

TRANSMITTAL MEMORANDUM

TO: The Honorable Mayor and City Council

FROM: Lacey G. Simpson, Acting City Manager

DATE: July 13, 2022

RE: **Ordinance No. 22-1949 – Amending Subsection (A) Of Section 3.04.020 Of The Ketchikan Municipal Code Entitled “Levy of Tax” To Provide For An Additional One Percent Consumer Sales Tax During The Period April 1 Through September 30; Amending Subsection (B) Of Section 3.04.040 Of The Ketchikan Municipal Code Entitled “Tax Added To Sales Price”; Amending Subsection (D) Of Section 3.04.130 Entitled “Use Of Proceeds Of Sales Tax”; And Establishing An Effective Date**

The attached ordinance was prepared by Finance Director Michelle Johansen, who requested that it be placed before the City Council for consideration at its meeting of July 21, 2022. If adopted by the City Council in first reading, Ordinance No. 22-1949 provides for enacting a seasonal consumer sales tax, increasing the rate from 4.0% to 5.0% annually April 1 through September 30. The rationale for adopting the 1.0% seasonal sales tax is detailed in Ms. Johansen’s transmittal memorandum and requires some elaboration on the part of the City Manager’s office.

As the City Council is aware, the crafting and adoption of the 2022 General Government Operating and Capital Budgets were predicated upon increasing the property tax levy from 6.6 mills to 7.1 mills, or by 0.5 mills, which represented a value of \$444,171 for the City’s property tax derived revenues allocated to the General Fund with lesser values for other funds. Such an increase has been programmed for adoption since 2020, when the City Council adopted this strategy to finance the General Fund’s proportional cost to implement the 2019 Compensation Plan update, which at that time had a value of \$910,911 for General Government. At the May 19, 2022 and June 2, 2022 meetings, the City Council elected to not increase the mill levy and hold the levy at 6.6 mills, effectively funding the 2019 compensation increases through reserves.

At its July 7, 2022 meeting, the City Council approved the 2022-2024 Collective Bargaining Agreement between the City of Ketchikan and the International Brotherhood of Electrical Workers, Local 1547 (IBEW). The three-year value of this agreement totals approximately \$1,841,846. By agenda statement 7a(2), motions authorizing a 2% cost of living adjustment and revised monthly health insurance co-pays for non-represented General Government and Ketchikan Public Utilities employees is before the City Council for consideration. While the recommended motion extending these improvements to non-represented employees will approve the added expenses in 2022 only, the intent is to continue these improvements in 2023 and 2024 to match the active collective bargaining agreement. The additional three-year cost of these benefits is approximately \$2,077,086 for non-represented employees or \$3,918,932 total for all General Government

represented employees and the non-represented employees of General Government and Ketchikan Public Utilities.

As staff elaborated to the City Council throughout the negotiation process for a successor City-IBEW bargaining agreement, the City, particularly the General Fund, has been in no position to absorb any wage and benefit improvements to represented and non-represented employees that may be achieved through the bargaining process. The reason for this is in direct response to the COVID-19 pandemic and loss of tourism-related sales tax revenues representing approximately \$6.7 million in revenue. The three-year cost of the reference improvements for the General Fund alone, which will bear the majority of the expenses, is estimated at \$2.4 million. Staff was quite clear that without a means of increasing revenues to the General Fund, these improvements could not be financially supported under current revenue streams and should not be approved. As such, the City Council directed staff to implement a seasonal sales tax increase of 1.0% to finance the projected three-year expenses and not cause further financial harm to the City.

The attached memorandum from Ms. Johansen summarizes the projected revenues to be realized under a 1.0% seasonal sales tax increase. As 2022 is more than half completed and a seasonal sales tax cannot be implemented to cover the current year's costs, the General Fund will see an additional \$290,285 deficit in 2022. The revenues derived in 2023 and 2024 from the 1.0% increase must bear the full weight of the General Fund's share. Ms. Johansen is recommending that these revenues be directed exclusively to the General Fund to support the approved employee salary, wage and benefit improvements, rather than apportioned to the Hospital Sales Tax Fund and Public Works Sales Tax Fund as is done currently for all sales tax revenues. Adjustments to the other funds that support employee wages may need to be made when more is known about the reserves balances and projected spending and revenues in subsequent years.

