



DOCKS AND HARBORS BOARD MEETING MINUTES

February 29, 2024 at 5:00 PM

City Hall Conf. Room 224/Zoom Meeting

A. CALL TO ORDER: Mr. Etheridge called the meeting to order at 5:00pm in City Hall Room 224 & via Zoom.

B. ROLL CALL: The following members attended in person or via zoom - Debbie Hart (arrived @ 5:01pm), Matthew Leither, Mark Ridgway, Annette Smith, Shem Sooter, and Don Etheridge.

Absent: James Becker, and Paul Grant

Also in attendance: Carl Uchtyl – Port Director, Matthew Creswell – Harbormaster, Jeremy Norbryhn – Deputy Harbormaster, and Teena Larson – Administrative Officer.

C. PORT DIRECTOR REQUESTS FOR AGENDA CHANGES

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

Motion passed with no objection.

D. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

E. APPROVAL OF MINUTES

1. January 25th, 2024 Regular Board Minutes

Hearing no objection the January 25th meeting minutes were approved as presented.

F. UNFINISHED BUSINESS

2. Vessel Disposal Surcharge (VDS) - Options

Mr. Creswell said at last week's Operations Meeting he presented the Vessel Disposal Surcharge and Vessel Disposal costs presentation again which was shown at the December meeting. At the direction of the Board, he removed the liveaboard component, and the last four option on page 17 in the packet and changed the second option on that page to say; require all uninsured vessels who wish to pay the monthly, semiannual, and annual rate to pay the Vessel Disposal surcharge even if in transient moorage. Currently the only vessels subject to the VDS are assigned stall holders. There are a large number of vessels that stay in Juneau year around but are not stall holders. It will be hard to determine how much revenue this change will bring. We currently collect around \$20,000 annually. He requested more time to work on providing the different options for potential revenue.

Board Questions

Ms. Smith asked how far in debt we are for vessel disposal so far this year? What is the average across years that we lose on vessel disposal by not having rates that pay for the vessel disposal?

Mr. Creswell said he does not have those numbers tonight. Looking back to the summer of 2023 we did not have a lot of disposals because we did not have a lot of impounds but he would put that number to be at \$60,000 to \$100,000. We are starting to take more of an aggressive stance on unseaworthy vessels. He expects his demolition costs to rise in the next few years until after the sea trials in the downtown harbors.

Mr. Ridgway asked Mr. Creswell how he would establish a reflective rate for the VDS?

Mr. Creswell said he could see this as a variable changing rate where once we receive a sufficient reserve in our VDS fund, the VDS may be able to increase or decrease year to year to keep us at an acceptable level of funds on hand to dispose of vessels. If this surcharge went up, and it was never

touched, the Harbors could be perceived of padding our pocketbook with a VDS fee going elsewhere and not used for the vessel disposal purpose.

Ms. Smith asked if it was possible to put the VDS fees in a separate fund?

Ms. Larson said we would need to work with our Finance accountant to set up a separate fund and then staff would need to establish a code in our system that points to that fund.

Mr. Sooter asked how much we would collect if we required all the uninsured vessels to pay into the VDS fund?

Mr. Creswell said that is what the admin staff is working on.

Mr. Leither asked if this would be required to go through the public notice period and through the Assembly?

Ms. Larson said yes.

Ms. Smith commented that the Committee was informed about Wrangel raising their vessel disposal fee to \$3. She asked Mr. Creswell if that fee was used, what would we be collecting?

Mr. Creswell said he has not calculated that. In FY23, just collecting from stall holders at \$.25 per foot, we brought in \$20,764.17. Raising that to \$2 per foot would be a eight fold increase and would increase our revenue to about \$160,000 per year with just the stall holders. With including the transient vessels, it could go well over \$200,000 in a single year. He wants to be careful how this fee is raised and implemented.

Mr. Ridgway commented that he remembers talk about the administrative burden for requiring transient vessels to show proof of insurance.

