

Mr. Bush stated he does not have a problem leaving the moratorium in place and making an exception for this temporary lease. It sounds like from the discussion there is support we want to make something work. He withdrew his original motion.

Mr. Simpson asked if there was any objection for Mr. Bush withdrawing his motion. Seeing none we will start over.

Mr. Summers asked if we are going to develop a temporary lease and are we going to offer that to everybody or just choosing one. We also have existing land owners that may want one. Are we just choosing one or prioritizing. If we are offering an exclusive lease to just one land owner then he does not want to make an unlevel playing field for other land owners. If we allow them to use a specific space then they can put whatever they want rather than specify a propane tank or dumpster. He also asked how do we decide what is appropriate if it is a temporary or permanent structure.

Mr. Janes stated he is ready to make a motion.

Mr. Uchytel stated before the board makes a motion, time is of the essence and I've heard what the Chair has said about property owners having preference but he has had a lot of conversations with law and they may not see it the same way. There are a lot of procedural things we have to follow and there are a lot of things that have to happen. He

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is not sure what could be short circuited. There are a lot of things that have to happen like board approval, appraisals, public notices, and Assembly approvals. He stated he knows Tracy wants to begin construction right away. He asked the Board to please take that in to account with what motion is made.

Mr. Simpson stated he wants to address a couple things. He is not talking about a legal right for a property owner to build something seaward. He is talking about public policy question that allows a property owner to have some sort of a priority. Mr. Heumann testified about the sole source lease he got for the few feet seaward of his building that he did not have to outbid anyone for because it made sense and it is the right thing to do. The same with Tripp's building that has a decked over area where the cars are parked. He negotiated it with Docks & Harbors and he built the dock. That is just how it is done. Mr. Simpson stated he is not talking about getting in a fight with the law department about if Mr. Heumann has a right to it. He is talking about a policy that we can incorporate in to our waterfront plan if we want to. It has been our operation and should probably continue.

Mr. Janes said he agreed.

MOTION: BY MR. JANES THAT WE ASK MR. HEUMANN TO BRING US A PLAN FOR PROVIDING A SPACE FOR PROPANE AND GARBAGE UTILITY SERVICE WITHIN THE YELLOW AREA ON THE CORNER OF THE AREA OF INTEREST TO BE DESIGNED AND CAMOFLOGED HOWEVER IT MIGHT BE PLEASING AND TO BE CONSTRUCTED AT THE COST OF THE PROPERTY OWNER IN THAT SPACE IN ORDER TO PROVIDE THOSE UTILITIES FOR TRACY'S CRAB SHACK.

Mr. Simpson asked where is the shack going to go.

Mr. Janes said that is for her to figure it out on her own.

Mr. Simpson asked if we could have Mr. Heumann bring a plan for all three things then we can vote it up or down.

Mr. Janes said ok I can amend that motion to have him bring whatever designs he sees fit for that corner. He can bring separate designs.

Mr. Heumann asked in order to understand if this is the area over the water and if this is going to be a lease that these items will be placed upon. The outdoor seating area in the right-of-way would be lower rent than the cost of an appraisal so it did not make sense for the Assembly to get one. Is it possible to not get an appraisal since it does make sense both if it is an area over water and it is only a temporary one year lease. He asked if it is possible to not follow the process since it is not a long term lease.

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Mr. Simpson stated he does not know the answer to that and it will have to go to legal. We are under some constraints as far as how we lease things. He thinks the time isn't an issue. There is a maximum length of a lease but he does not think there is a minimum. The appraisal question can be daunting.

Mr. Heumann stated he thinks it is possible to get it done in a few months. The appraisal could be done now but then go to the Assembly. It's pushing it but it's possible.

MOTION: BY MR. JANES THAT WE ASK MR. HEUMANN AS THE UPLAND PROPERTY OWNER TO PROVIDE US WITH ONE, TWO, OR THREE DESIGNS FOR CORNERING IN A SECTION OF THE YELLOW AREA OF INTEREST HERE TO PROVIDE A PLAN OR TWO OR THREE OF YOUR LIKING FOR US TO CONSIDER FOR LEASING AT OUR NEXT FULL BOARD MEETING AND ASKED UNANIMOUS CONSENT.