Lastly, it bears repeating that while the City and KPU have made progress in offering competitive employment packages through the terms of the recently approved collective bargaining agreements between the City and IBEW, there remains a need for marked improvement among many positions. While Ketchikan's economy is rebounding with the resumption of cruise and independent travel, the City's wages, salaries and benefits are lagging behind other municipalities and the private sector, both locally and nationally, with no adjustments made in more than two years to maintain some modicum of market viability. This has led to resignations, requests for outside employment, and critical positions remaining vacant for unprecedented periods of time when the City and KPU are at a point when capital projects and other key initiatives are slated to resume with limited staffing. The issue of compensation and benefits has recently caused several preferred candidates to withdraw from consideration when the City's offer does not pencil out for the candidate's needs and/or they are offered a much more competitive wage. Efforts such as the one before the City Council in agenda item 7a(2) to extend the applicable terms of the 2022-2024 City-IBEW Collective Bargaining Agreement represent a sound start to addressing stagnant or devalued wages, salaries and benefits and attracting and retaining a qualified workforce. Again, these strides are only possible with appropriate funding, and at this time the most viable means of increasing revenue is through the proposed 1.0% seasonal sales tax increase.

The Finance Director will attend the City Council meeting of July 21, 2022, in order to address any questions and/or concerns that Councilmembers may have.

A motion has been prepared for City Council consideration.

RECOMMENDATION

It is recommended the City Council adopt the motion approving Ordinance No. 22-1949 in first reading, establishing a seasonal sales tax by increasing the sales tax levy one percent (1.0%) from four percent (4.0%) to five percent (5.0%) for the period of April 1 through September 30 by amending Ketchikan Municipal Code (KMC) Section 3.04.020 entitled "Levy of Tax," Subsection (B) of KMC Section 3.04.040 entitled "Tax Added to Sales Price" and Subsection (C) of KMC Section 3.04.130 entitled "Use of Proceeds of Sales Tax;" and establishing an effective date.

Recommended Motion: I move the City Council approve Ordinance No. 22-1949 in first reading, establishing a seasonal sales tax by increasing the sales tax levy one percent (1.0%) from four percent (4.0%) to five percent (5.0%) for the period of April 1 through September 30 by amending Ketchikan Municipal Code (KMC) Section 3.04.020 entitled "Levy of Tax," Subsection (B) of KMC Section 3.04.040 entitled "Tax Added to Sales Price" and Subsection (C) of KMC Section 3.04.130 entitled "Use of Proceeds of Sales Tax;" and establishing an effective date.

MEMORANDUM
CITY OF KETCHIKAN, ALASKA
Finance Department
Office of the Finance Director

Michelle L. Johansen, Finance Director
Camille Nelson, Financial Analyst
Phone: (907) 228-5621
Facsimile: (907) 228-5617

TO: Lacey G. Simpson, Acting City Manager/KPU General Manager

FROM: Michelle L. Johansen, Finance Director

DATE: July 12, 2022

SUBJECT: Ordinance No. 22-1949 Amending Subsection (A) Of Section 3.04.020 Of The Ketchikan Municipal Code Entitled "Levy of Tax" To Provide For An Additional One Percent Consumer Sales Tax During The Period April 1 Through September 30; Amending Subsection (B) Of Section 3.04.040 Of The Ketchikan Municipal Code Entitled "Tax Added To Sales Price"; Amending Subsection (D) Of Section 3.04.130 Entitled "Use Of Proceeds Of Sales Tax"; And Establishing An Effective Date

During the executive session at the meeting of June 16, 2022 the Council directed staff to move forward with implementing a Seasonal Sales Tax. Ordinance 22-1949 has been prepared by City Attorney, Mitch Seaver, for the purpose of amending the Ketchikan Municipal Code (KMC) to implement a Seasonal Sales Tax. If approved, the Seasonal Sales Tax will increase the sales tax rate from 4.0% to 5.0% April 1 through September 30 of each year beginning in 2023.