Mr. Creswell said he sees a true transient only staying three days to a couple of weeks. Our transients are non-stall holders and so that includes a lot of vessels. Our workaround is to include vessels paying the monthly, semiannual, and annual would be required to provide proof of insurance or be required to pay the VDS fee. It would be an administrative burden to require every visiting vessel to provide proof of insurance.

Ms. Smith asked if the transient vessels that are only in our harbors for a few days at a time, are our lowest risk vessels?

Mr. Creswell said yes. They come under their own power and leave under their own power.

Mr. Ridgway asked if we ask the large yacht owners for proof of insurance?

Mr. Creswell said no, they pay a reservation daily rate and would not be subject to this fee.

Public Comment - None

Board Discussion/Action

Mr. Ridgway commented he would speak in favor of the proposed motion. He likes the idea of a flexible rate and a separate account. When the target amount is reached, which could be the most we have paid out in a single year, we could then lower the amount. He would recommend staff to look at a lower amount to get to that target amount a little slower.

Mr. Leither said he would like to be cautious about this fee. At some point, we may have some unintended consequences where some boat owners just walk away from their boats because they are not willing to pay any more money and we end up compounding our issues. The bigger issue, this is happening in the year we drastically raised rates, we are raising rates again on the very people that were sensitive to the rate change we just made. We were able to pass the rate change through, but he is cautious to also do this increase in the same year. As a responsibility aspect, this is very reasonable, but he is still conscious about the backlash from the users.

Mr. Ridgway said we do not want people walking away from their boats and he would like staff to ease into raising the VDS fee. Getting us to a healthy fund balance is what our rates should be based on.

Ms. Smith said she recognizes it is tough rising out of inaction from the Board where we did not raise rates. We did put in a large rate increase, but it was spread out over three years. She does not think to delay these three years because we are still losing money. We are requiring our people who have good responsible boats to keep their boats up and pay for the damage these other boats are causing. She said she supports this increase, even if it is a slow increase.

Mr. Sooter said he would be in favor of having more information before a final decision is made.

Mr. Ridgway said his understanding is this motion is for more information.

Ms. Smith said if we start including all vessels that are uninsured that we do not currently require to pay the VDS fee, that will mitigate the amount of the increase. It may end up being a very small increase.

Mr. Uchytel said any rate increase is a regulation change and will have to go through the Assembly. The rate increase in Wrangel was to incentivize boat owners to get their own insurance. Part of the thought for the VDS increase is to raise it to a point where it is better for the responsible boat owner to get their own insurance instead of paying the VDS fee. This is a disincentive for vessel owners to go without insurance. We can go through this whole process and decide when we want this to be effective.

Mr. Leither said he would be curious to see how close we could get to our needs by requiring the boat owners currently not paying the VDS fee to start paying. He pointed out that his own insurance will not cover loss due to freezing, thawing, pressure, weight of water or ice whether driven by the wind or not. He said, if his boat sank today, the Harbor would still have to pay for that boat despite the fact he has insurance. He pointed out having insurance is not the total solution to this problem.

Mr. Etheridge said that was his experience also with insurance. He commented that if his vessel sank, it would not be covered if it was due to a winter condition or negligence. If you don't shovel your vessel, it is classified as negligence.

Mr. Leither asked if there was a way to have all vessel owners who have insurance that does not cover a sunken vessel to pay the vessel disposal surcharge? That would be unpopular, but if our goal is to mitigate our responsibility for raising boats, that may be the way.

Mr. Ridgway asked Mr. Creswell if the insured vessels are a burden to our Harbors enterprise?

Mr. Creswell said of the boats that sank in this last storm, two were insured and their insurance paid for the raising of the vessel. One of those two, insurance even paid for the disposal. He said he has not come across an insured vessel that did not pay to raise the vessel. The uninsured vessels are typically raised by the Coast Guard because of the pollution threat. They open the Oil Spill Liability Trust Fund which allows them to pay for raising the vessel and remove the pollutants. After that, it is on the owner and in most cases falls on us to dispose of the vessel.