Motion passed with no objections

VIII. New Business

1. Policy for anchoring on CBJ Docks & Harbors tidelands

Presentation by the Port Director

Mr. Uchytel stated this policy came out of the last harbor fee review committee. This is a question about what are we going to do about the vessel anchored on Docks & Harbors tidelands by Aurora Harbor Breakwater. Dave Borg created a policy that mimics what Department of Natural Resources has. It states a vessel can anchor for up to two weeks at a time then it must relocate at least 2 miles away.

Mr. Borg stated he wanted to keep the policy simple and use the one that the State already has in place. He stated he did add that vessels must use standard anchor tackle that is designed for the vessel and no permanent mooring system will be authorized on Docks & Harbors managed tidelands. There is a big difference being moored and being anchored.

Mr. Uchytel asked Mr. Borg to speak to the current vessel that are moored outside Aurora.

Mr. Borg stated he has spoken to Steve Hamilton who is the owner of the flotilla that is moored at the southern end and tied up to a mooring ball system. Mr. Hamilton has sold his barge a several other pieces of equipment that is there and when the weather is appropriate it will all be moved south. He has been very responsive in getting his items removed. As for the Lumberman, we have a much more serious situation. A couple weeks ago she drug her mooring system. She has two mooring balls that are now even which is causing the vessel to twist and rotate 180 degrees and as she continues to twist these lies could cut the vessel in half worst case scenario or continue to keep dragging until she hits shallow water. There is also 80 feet of dock and two other boats that have sunk multiple times. The father of the owner said they are handling it but they do not have a plan in place. We continue to watch it carefully but it is a major concern.

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If it breaks loose the only crew that can handle it would be Amak towing and they are not always available.

Mr. Uchtyl asked if we could have the Coast Guard intervene.

Mr. Borg answered he is not sure if they can assist since it is not in the waterways and has not broken loose at this point.

Committee Questions

Mr. Donek stated if it breaks loose it can block the channel for the barges.

Mr. Uchtyl stated we need to definitely contact the Coast Guard about our safety concerns. As far as the policy, we will have Law draft something to move forward with.

Mr. Donek stated he recommends removing the section on moving 2 miles since it is not applicable to our tidelands. We can keep the 14 day rule. And we should remove the wording about "might be" since we want the policy to be clear.

Mr. Simpson stated he agrees to the 14 day rule. But what about the Manson barge that stayed longer.

Mr. Borg answered they got a permit from DNR that cost them money because we did not have the room on our tidelands since the Hamilton's flotilla and the Lumberman did not move in time. So that cost us in the long run since the construction company will bill us for our project. We need to be able to manage our property.

Public Comment - None

Committee Discussion/Action

Mr. Summers asked if we send it to Law first or to the full board.

Mr. Simpson answered if we recommend moving forward then staff will take it to Law first and bring the final product to the full board for consideration.

MOTION: BY MR. DAVID SUMMERS FOR STAFF TO FORWARD THE POLICY TO CBJ LAW FOR REVIEW AND THEN RETURN TO THE BOARD AND ASKED UNANIMOUS CONSENT.

Motion passed with no objections

2. Proposed New Regulation – Vessel Sewage Requirements

Presentation by the Harbormaster

Mr. Borg stated this has stemmed from the fact that we are working on our Clean Harbors Certification. One of the things we don't have is a regulation on how we handle sewage and waste in our harbors. This has been a contentious situation especially with live

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aboard. This is not a live aboard issue. The dumping of the sewage in our harbors is illegal by Federal Law for all vessels. We can longer ignore it and we need to address it.