The Seasonal Sales Tax is necessary to fund the increase in salaries, wages and benefits per the City IBEW Collective Bargaining Agreement approved at the July 7, 2022 meeting and the proposed increase in salaries, wages and benefits for the Non-Represented employees. The table below shows the increase in salaries, wages and benefits by employee group and by fund.

Estimated Increase in Salaries, Wages and Benefits

Employee Group	Year - 1	Year-2	Year-3	Total
City IBEW	213,658	565,186	1,063,002	1,841,846
Non-Rep	263,906	668,076	1,145,104	2,077,086
Total	477,564	1,233,262	2,208,106	3,918,932

Funding Source	Year - 1	Year-2	Year-3	Total
General Fund	290,285	793,021	1,388,779	2,472,085
Solid Waste Service Fund	24,183	71,138	145,931	241,252
Wastewater Services Fund	52,041	86,917	188,227	327,185
Harbor Services Fund	14,291	36,810	63,989	115,091
Port Enterprise Fund	13,919	35,652	61,708	111,279
KPU Enterprise Fund	82,846	209,723	359,472	652,040
Total	477,564	1,233,262	2,208,106	3,918,932

The 2022 General Government Operating and Capital Budget incorporated a mill rate increase to fund the 2019 Compensation Plan increase to salaries, wages and benefits that had been deferred from 2020. This mill rate increase failed to pass increasing the General Fund's budgeted deficit of \$1.7 million to \$2.2 for 2022. While the seasonal sales tax rate increase will not yield any additional revenues in 2022 increasing revenues in the General Fund is crucial to funding the increase in salaries, wages and benefits and taking steps to recover from the losses as a result of the COVID-19 pandemic. The table below shows the estimated revenue that could be generated from a 1% Seasonal Sales Tax.

Estimated Revenue Generated from a 1% Seasonal Sales Tax				
	Year - 1	Year-2	Year-3	Total
Dedicated to General Fund Only	-	1,917,000	1,917,000	3,834,000

Recommended Motion:

I move that the City Council pass Ordinance No. 22-1949 in first reading, establishing a seasonal sales tax by increasing the sales tax levy one percent (1%) from four percent (4%) to five percent (5%) for the period of April 1 through September 30 by amending KMC Section 3.04.020 entitled "Levy of Tax", Subsection (B) of KMC Section 3.04.040 entitled "Tax Added to Sales Price" and Subsection (C) of KMC Section 3.04.130 entitled "Use of Proceeds of Sales Tax"; and establishing an effective date.

THE CITY OF KETCHIKAN, ALASKA

ORDINANCE NO. 22-1949

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KETCHIKAN, ALASKA; AMENDING SUBSECTION (A) OF SECTION 3.04.020 OF THE KETCHIKAN MUNICIPAL CODE ENTITLED “LEVY OF TAX” TO PROVIDE FOR AN ADDITIONAL ONE PERCENT CONSUMER SALES TAX DURING THE PERIOD OF APRIL 1 THROUGH SEPTEMBER 30; AMENDING SUBSECTION (B) OF SECTION 3.04.040 OF THE KETCHIKAN MUNICIPAL CODE ENTITLED “TAX ADDED TO SALES PRICE”; AMENDING SUBSECTION (D) OF SECTION 3.04.130 ENTITLED “USE OF PROCEEDS OF SALES TAX”; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KETCHIKAN, ALASKA, AS FOLLOWS:

Section 1: Amendment. Subsection (a) of Section 3.04.020 of the Ketchikan Municipal Code, entitled “Levy of tax,” is hereby amended to read as follows:

“3.04.020 Levy of tax. (a) To the fullest extent permitted by law, a sales tax of four percent on sales made during the period of October 1 through March 31, and an additional sales tax of one percent on sales made during the period of April 1 through September 30 so that the sales tax rate during that period is five percent, is hereby assessed and levied on the following sales, except as otherwise specifically exempted under this chapter:

- (1) All retail sales;
- (2) All services;
- (3) All rents and fees paid for the use of real and personal property.”

