



TRANSMITTAL MEMORANDUM

TO: The Honorable Mayor and City Council

FROM: Lacey G. Simpson, Acting City Manager

DATE: September 7, 2022

RE: **Presentation from Cruise Lines International Association of Alaska (CLIAA)**

At its special meeting of October 21, 2020, the City Council adopted a motion to end the process of reviewing and considering proposals for Contract No. 19-36, Redevelopment of Port of Ketchikan Berths I, II and III and Other Infrastructure within the City. As the City Council will recall, the request for proposals (RFP) contract process sought proposals for a public-private partnership between the City and a private entity in order to operate the Port of Ketchikan and finance the necessary improvements to the Port and adjacent and related uplands to maintain Ketchikan's viability and relevance as a premier cruise destination. After considering the two finalist proposals submitted and the no action alternative, the City Council determined that it was in the best interests of the community and Port for the City to continue its assumption of Port operations and responsibility (the no action alternative). During the Port RFP process, the City received correspondence from Cruise Lines International Associations of Alaska (CLIAA) wishing to meet with the City on Port fees and use in order to address the Port and community's long term needs.

In response, the City Council directed staff to begin conversations on how the City and the cruise industry could work cooperatively to establish and accomplish mutually beneficial goals. Since this time, staff has attended four meetings with members of the CLIAA leadership team. At the most recent meeting held on August 18, 2022, CLIAA presented a 10-year visitation projection as well as short and long term needs for the Port of Ketchikan that the industry had identified.

At the August 18, 2022 City Council meeting, I relayed to the City Council that it was staff's intent to arrange for representatives of CLIAA to attend the September 15, 2022 City Council meeting to give the August 18, 2022 presentation and any additional or revised information. CLIAA leadership representatives will attend the meeting in person and via Webex.

January 16, 2020

Mayor Bob Sivertsen
334 Front Street
Ketchikan, Alaska 99901

Dear Mayor Sivertsen, Karl and Lacey,

Thank you for taking the time to meet with Ralph and me last month. We very much appreciated the opportunity to get caught up on the progress of your efforts to assure a positive future for the cruise business in Ketchikan. The brands of Carnival Corporation are very proud to be the longest and most frequent visitors to your fine city.

In 2019, our brands brought more than 55% of all cruise ship visitors to town and with NCL's relocation to Ward Cove, we represent almost 70% of cruise visitation in the near future. We appreciate the investments made by the city and local business community over the past few decades that have enabled Ketchikan to deliver a wonderful guest experience. In our opinion, the city has done a good job managing the waterfront, so naturally, we are concerned about any proposal which might change the status quo by introducing an outside interest.

Given the new development at Ward Cove, it was good to hear that city leadership is maintaining an open mind on any number of potential scenarios to best manage the needs of the community and cruise industry going forward. The addition of Ward Cove, with its' ability to handle very large ships, should be viewed positively because it employs private investment, relieving the need for the City to solve this challenge through its' own investment. The Ward Cove development fundamentally changes the berthing landscape and what was meant to be addressed by the RFP (which was developed before the project was announced). Given this change, it is hard to see how the RFP as drafted, will be able to deliver a suitable, comprehensive solution for the community.

Karl mentioned in our meeting that the City is committed to maintaining a competitive tariff structure but also needs to address a number of impacts in town, deferred maintenance on the docks and to lower the level of bonding in order to position the city for the future. These are challenges faced by municipalities and port authorities in markets around the world. We regularly engage alongside tourism stakeholders in public planning processes meant to ensure limited resources are used in a thoughtful, coordinated way to achieve just these goals.

As currently structured, your RFP affords the council a great deal of leeway to adjust or even pause on selecting any of the candidate proposals. We believe, given the impact that the decision will have on your city, that you should take whatever time is necessary to review all ideas before determining the best course of action.



As discussed in our meeting, we are very interested in helping Ketchikan devise a positive solution to address the challenges outlined above. Assuming there is interest on beginning such a conversation, we are available at your earliest convenience to begin better understanding what you need and how we can help. In addition to our long term familiarity with Ketchikan and global experience partnering with port communities to resolve challenges similar to yours, we are also uniquely able to make a large, long term commitment of ship visits to the city facilities. We believe this could be a tremendous asset in planning for the future and assuring that there is a solid revenue stream for needed work both dockside and in the community.

Once again Mayor Sivertsen, thank you for your time. I will plan to follow up with you in the next week to hear your thoughts on how we might be of help.

Best regards,

Charlie Ball
Executive Vice President, Holland America Group

Cc: Karl Amylon
Lacey Simpson



February 4, 2021

The Honorable Bob Sivertsen
Mayor, City of Ketchikan
344 Front Street
Ketchikan, AK 99901

Dear Mayor Sivertsen:

As the cruise industry remains focused on developing safe return to service protocols by partnering with stakeholders at all levels of government, industry, and the private sector, cooperation between the industry and coastal communities is more important than ever before. The draft ordinance amending local cruise ship passenger fees in the packet for Thursday's City Council meeting impedes everyone's ability to collaborate and work towards a comprehensive return to service solution that the industry and our destination partners require.