Mr. Creswell stated a lot of this information the Board has seen before and at this time we do not have a regulation in place nor a program to ensure live aboard have a proper sanitation device in place. We know for a fact that many vessels are discharging untreated sewage in to our harbors against the Federal Law. In order to get the Clean Harbors Certification we must have a local code in our regulations stating vessels cannot discharge untreated sewage in to our Harbors. He presented a power point presentation that showed the testing of our harbor sewage levels that were well over what is allowed. He also presented photos of the amounts of floating sewage in our harbors and explained the smell is overwhelming at times. This is not the right thing to do and we must do this for the future of our harbors. He read the proposed regulation that is attached to the agenda packet for the board to consider. Vessels will need to have Coast Guard approved sanitation systems. We are aiming the regulation at live aboards for our inspection because they are using facilities every day. But the law does state no vessels no matter what can discharge sewage.

Mr. Borg stated we have many live aboard vessels that he has gone on and they all have multiple 5 gallon buckets filled with human waste that are not being properly disposed of.

Committee Questions

Mr. Simpson stated part of the regulation should list the actual Coast Guard approved Type of sanitation systems.

Mr. Creswell stated that even with Type I and II systems vessels must still have a holding tank that must be pumped out or only discharge at least 3 miles out.

Mr. Summers asked if we have a regulation about what a live aboard length of stay is.

Mr. Creswell answered that is already in our regulations.

Mr. Simpson stated to be clear all vessel whether live aboard or not must follow the federal law. The live aboards are there longer therefore we want to be able to inspect it.

Public Comment

Mr. Becker asked if the incinerator type toilets that people have in cabins would work.

Mr. Borg answered the incinerator type of toilets are not very conducive for small boats because of the exhaust and amount of heat. They are either electric or gas powered.

Mrs. Becker asked what the repercussion or penalty would be.

Mr. Uchytel answered we will not be able to enforce a Federal Law. Coast Guard or EPA would have to come down to do that type of enforcement. Part of the regulation could

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have a violation fee or fine but we just want it to say this is what you have to have to be compliant with the Harbor.

Mr. Simpson stated Mrs. Becker has a valid point that we have to have an overriding violation that could results in fines. We should have CBJ Law add that in to prohibited acts.

Mr. Holzman stated 20% of the Harbor are live aboards and the board is taking aim at the just a small portion of the Harbor. All vessels are discharging. You cannot just do it for a minority.

Mr. Simpson stated this does apply to everybody and every vessel per the Federal Law like he stated before and our intention is to enforce for everyone not just live aboards.

Mr. Donek stated we should have it in our new regulation that we have the right to inspect every vessel not just live aboard vessels.

Mr. Simpson stated he has experienced that in other harbors.

Committee Discussion/Action

MOTION: BY MR. DAVID SUMMERS TO FORWARD THE NEW PROPOSED REGULATION TO THE FULL BOARD TO INCLUDE THE INSPECTION FOR ALL VESSELS FOR CONSIDERATION AND ASKED UNANIMOUS CONSENT.
Motion passed with no objections

IX. Items for Information/Discussion

1. Vessel & Boat Shelter Insurance Options

Presentation by the Mr. Rick Shattuck (*SEE ABOVE*)

2. Duck Boat Tour

Presentation by Mr. Cedar Stark

Mr. Stark stated he was born and raised in Juneau and has spent the last 20 years working on different boats. Over the last year and a half he has been working on developing an amphibious bus tour. It would be like the other duck tour boats all over the U.S. like Seattle and Ketchikan. Mr. Stark handed out photo of the new modern version of the vehicle that he plans to use for his new business. (see attached photo) They are designed to be a lot lower maintenance and virtually unsinkable. The vehicle is 18 ½ feet wide 40 feet long and 11 feet tall and it seats up to 49 passengers and 2 crew. They weight about 19,000 pounds empty and 28,000 pounds loaded. He is not sure if the launch ramps can hold the weight. If the board approve the permits his plan is to load and unload at one of the cruise ship lots downtown. But he would have to have the end parking spot because people board up a latter on the side for safe boarding.

Mr. Simpson asked staff if he started this business is it even possible for him to use the loading zones.