Ms. Smith commented, in general terms, insurance does not cover negligence.

Mr. Ridgway commented that he believes we can ask staff to look into how hard it will be to look at the insurance to see what it covers.

Mr. Leither commented that it is reasonable to move this forward tonight but would like more information.

MOTION By MS. SMITH: TO PURSUE (1) RAISING VDS FEE TO ACCURATELY REFLECT WHAT IT COSTS TO DISPOSE OF A VESSEL AND (2) TO REQUIRE ALL UNINSURED VESSEL TO PAY VDS FEE EVEN IN TRANSIENT MOORAGE AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

3. Memorandum of Understanding (MOA) with AELP to complete Dock Electrification Design Efforts.
Mr. Uchytel said in the packet starting on page 18 is a document that has been vetted through CBJ Law. He said substantive change from last week's Operations meeting is that AELP is proposing to reduce the scope of work they plan to execute with H3 to exclude construction management oversight. AELP has reduced the proposed rate by \$300,000 which is the construction administrative fee and added \$90,000 for AELP administrative oversight. CBJ Law and the Port Director have reviewed this and find it reasonable.

Board Questions

Mr. Ridgway asked who will be providing construction oversight?

Mr. Uchytel said AELP indicated they are supportive of having a single entity do the design from transmission to cable management system that hooks into the ship. They are hesitant about at some point coming up with the demarkation of ownership with what Docks & Harbors will own and what AELP will own. That is why they want to tease out the construction management. The idea moving forward is Docks & Harbors would get the design from H3 and then we would figure out construction contract management at the time of construction.

Mr. Ridgway said regarding the pending title 85 changes, this is a tourism related project. Will this be under the purview of the new Tourism Manager to manage this project?

Mr. Uchytel said this would be an example of Docks & Harbors having Engineering design management and future construction oversight, but the Tourism Manager would have visibility with everything going on which she is currently doing. The Tourism Manager is very involved in this project and consulting with industry. The Tourism Manager is aware that we have applied for an EPA Diesel Emission Reduction Act (DERA) grant which is \$1.5M and a Notice of Funding opportunity (NOFO) for the \$3B grant. Mr. Uchytel said he discussed this with engineering yesterday, and they have a grant writer who will take the lead on the grant writing on behalf of Docks & Harbors. If there are costs associated with external expertise, we will provide that. Mr. Uchytel said he will work with AELP to make sure their input is reflected in the grant application. This is a joint effort and one project where there are several entities working toward a CBJ goal.

Ms. Smith commented that she is uncomfortable with a company that is going to be doing the design, but no ownership in the construction. Especially if they have no ownership with design.

Mr. Uchytel said the direction we are going is with a qualified engineering architect firm from California that AELP believes can competently complete the work. Any construction project we do, there is never a guarantee we will receive a design package from an engineering architectural firm and that the construction will go smoothly. Engineering firms can be held liable for gross emissions in failures, but it

does not happen very often. The alternative would be to do a Design-Build where the engineering design package is embedded with the construction company and in a Design-Build you negotiate a price. This is a fixed price, you get what you get, and the owner really has no input in the design or construction. We are looking at a Design-Bid-Build. AELP will figure out the part with the cable run, and Docks & Harbors will review the float and the cable management system.

Mr. Creswell said he is currently at the Port of Miami. This is the final project of his three-year PPM training program. Miami is on a larger scale, but in the same situation we are with dock electrification. They received a directive to complete an electrification project for up to ten cruise ship berths. They are getting close to being able to go live with the first five systems, but they can only run three systems at a time because that is all the power the grids can handle. The Miami project is an example of what happens when a project is rushed, some of the shortfalls they have seen, and what they could have done better. They have talked extensively about picking the right contractor who has marine electrification experience. He said he will have a detailed report in about six to eight weeks to share with the Board. Spending time in the Port of Miami, hearing what went right, what went wrong, and what could have gone better, may be able to help Juneau from a lot of headaches.