Following the City Council's RFP decision in late-2020, we understood that the Council directed city leaders to work with the industry to develop a mutually beneficial arrangement for the use of passenger fees in a way that addresses both urgent and long-term community needs. This was the approach taken in Juneau, where the CBJ and industry acknowledged and supported important services provided in support of our guests. One of many positive outcomes from the Juneau approach is a commitment that community leaders and CLIA Alaska will meet annually to discuss local and industry needs and how we can cooperatively work to address those needs.

CLIA Alaska has consistently expressed a desire and intention to establish a similar relationship with the City of Ketchikan. The timing, process, and substance of this proposed ordinance attempts to expand the scope of passenger fee use without any level of commitment to consult with or communicate with the industry at any interval. Given that no one from the City has reached out to industry informing us of this proposed policy shift or to discuss the rationale prior to the ordinance being put before the Council, we do not believe this approach is reflective of the partnership we both strive for and need.

Our interpretation of the proposed ordinance is that it establishes a new tax on cruise operations and will, in effect, eliminate the special exception which was carved out for Ketchikan by the Legislature in 2010. That measure allowed Ketchikan to receive \$5 per passenger (split between the City and Borough) that was not allowed under original state ballot initiative, given that Ketchikan already had a local tax in place. The legislation further allowed cruise lines to offset certain local passenger charges against state tax obligations ensuring that every passenger coming into the state would pay the same rate regardless of varying port calls. This eliminated the incentive to favor one port over others in planning vessel itineraries.

Ketchikan's recently enacted passenger fee increase of \$9 over the original \$7 has already upset this arrangement. Only the original \$7 is deductible from the amount due to the State. We interpret this present proposal as a new tax, in which the original \$7 per passenger fee is extinguished or superseded



causing that portion of passenger fees tax to revert to the State, to be replaced by a new charge against passengers which would no longer be deductible. Under this scenario the result would be when ships return to Alaska and dock at the city owned or leased docks, the cost per passenger would increase a total of \$9, which would not be embedded in the overall state tax fee that was the subject of a settlement in 2010.

We are taken aback to see this ordinance proposed at a time when the industry has been shut down in the US since March of 2020. Rather than collaborating to restore local jobs and local revenue as we all emerge from this pandemic, the proposed approach increases costs at a time when CLIA members are unable to operate or generate revenue.

We have requested legal review of both the ordinance and the supporting legal memorandum. However, our initial impression is that the ordinance would not survive Constitutional challenge, despite obvious efforts to avoid the limits of the 2018 federal court decision that upheld CLIA Alaska's objections to Juneau's passenger fees. Mr. Blasco's legal analysis minimizes the degree to which Juneau's passenger fees were found by Judge Holland to be incompatible with federal constitutional prohibitions. Our initial legal review indicates that the several changes intended to insulate the proposed Ketchikan fees from legal attack are changes more of form than substance. In fact, what is being proposed is consistent with the original state passenger tax, which was also modified as part of a long-term settlement with industry. However, all the alleged defects of the State passenger fees, pre-settlement, appear to be present in this proposed ordinance.

We strongly prefer to engage in meaningful dialogue with the City rather than having disputing lawyers leading this discussion. As guests in your community, who bring substantial economic benefits, we respectfully request you set this issue aside, focus your immediate attention on working with us to resume operations, and establish positive communications to enable the City and industry to achieve a long-term, mutually beneficial agreement.

Respectfully,

Charlie Ball
Chairman, CLIA Alaska

CC: Ketchikan City Council



February 24, 2021

The Honorable Robert Sivertsen
Mayor, City of Ketchikan
334 Front Street
Ketchikan, AK 99901

Dear Mayor Sivertsen:

Thank you for your correspondence and openness to having a dialogue with the cruise industry regarding the proposed wharfage fee changes.

Given the somewhat sudden nature of the proposal to make a change to the existing fee structure, we would like to meet initially to try to better understand the problems with the existing fee structure as well as the rationale for the proposed change. As you may imagine, given the recent Juneau settlement and Ketchikan's unique position as one of two communities with a fee deduction enshrined in state legislation, we are concerned about the possible unintended consequences of any change.

More fundamentally, we would like to better understand from your perspective where we need to be, fee wise, over the longer term to address the community needs so we can best plan for a positive partnership moving forward. I believe this is an overdue conversation from the end of the RFP process and would be helpful to the lines as we look forward to re-starting again when it is safe.

Hopefully, this is an agreeable approach, and we can lock in a date in the next several weeks to begin a more regular dialogue. Please let Mike Tibbles know if there are a couple of options available for a meeting and we will get back to you quickly to confirm a time.