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Mr. Uchtyl answered it could be possible with a B-Zone permit.

Mr. Stark stated the plan would be after loading then they would drive through town and the guide would give a tour. Then head to the Douglas Boat Launch and drive up the channel for the water tour and pull out at the Harris Launch Ramp and drop off back downtown. This is all weather dependent. Really foggy or windy days we may have to go to Statter or North Douglas. We would just need to use ramps April through September. I figured we would pay loading fee permit, commercial launch permit, and passenger head fees. We would have the correct licenses for our captains. We would have to start in 2018 and my company would create jobs and income.

Committee Discussion/Public Comment

Mr. Summers asked what the water and land speeds are.

Mr. Stark answered he would not go above 50mph on land and 5 knots on water. It would be educational and entertaining tour.

Mr. Donek stated the slickness of the ramps may not work at all. Harris is too old for the weight of the vehicle. He would need to look at all the launch ramps.

Mr. Uchtyl asked what would your plan be at the ramps with other vessels launching.

Mr. Stark stated he would wait in line and try and plan around wait times.

Mr. Uchtyl asked if he spoke with Kirby Day and Drew Green about using their facilities.

Mr. Stark answered he did ask them and they said it would interfere with their operations.

Mr. Donek stated there was one issue with duck boat tour in Ketchikan and that is the splash entering the water caused too much of a wake for the other boats.

Mr. Stark said he understands and he won't really be able to do the splash and it is hard on the vehicle anyway.

Mr. Janes stated he does not see a problem but recommends he works with the Harbormaster to make sure the boat launch ramps will work before he purchases the vehicle.

Mr. Stark thanked the board for their time and input and he will stay in touch with a plan.

3. Auke Bay Marine Station Update

Presentation by the Port Engineer

Mr. Gillette stated the good news is we are continuing to have dialog with the City Manager and the UAS chancellor and the UAF lands manager attorney and our own

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council. We have had a couple of meetings and are talking about partitioning the land so UAS gets a portion and we get one. If we cannot come up with an agreement with UAS to divide the property then it will just be determined by the proposals who gets the property. UAS is asking for an easement in the middle of the property and that would greatly affect our portion of the property and future use. They also want free and exclusive use of the dock and fish house. We do not think the easement is necessary if they get the dock space and we can put that in to an agreement that they get access to it. The City Manager is on our side saying UAS is asking too much.

Committee Discussion/Public Comment

Mr. Simpson stated if we give them an easement then it takes away property from us and they are the dominant user then we are subordinate to everything they want to do so we may as well just give them the whole thing.

Mr. Gillette stated it would limit our future use with the configuration they want. The other issue is free and exclusive use of the dock. We would be willing to lease it to them.

Mr. Simpson asked if we would have to maintain the dock too.

Mr. Gillette answered we would have to figure that out because we would want to use the dock too. Or they have to maintain it if they use it. We do not have anything fully vetted yet but we agreed to meet again next Wednesday.

Mr. Uchytel said the float is currently under a state lease until 2020 that would have to be honored. We already have the tidelands.

X. Staff & Member Reports

Mr. Uchytel stated the Aurora Phase II project had the bids opened last week. We had canceled the special board meeting because Doug Trucano had sent a letter of intent to protest but he has since pulled that letter of protest. He stated He and Gary will now work to make sure the apparent low bidder has the means, personnel, and equipment to do the work. The engineer's estimate was at \$4.1M and the low bidder NCS came in at \$3.15M. To our knowledge they have never driven piles before.

Mr. Uchytel stated Mr. Doug Unruh, Auke Bay Supervisor, will be retiring April 28th.

Mr. Uchytel stated he got a request from a business owner stating the trees at the CT lot were encumbering his advertising and stated we need to remove the trees.

XI. Committee Administrative Matters

1. Next Operations/Planning Committee Meeting- **Wednesday, March 22nd, 2017.**

XII. Adjournment

The meeting adjourned at 8:05pm.