Section 2: Amendment. Subsection (b) of Section 3.04.040 of the Ketchikan Municipal Code, entitled “Tax added to sales price,” is hereby amended to read as follows:

“(b) Except as provided in subsection (c) of this section, sellers who are required to collect a sales tax for the city shall add the tax imposed in this chapter to the rental, sales price or service charge in strict accordance with the following schedule:

Sales	October 1 through March 31-4%	April 1 through September 30-5%
Under \$0.25	\$0.01	0.01
\$0.25 through 0.74	0.03	0.04
0.75 through 1.24	0.05	0.06
1.25 through 1.74	0.07	0.09
1.75 through 2.24	0.09	0.11
2.25 through 2.74	0.11	0.14
2.75 through 3.24	0.13	0.16
3.25 through 3.74	0.15	0.19
3.75 through 4.24	0.17	0.21
4.25 through 4.74	0.19	0.24
4.75 through 5.24	0.21	0.26
5.25 and over	Continue on same scale	Continue on same scale

”

Section 3: Amendment. Subsection (d) of Section 3.04.130 of the Ketchikan Municipal Code, entitled “Use of proceeds of sales tax,” is hereby amended to read as follows

“(d) The proceeds (including penalty and interest) collected under this chapter which are derived from a one-half percent sales tax levy **and the one percent additional sales tax levy for the sales during the period of April 1 through September 30** shall be expended for the purpose of providing general government services.”

Section 4: Effective Date. Following its final passage and publication this ordinance is effective April 1, 2023.

PASSED ON FIRST READING _____.

FINAL PASSAGE _____.

Dave Kiffer, Mayor

ATTEST:

Kim Stanker
City Clerk

FYI: Bracketed language is intended to be removed from the existing ordinance, and underlined language in bold type is intended as an addition to the existing Ketchikan Municipal Code.

EFFECTIVE DATE:			
ROLL CALL	YEA	NAY	ABSENT
BRADBERRY			
FLORA			
GAGE			
GASS			
KISTLER			
MAHTANI			
ZENGE			
MAYOR			

Resolution No. 22-2850 – Levying a General Property Tax for Municipal Purposes Upon All Real and Business Personal Property in the City for the Year 2022; Providing for the Collection of Taxes Due in 2022

Moved by Zenge, seconded by Bradberry the City Council approve Resolution No. 22-2850 levying a general property tax for municipal purposes upon all real and business personal property in the City for the year 2022; providing for the collection of taxes due in 2022; prescribing penalties and interest for delinquent taxes; and establishing an effective date.

Councilmember Gass said raising property taxes will add even more to the very high cost of owning or renting a home. The City has seen savings in several areas within the 2022 budget and there was roughly enough cut from the budget to prevent this increase. He stated the City has received more sales tax in the previous quarter than expected, and property values in the City have increased. He said the City also received \$4 million from the American Rescue Plan Act (ARPA).

Councilmember Kistler said we are going to have to spend money to retain employees and there is no way we can do that without increasing the mill rate.

Acting City Manager Simpson explained the Council obligated the ARPA funds to the Port Enterprise Fund for the Berth III mooring dolphins and the Public Works Sales Tax fund for the Schoenbar Culvert project.

Councilmember Mahtani said during budget we cut and froze positions for a savings of around \$400K to make up the difference. He stated he is having a hard time putting an extra burden on the residents of Ketchikan.