Public Comment - None

Board Discussion/Action

Mr. Ridgway commented, looking at the MOA without the contract to review is a little concerning but he is in favor of the motion.

MOTION By MS. SMITH: TO APPROVE PROPOSED MOA WITH AELP TO COMPLETE ENGINEERING DESIGN EFFORTS FOR DOCK ELECTRIFICATION AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

4. Title 85 Proposed Changes

Mr. Uchytel said in the packet starting on page 37 is Assembly discussion relating to Title 85 changes. He sent out the link to the Board members for the entire COW meeting. Essentially, the Assembly intends to move forward with proposing changes to Title 3 which would empower the Tourism Manager and make changes to Title 85 that will remove some of the responsibilities of the Docks & Harbors Board in areas of tourism and tourism related functions. He does not have the dates of the April meetings, but his understanding is the proposed changes in the packet will be introduced in April and acted on at the following Committee of the Whole meeting. Mr. Uchytel lost connection.

Mr. Adkison said Ms. Woll proposed changes regarding rates and fees and Ms. Adkison read those changes. *[Rates and Fees: The Manager or the Managers designee is authorized to adopt and enforce regulations under chapter 01.6 regarding the rates and fees for the cruise ships and passengers after consulting with the Port Director and presenting the proposal to the Docks & Harbors Board.]* She said Ms. Woll is working on another amendment clarifying why the Dock limitations of authority regarding long-term projects were struck. This proposed change will add another section making it clear what the intent of that change is. The proposed changes will be available April 1st.

Mayor Weldon said she spoke with some of the Board members after the Committee of the Whole meeting where this was discussed. She wanted to remind the Board, when we hired the Tourism Manager, we knew there was going to be a need for changes. This is not to try to take authority away from the Board, but trying to give authority to the Tourism Manager so she can deal with all things' tourism. The Assembly still wants a public process for the fee changes so that was added back in, and Ms. Woll's change read by Ms. Adkison has already been adopted. The other change Ms. Woll is working on will be brought back to the April meeting. This change is nothing against the Board, but the

Tourism Manager has to have authority when talking to the Cruise Companies when she is representing the City. We do not want her to have to get authorization from the Board and Assembly before doing so.

Board Questions

Mr. Ridgway questioned where the line with tourism operations is. When we approve CIPs for additional slips that whale watching boats will use, is that something we need the Tourism Manager involved in? Has the Assembly thought of a way we can interact in an organized meaningful fashion with the Tourism Manager, so we are not asking her about things she is not concerned with.

Mayor Weldon said this detail has not been figured out yet. When there was the request to build the fifth dock, the Assembly realized they needed to be at the policy level. This is an attempt to write something at the policy level. Mr. Watt started this, and it may not have been the best effort. It came across as harsh and that was not the Assembly intent. Where we go from here, she is not 100% sure. The hope is that Ms. Pierce and Mr. Uchytel can have a frequent dialog to address all need-to-know operations. At this moment, we are not touching any Dock revenue.

Mr. Ridgway commented that he understands this is going to be a learning process.

Ms. Smith said policy level is one thing, and the Board is not really interested in how many ships are in port in one day; our interest is in maintaining the docks, so they are ready for ships to dock. She is concerned with the last draft where she read the Docks budget and rate setting was the Tourism Managers responsibility. That is a concern because the Tourism Manager does not have anything to do with the Docks repair and maintenance. She is concerned with the budgeting and rate setting being taken away from the Board and staff because we are the ones involved with keeping the operations going.

Mayor Weldon said currently, our Docks have the lowest fees. Giving the Tourism Manager the ability to raise the fees is to be able to match the private Docks fees.

Ms. Smith said raising the rates is one thing, but she will have a concern if Ms. Pierce wants to lower any of our rates because she is not involved with the projects or maintenance.

