REGULAR MEETING AGENDA SUMMER VILLAGE OF JARVIS BAY JUNE 9, 2021 @ 9:30 A.M.

- Α. **CALL TO ORDER**
- B. AGENDA - additions/deletions
 - adoption
- C. **COUNCIL & LEGISLATION**
 - Mooring & Disturbance Standards (Communal Docks)
 Lot 10 Thevenaz Industrial Trail
- D. ADJOURNMENT

Summer Village of Jarvis Bay

June 9, 2021

Council & Legislation

Request for Decision

Agenda Item: Seasonal Docks

Background:

Council and Administration have received a number of letters outlining concerns with the new AEP disturbance standards and Jarvis Bay's response to them. These questions include discussions regarding legal liability, appropriate use, safety, quality of life and enjoyment of property, and parking.

Attached are a letter addressed to council outlining concerns, Jarvis Bay's Dock and Mooring Policy, and a generic operating agreement for discussion.

As for the question of insurance, some background information can be gleamed from previous discussions with our lawyers regarding this issue in other summer villages:

- 1. Municipal consent is not an approval. Municipal consent is a way to advise the provincial Crown that you are OK with AEP approving the installation of a seasonal structure in front of your land. As a waterfront landowner, you have a common law right to be able to egress out and ingress from open water across your frontage. By providing consent for someone to apply to AEP to occupy the bed and shore in front of your land obviously impacts your landowner right, and consent tells AEP you do not have a concern about your right being diminished.
- Liability for a private dock placed on Crown land rests with the owner of the dock structure. It is a private chattel. A municipality would have liability for a dock it owns, otherwise liability for a private dock structure rests with its owner.

There is also discussion about a councillor who is a member of one shared dock and the appropriateness of that member being included in discussion and voting on these matters. While the policy is for all municipally owned lands where we may consider a shared dock and not one singular dock or area, it should be addressed.

Section 183 of the *MGA* requires that each councillor "must vote on a matter put to a vote at the meeting unless the councillor is required or permitted to abstain from voting under this or any other enactment".

The only reasons the *MGA* permits or requires a member to abstain from voting is (s. 184) if the councillor missed all or part of a public hearing about the matter, and (s. 172(1)(b)) Pecuniary Interest.

If the member believes they may have a pecuniary interest in a matter, it is the responsibility for the councillor to determine whether or not the matter represents a pecuniary interest. Specifically, pecuniary interest means interest in a matter which could monetarily affect:

- The councillor,
- A corporation, other than a distributing corporation, in which the councillor is a shareholder, director, or officer
- A distributing corporation in which the councillor beneficially owns voting shares carrying at least 10% of the voting rights attached to the voting shares of the corporation or of which the councillor is a director or officer
- A partnership or firm of which the councillor is a member

A councillor has a pecuniary interest in a matter if a) the matter could monetarily affect the councillor or an employer of the councillor, or b) the councillor knows or should know that the matter could monetarily affect the councillor's family.

Several exceptions are listed in section 170(3) of the MGA so that an overly-restrictive interpretation of the provisions will not disrupt the affairs of the municipality or the function of a councillor. Ultimately it is up to the councillor to decide whether there is a pecuniary interest or not.

Options for Consideration:

- 1. Accept as information
- 2. Discuss and make recommendations to Administration

Administrative Recommendations:

1. Council discuss and provide direction to Administration.

Authorities:

n/a

June 5, 2021

To: Summer Village of Jarvis Bay Council and Summer Village of Jarvis Bay Administration

Re: Summer Village of Jarvis Bay Road Allowances and Alberta Government Disturbance Standards for Seasonal Docks (Disturbance Standards)

This letter outlines concerns and issues we feel must be immediately addressed regarding, specifically, the road allowance between 214 Jarvis Bay Drive and 210 Jarvis Bay and, more generally, all road allowances within the Summer Village of Jarvis Bay (SV). The use and misuse of these road allowances affect all SV residents in the following ways:

- 1. Legal liability.
- 2. Appropriate Use.
- 3. Safety.
- 4. Quality of life and enjoyment of property.

Road Allowance Between 214 and 210 Jarvis Bay

This road allowance began as a highly vegetated green space in the SV but over the years trees and other native species have been removed by various individuals to create pathways to the lake, which has allowed individuals to install a dock with 8 mooring spaces, the number of boats occupying those spaces varying from four to eight. Increased use has created traffic/safety issues on an already narrow roadway as well as increased boats/seadoos travelling through the water at high speeds, crossing the buoy area established to protect kayakers/paddleboarders from motorboat traffic.

1. Legal Liability

The road allowance belongs to the SV which leads to the question of the legal liability for any incident/accident that occurs due to the increased access by boats and people. Any type of minor or major incident/accident could leave the SV with a large legal bill and responsibility for paying out an award. In the case of a major accident, the SV could be looking at paying out millions.