Councilmember Bradberry informed the City received over \$500K in sales tax, more than was anticipated. She stated she is not in support of raising the mill rate unless there is a specific amount that the City is now lacking.

Acting City Manager Simpson explained the yearly adoption of the mill rate has to be adopted by June 15th, which is before we receive the quarterly sales tax report. She stated staff has concerns based on the low passenger counts and spending trends, so the sales tax projections are not going to be as strong as originally anticipated, which was what the budget was based on. She continued, the last sales tax report did come in higher than expected, which makes it seem like it offset that amount we wanted to achieve, but with the uncertainty of future sales tax revenues staff has concerns that we will have problems in the future when we have more information. We are in negotiations with various bargaining units that will likely have an impact on this year's budget. She stated this property tax increase has been deferred for the last two years, it was put in place per Council's direction to afford the 2019 compensation update, which we have been implementing for the last three years without a means to create revenue to support it. She explained the City's general fund is operating at a \$1.7 million deficit.

Finance Director Johansen clarified that the capital projects that were cut during the budget are not funded from the general fund, those are funded from the Public Works Sales Tax fund. Also, the property value increase had been incorporated into the budget with the .5 mill increase. She explained the City has a variety of increases in costs, such as; freight, fuel, and health insurance. She said we are in a situation where our reserves are decreasing and we might get to the point where we have to lay people off.

May 19, 2022

Councilmember Zenge said she understands staff concerns. She stated this mill increase will put the burden on people who make only \$15.00 an hour. She said she works with families who own homes and work low paying jobs that are struggling, we would be adding more of a burden.

In response to Councilmember Kistler's question, Acting City Manager Simpson stated if the mill rate does not increase, if tax revenues come in lower than expected and spending continues to increase, then we are putting ourselves in a position where we will not have a lot to work with in developing the 2023 budget. We will have to reduce that expenditure, and personnel is the biggest expenditure to the general fund, which might include freezing positions, furloughs or even layoffs.

Finance Director Johansen answered questions from the Council.

Councilmember Flora informed over the last nine years the mill rate has gone down, so any property tax increase has been from borough assessments. He said he does not want to burden the public more. He told the Council if this mill rate increase does not pass, to be prepared for consequences in the next budget cycle when you might have to lay people off. He questioned if there is any way staff could provide more specific data to guide the Council before the next meeting.

Finance Director Johansen said they might have one more sales tax update. She said while the numbers have been higher, it might be due to businesses preparing for the upcoming season. She said staff is unsure if the season will produce what we are expecting. There are three union negotiations coming up that the City will have to pay for.

Acting City Manager Simpson stated this could be looked at through the lens of sales tax though it will take more time to implement. The borough prefers for sales tax changes to be implemented at the beginning of a quarter and not in the middle of the cruise ship season.

Moved by Kistler, seconded by Zenge to defer Resolution No. 22-2850 until the regular City Council meeting of June 2, 2022.

Motion to defer failed with Kistler voting yea; Flora, Bradberry, Zenge, Gage, Mahtani and Gass voting nay.

Motion failed with Kistler voting yea; Flora, Bradberry, Zenge, Gage, Mahtani and Gass voting nay.

**Request to Join a First Mover Commitment for an Alaska,
British Columbia and Washington Maritime Green Corridor –
Port of Seattle**

Moved by Bradberry, seconded by Mahtani the City Council direct the Acting City Manager to take such action regarding the request to join a First Mover Commitment for an Alaska, British Columbia and Washington Maritime Green Corridor as determined appropriate by the City Council.

Moved by Gass, seconded by Mahtani the City Council move to defer consideration of the Request to Join a First Mover Commitment for Alaska, British Columbia and Washington Maritime Green Corridor- Port of Seattle indefinitely.

Motion passed with Gass, Kistler, Mahtani, Flora and Zenge voting yea; Gage and Bradberry voting nay.