Mayor Weldon said that is why the Assembly would want Ms. Pierce and Mr. Uchytel to have good dialog and discuss any issues. Anything Ms. Pierce does has to come through the Assembly and raising the rates will be a negotiated deal which would require Assembly approval. This may not be perfect, and may need changes in the future, but this is the first attempt at this.

Ms. Adkison pointed out that if the Manager asks for a reduction in the budget, the Board gets to send to the Assembly what operational impacts that will have on the Board operations.

Mr. Ridgway said the way the general powers are written, he does not read that it is exclusive to just our Docks Enterprise. He would like to set boundaries. The rate that we charge whale watching charters, and loading zone permit operators affect tourism, but those are Harbor operations. It is not clear in the proposed changes to this regulation this only pertains to Dock operations.

Mayor Weldon said she is not doing anything pertaining to whale watching operations at this time and they are trying to police themselves.

Ms. Smith asked if there could be a change to this, could it be made clearer that the change is only in Docks.

Mayor Weldon said Ms. Adkison is making notes to work on this more. She also commented that the Board and the Assembly need to have more meetings together.

Public Comment

James Bibb, Juneau, AK

Mr. Bibb said he is representing the Juneau Yacht Club and is a past commodore and liaison. The Yacht Club Board concern is that this change may impact how Docks & Harbors operates. He would like it known that the Juneau Yacht Club Board supports Docks & Harbors and does not support the changes if the Docks & Harbors Board feels this is detrimental to them. He is here tonight to learn and listen and to see if the Docks & Harbors Board needs support from the Yacht Club.

Mr. Clayton Hamilton, Douglas, AK

Mr. Hamilton said he would encourage the Board to work with this change because this could increase accountability to the public. The Tourism Manager would be accountable to report to the elected members of the Assembly and sometimes there is a little bit of a disconnect with the appointed members of the Board. He sees this and hopes the Board sees this as a positive change for the best.

Mr. Kirby Day, Juneau, AK

Mr. Day asked for clarification, is the Tourism Manager now responsible for changing rates for whale watching boats, loading permits, and vending booth permits because these are related to tourism?

Ms. Adkison said as it is currently written in the ordinance, the City Manager or the Manager's Designee has control over rates with consulting with Docks & Harbors related to cruise ships and passengers.

Mr. Day said that sounds to him that it includes loading zone permits, Statter Harbor boats and vehicle fees. Is that the way the Board reads this as well?

Mr. Etheridge commented that is not how we want to read this.

Mayor Weldon said we need more clarity on those fees.

Board Discussion/Action

Ms. Smith asked if we get another look at this before Assembly approval or will this go directly to the Assembly for final approval? If so, what is the time frame.

Ms. Adkison said April 1st is the meeting the changes will be brought back to.

Mr. Ridgway requested that when Mr. Uchytel meets with Ms. Pierce to keep the members up to date as they develop more clarity in boundary conditions.

NO MOTION

G. NEW BUSINESS - None

H. ITEMS FOR INFORMATION/DISCUSSION - None

I. COMMITTEE AND MEMBER REPORTS

1. Operations Committee Meeting Report –

Mr. Ridgway reported –

- The Committee forwarded the MOA with AELP to this Board.
- Reviewed the Vessel Disposal Surcharge.

- Mr. Creswell gave a brief update on snow damage.
 - The Committee heard a Port Engineer update on projects.
2. Assembly Lands Committee Report - None
 3. South Douglas/West Juneau Liaison Report - None
 4. Member Reports - None

J. HARBORMASTER'S REPORT –

Mr. Norbryhn reported -

- Both new Harbor Security Officers are working their shifts. They worked for two weeks shadowing Harbor Officers day operations to help them know and understand our facilities operations.
- We are gearing up for seasonal returns which are 30 days away.
- Dealing with all the snow put us about a month and a half away from our normal work so staff is trying to get caught up.
- Impound updated -
 - On Monday, there was the Silver Lady, Peggie Sue, Captain Cook, and Adventure Bound impounded.
 - We had two impound hearings today and it is to be determined by the hearing officer when those impound dates will be.
 - There are two boats we previously impounded over a month ago out for sealed bid auction and if they do not sell, we will put them on the Public Surplus site to see if they sell there.
 - There is one sailboat coming up for impound tomorrow, and a fishing boat on March 6th.