Best regards,

Charlie Ball
Chairman, CLIA Alaska

CC: Ketchikan City Council

October 21, 2020

Work Session of the Ketchikan City Council was called to order by Mayor Sivertsen at 7:47 p.m., October 21, 2020, with the following members present: Janalee Gage, Mark Flora, Abby Bradberry, Judy Zenge, Riley Gass, Samuel Bergeron (via teleconference) and David Kiffer.

Staff present were Manager Amylon, Assistant Manager Simpson, City Attorney Seaver, Finance Director Newell, Finance Department Controller Johansen, Acting Port and Harbors Director Hilson, Electric Division System Engineering Manager Bynum, Systems/Server Engineer Manager Maderios, Civic Center Manager Nelson, Executive Assistant Bixby and City Clerk Stanker.

Mayor and Councilmember Discussion

Manager Amylon answered questions submitted by Mary Stephenson and Timothy Hemme regarding the three options.

The Mayor and Council discussed the pros and cons of the two proposals and the status quo option for Contract No. 19-36, Redevelopment of the port of Ketchikan Berths I, II, III and IV and Other infrastructure within the City. Staff answered questions from the Council. Among the items discussed were; Ketchikan instituting a Port Authority; Piper Sandler's financial report; the development of new berths at Ward Cove; General Government and KPU 2021 budgets; and the possible increase and use of Port fees.

City Attorney Seaver and Manager Amylon answered questions from the Council.

The work session can be viewed at:

<https://ketchikan.primegov.com/Portal/Meeting?compiledMeetingDocumentFileId=2921>

The Council reconvened back into the special meeting at 8:53 p.m.

NEW BUSINESS

Continued Review of Proposals Received for Contract No. 19-36, Redevelopment of the Port of Ketchikan Berths I, II, III and IV and Other Infrastructure Within the City of Ketchikan, and the Option of the City Continuing to Operate the Port as a Municipal Department

Moved by Bergeron, seconded Gass the City of Ketchikan end the RFP process and direct staff that the Council endorse the no action alternative.

Councilmember Bergeron said this is the will of the community and that if the Council did decide to enter into an agreement it would end up going to a vote of the people, and it would fail. He felt this entire process is tearing the community apart, and we should start healing this community and end this process. He informed we have all of the resources in town to deal with this issue. He continued if we go to the cruise industry, local vendors and partners we can all work together to get through this.

Councilmember Gage said she thinks this should go for a vote of the people.

Manager Amylon said if the Council wants to end the RFP process it should include in the record the reasons why this is the in the best interest of the City. He stated if the Council would like to

October 21, 2020

give staff direction on what to do moving forward that should be a separate motion or discussion for a future meeting.

Mayor Sivertsen stated the pandemic has played a huge part in the decision making process that we are going through today. He informed the economic disaster we are in has caused uncertainty to this process. He said having read the different proposers and comparing them to the City maintaining control the long-term financial benefit is for the City to maintain control. He felt it is important to state these reasons so there are no questions in the future.

City Attorney Seaver said it would be cleaner if some of the determinations were incorporated into the ordinance. He stated it would be beneficial to articulate why the Council feels it is in the best interest of the City to cancel this project into the motion so everyone will know the rationale. He suggested adding in the following reasons; construction of docks at Ward Cove; length of contract commitment; management in-house or different type of arrangement that may be out there that would better serve the City's interest. He pointed out that neither of the best and final offers received match the RFP completely as there is no firm commitment the City would receive the passenger fees and any future increases. He continued another important element of the RFP was the up-front payment which only one proposer had offered. He said this body as elected officials has the best interest determinations to state a more encompassing motion, and these are just his suggestions.

Mayor Sivertsen asked Councilmember Bergeron if he would like to add City Attorney Seaver's suggestions into his motion.

In response to Mayor Sivertsen, Councilmember Bergeron said he would like to include those items, but did not state any specific one.

Moved by Kiffer, seconded by Flora to amend the main motion to incorporate as what is in the best interest of the City for the following reasons for the Council to endorse the no action alternative; including, the current RFP and/or lack of conditions met; COVID-19 pandemic; economic disaster; economic comparison; long-term contract commitment; keeping management of the Port in house and the development of Ward Cove.

Councilmember Kiffer said he would like to remove the language "the proposers didn't meet our requirements". He stated both of the proposers put a lot of work into this process and he does not want to turn them into the bad guy.

Councilmember Gage echoed Councilmember Kiffer's comments and said those are items we could have been negotiating.

Mayor Sivertsen asked if there were any objections, to remove the verbiage of intentions and conditions not being met to the Port RFP by the proposers. No objections were heard by the maker of the amendment or the seconder.

Motion to amend passed with Flora, Zenge, Gass, Kiffer, Gage, Bergeron and Bradberry voting yea.

Main motion as amended passed with Zenge, Gass, Bradberry, Bergeron voting yea; Flora, Kiffer and Gage voting nay.