Budget Transfer – Temporary Parking Lot at 347 Bawden Street

Moved by Flora, seconded by Zenge the City Council approve the creation of a Bawden Street Temporary Parking Lot Capital Improvement Account; authorize the Acting City manager to transfer \$30,000 from the Appropriated Reserves of the Economic and Parking Development Fund to the Bawden Street Capital Improvement Account to fund the Bawden Street Temporary Parking Lot development.

Motion passed with Gass, Kistler, Gage, Zenge, Bradberry, Flora and Mahtani voting yea.

Resolution No. 22-2852 – Levying a General Property Tax for Municipal Purposes Upon All Real and Business Personal Property in the City for the Year 2022; Providing for the Collection of Taxes Due in 2022; Prescribing Penalties and Interest for Delinquent Taxes

Moved by Bradberry, seconded by Gage the City Council approve Resolution No. 22-2852 levying a general property tax for municipal purposes upon all real and business personal property in the City for the year 2022; providing for the collection of taxes due in 2022; prescribing penalties and interest for delinquent taxes; and establishing an effective date.

Motion passed with Gass, Kistler, Gage, Zenge, Bradberry, Flora and Mahtani voting yea.

Various Budget Transfer Reducing Property Tax and Payments in Lieu of Taxes in the 2022 General Government Operating and Capital Budget and the Payments in Lieu of Taxes in the 2022 Ketchikan Public Utilities Operating and Capital Budget

Moved by Kistler, seconded by Flora the City Council approve a budget transfer in the amount of \$467,163 from the Appropriated Reserves of the General Fund to fund General Fund activities previously funded from Property Tax and Payment in Lieu of Taxes Revenues; decrease the 2022 General Government Operating and Capital Budget Property Tax Revenue accounts in the amount of \$375,063; decrease Payments in Lieu of Taxes Revenue accounts in the General Fund in the amount of \$92,100; decrease the Port Fund Payments in Lieu of Taxes Account No. 975.00 in the amount of \$26,000; increase the appropriated reserves of the Port Fund \$26,000; decrease the Wastewater Services Fund Payments in Lieu of Taxes Account No. 975.00 in the amount of \$6,100; increase the appropriated reserves of the Wastewater Services Fund in the amount of \$6,100; decrease the Electric Division's Payments in Lieu of Taxes Account No. 975.00 in the amount of \$29,400, the Telecommunications Division's Payments in Lieu of Taxes Account 975.00 in the amount of \$15,600, and the Water Division's Payments in Lieu of Taxes Account No. 975.00 in the amount of \$15,000; and increase the appropriated reserves of the Ketchikan Public Utilities Fund in the amount of \$60,000.

Motion passed with Gass, Kistler, Gage, Zenge, Bradberry, Flora and Mahtani voting yea.

July 7, 2022

Exempting the Procurement of Annual Software and Services for the Telecommunications Division's 4G/LTE Network from the Competitive Bidding/Written Quotation Requirements of the Ketchikan Municipal Code – Ericsson Inc.

Moved by Bradberry, seconded by Gass pursuant to subparagraph 6 of Section 3.12.050(a) of the Ketchikan Municipal Code, the City Council exempt the procurement of Ericsson software and services from the Telecommunications Division's 4G/LTE network from the competitive bidding/written quotation requirements of the Ketchikan Municipal Code; authorize the Acting General manager to purchase such equipment, software and services from Ericsson Inc. at a cost not to exceed \$40,617; and approve funding from the Telecommunications Division's 2022 Software and Equipment Maintenance Services Account No. 635.04.

Motion passed with Mahtani, Kistler, Gass, Gage, Bradberry and Flora voting yea; Zenge absent.