Ms. Smith asked if both Adventure Bound boats were impounded?

Mr. Norbryhn said yes, both boats.

Mr. Etheridge asked the status of the boat that the Harbor crew was shoveling off?

Mr. Norbryhn said he believes that is the Silver Lady. The crew hours were 10 to 12 hours to clean it up. Staff put pumps on the boat, and we are continually pumping it out. Since then, we issued him a safe condition of vessel and we did not hear anything back. This vessel was impounded on Monday.

Mr. Ridgway asked for Mr. Creswell to bring the expense for all the snow events back to the Operations Committee.

Mr. Norbryhn said Mr. Creswell had the numbers before the last snow event so those numbers will change. We brought back one of our Harbor seasonal people and he ended up staying longer due to short staffing.

K. PORT DIRECTOR'S REPORT –

Mr. Uchytel reported -

- He is in DC right now lobbying on behalf of the American Society of Civil Engineers this week. He is also taking the opportunity to meet with our elected officials for civil engineering projects and also Juneau Docks & Harbors projects.
 - He would say that Senator Murkowski, and Senator Sullivan are very supportive of the PIDP grants and that is the grant we want to reapply for. They are also very supportive of the Statter Breakwater. Senator Murkowski has put a congressional directed spending request for the Statter Breakwater study and the continued resolution for that budget item. That is the Energy and Water bill, which has been extended by one week. On March 8th, if everything goes well, the Senate will pass a clean budget and allow us to get going on the study.

- He met with Representative Peltola who is very complimentary of Docks & Harbors and what we have done in Juneau. She is a Juneau boat user, she has two kids in the Juneau school district, and has been here off and on for many years.
- He met with MARAD about the Sealift. D&H staff received permission from MARAD to sell the sealift and keep the proceeds. We purchased the sealift in 2012 for about \$640K and we sold it last year for \$250K. Of that \$250K we were able to keep \$225K. We would like to purchase a new yard trailer and we have been investigating who has a suitable apparatus that will work at our Auke Bay Loading Facility. Staff has identified a company in Canada but the requirements to buy American would disqualify that company. The direction Mr. Uchytel received from MARAD personnel was to go out with a RFP and see who responds. Staff thinks the Canadian Conolift Company is the only Company that meet our requirements. MARAD will support a buy American waiver if the Canadian company is the only company that can produce that device. The process forward will take a year. The other thing to note is in addition to the \$225K from the sale of the Sealift we will need to use about \$70K from our fund balance for the purchase of the new yard trailer suitable for the ABLF. He will start the process and draft the RFP when he returns.

Ms. Smith asked if he has an update on the Coast Guard Icebreaker?

Mr. Uchytel said yes but he would prefer sharing that information on a one-on-one basis.

Ms. Smith said she will be out of town but would like to get a quick email with what he knows.

Mr. Ridgway commented that he is very impressed with Mr. Uchytel's accomplishments.

L. ASSEMBLY LIAISON REPORT –

Ms. Adkison commented that she has taken notes regarding the title 85 concerns, and she will make sure our concerns are heard. If there are other concerns not noted, members can reach out to her to let her know.

M. BOARD ADMINISTRATIVE MATTERS

- a. Ops/Planning Committee Meeting - Wednesday March 20th, 2024

Mr. Ridgway and Ms. Smith said they will not be able to attend the March 20th meeting.

- b. Board Meeting - Thursday March 28th, 2024.

N. ADJOURNMENT – The meeting adjourned at 6:36pm