Exempting the Procurement of Qwilt Media Delivery System Annual Support for the Telecommunications Division from the Competitive Bidding/Written Quotation Requirements of the Ketchikan Municipal Code – Qwilt

Moved by Bradberry, seconded by Gass pursuant to subparagraph 6 of Section 3.12.050(a) of the Ketchikan Municipal Code, the City Council exempt the procurement of Qwilt media delivery system annual support services for the Telecommunications Division from the competitive bidding/written quotation requirements of the Ketchikan Municipal Code; authorize the Acting General Manager to purchase such equipment, software and services from Qwilt at a cost not to exceed \$11,902; and approving funding from the Telecommunications Division's 2022 Software and Equipment Maintenance Services Account No. 635.04.

Motion passed with Mahtani, Kistler, Gass, Gage, Bradberry and Flora voting yea; Zenge absent.

Budget Transfer – Water Division Overtime

Moved by Bradberry, seconded by Gass the City Council authorize the Acting General Manager to transfer \$60,000 from the Water Division's 2022 Salaries & Wages Account No. 500.01 to its Overtime Wages Account No. 501.01 to fund unanticipated overtime expenditures through the end of 2022.

Motion passed with Mahtani, Kistler, Gass, Gage, Bradberry and Flora voting yea; Zenge absent.

UNFINISHED BUSINESS

This item was moved to the Consent Agenda.

NEW BUSINESS

2022-2024 Collective Bargaining Agreement Between the City of Ketchikan and the International Brotherhood of Electrical Workers, Local 1547

Moved by Bradberry, seconded by Flora the City Council approve the 2022-2024 Collective Bargaining Agreement between the City of Ketchikan, Alaska and the International Brotherhood of Electrical Workers, Local 1547 and direct the Acting City Manager to execute the agreement on behalf of the City Council.

July 7, 2022

Motion passed with Gage, Bradberry, Flora, Mahtani, and Kistler voting yea; Gass abstain; Zenge absent.

Discussion of Port Dock Vendor Booth Lease Program – Mayor Kiffer

Mayor Kiffer explained the reason he put this on the agenda was because as we heard tonight, folks have been encouraging the Council to address this issue.

Councilmember Gage questioned how this would affect the Port Enterprise Fund if we adjust the bid amounts by 25% or 50%. She said she would be interested to see the type of program Juneau does.

Acting City Manager Simpson indicated the six Dock Vendor Program brings in around \$350,000 for the season, so this would have a fairly nominal effect in the overall scheme of things in regards to what the Port Enterprise Fund typically brings in. She said the main source of revenue for the Port Enterprise Fund is off the ships themselves through dockage and wharfage.

Mayor Kiffer remembered from meeting years back, when this program first came about, it was never meant to cross-sell tours, but it was sporadically enforced.

Councilmember Gass questioned the city attorney if there were any legal problems adjusting the lease midterm and the possibility of being sued in the future if this happens again and the Council says no.

City Attorney Seaver said as to some form of reduction, in this case, the number of bidders matched the number of booths put out for bid this year which does not always happen. He gave a brief analogy as in contracts when unforeseen conditions that no one could have reasonably expected come up, the contractor provides a change order to make up for that cost. He stated moving forward there is a window at the end of the year where the City can without repercussions terminate the leases that are out there, revise the outdated lease agreement and rebid them again.

Councilmember Gass questioned why the booths cannot broker other vendors' tours.

Acting City Manager stated this lease is very difficult to decipher. She pointed out and read the applicable section of the lease agreement which is "Exhibit B". She explained they can sell other tours, just not other dock vendors. She said this topic we discussed at great length in 2008 with no action taken by the Council. She indicated this has not been consistently enforced.

Councilmember Bradberry said she was in favor of a cost reduction for the dock vendors for this cruise ship season, and this would be a good way to help out some locals who are trying to stay in business. She indicated she was also in favor of terminating this contract this year as long as the lease is revised in a timely manner, and define the agent/broker rule. She indicated the season is at the halfway mark and now is the time to start working on next year.

Councilmember Kistler said she was in favor of the broker concept for cross-selling other tours. She felt the cancellation of the Crown Princess does give merit to a change order for the dock vendor bidders.