Presumably, the participating boat owners have liability insurance for their boat. But who is providing liability insurance for the actual dock/boat slips? Lakeside property owners all have liability insurance and bear responsibility for their own docks and who uses them. Who bears responsibility for liability regarding the docks in quesrion? This is an important consideration due to the fact that there is open access to the dock/boat slips. In view of the open access, what if someone becomes intoxicated, falls off the dock and drowns, or if some child uses the cleared pathway to access the lake, falls in and drowns? With this in mind, we suggest that all activity on the dock/moor be halted immediately until the SV receives a legal opinion on this issue. That opinion will provide guidance on whether the SV needs to insist on liability coverage at what amount for the dock/boat slips and who should be responsible for the cost of same..

2. Appropriate Use

With greater use of this road allowance, it may be time for the SV Council to establish policies regarding the use of all road allowances in the SV rather than waiting for residents to make those decisions for the SV. As we understand it, money is changing hands for the use of this dock/moorings, which constitutes a commercial enterprise. Is operating a commercial marina an appropriate use for an SV road allowance? And, if proponents of the dock/moor dispute that it is currently a commercial marina, then let us look to the future. What if future dock/slip owners decide to further extend the dock and more boat slips are added? How many more slips can be added - 10, 12, 16? What if future participants decide they want to profit from this enterprise. Is that something the SV would support or encourage? If this activity is allowed on one road allowance, then maybe it should be allowed on all road allowances in the SV to evenly spread the use. What limit is there for the size of docks generally on each lakefront lot?

3. Safety

Jarvis Bay Dr. is a narrow road that can only accommodate two cars driving in either direction. When you add the number of vehicles parked on the side of the road by the road allowance, it impedes the flow of traffic, creating a safety hazard for cars, pedestrians and cyclists. This road is becoming more well used by visitors to the Jarvis Bay Provincial Park there is much greater foot and bicycle traffic than ever before.

On the lake side, the current dock is a massive structure some 236' long, 60' wide with plans for eight boat slips and 4 more PWC lifts. This means the dock juts out well into the buoyed area that allows kayakers and paddleboarders to pass safely with minimum interference from motorized boats. Again, kayakers and paddleboarders are higher in numbers than ever before. The increased boat use in this area makes it more dangerous for paddlers following the lake shore within the safety of the buoyed zone.

4. Quality of Life/Property Enjoyment

The SV is a quiet residential neighbourhood where people place a premium on their privacy and ability to enjoy their property. We would respectfully suggest that the creation of this marina has a negative impact on properties not only adjacent to this road allowance but several properties down on either side of it due to the increased noise and boat traffic in and out of this marina. The rights of these property owners, who pay higher taxes, must be taken into consideration when determining how these road allowances used by members of the community as well as those from outside the community who decide to access the lake at these points.

While the Alberta Government Disturbance Standards for Seasonal Docks specifies the mechanics of dock placement, there are much bigger issues of relevance to the SV which only council can determine. For this reason, we believe it should be a two-step process. Once the SV administration determines a dock plan meets the Disturbance Standards, then the matter should be up to the SV council to provide final approval. In the interest of fairness and transparency, any member of council who uses the

dock/boat slip should recuse themselves from the discussion and decision making process in order to maintain the integrity of the SV council.

Jarvis Bay Community Dock Operating Agreement

This AGREEMENT made this	day of	, 2021
BETWEEN:		
	Participant #1- Participant #1-	
	and	
	Participant #2- Participant #2-	
	and	
	Participant #3- Participant #3-	
	and	
	Participant #4- Participant #4-	
Hereinafter referred	to, collectively o	or individually as "Participants".
WHEREAS:		
Lake Alberta in the Summer Villag	ge of Jarvis Bay,	inafter referred to as "the Dock") on Sylvan terminating at a municipal footpath on the G_N_ "_ W ° ".
IT IS AGREED THAT:		
1. THE ASSET POOL		
necessary to assemble the Doc Participants and financially ma	k. The total value maged as an asset	ding dock sections, dock legs and other parts e of these assets is collectively owned by the et pool. All other individually owned assets, e mooring equipment, are the independent

- a) All physical assets are considered part of a pool (hereinafter referred to as the "Asset Pool") and may not be separated or removed by any Participant except as part of an approved disposition described below.
- b) Each Participant shall own an equal share of the total value of the Asset Pool (hereinafter referred to as the "Asset Pool Value").

property and financial responsibility of the individual Participants.

c) Management will maintain a separate sub-total value for each major category of dock assets.

- d) To assign a value to individual dock sections for purposes of disposition, a value (hereinafter referred to as the "Dock Section Value") will be calculated based on the total value in each major category divided by the number of dock sections in that major category, regardless of any specific section configuration type differences.
- e) When dock section(s) are disposed of, for any reason, the Asset Pool Value will be reduced by the Dock Section Values of the sections being disposed of.
- f) When new dock section(s) are acquired, the Asset Pool Value will be increased by the total acquisition cost and the Dock Section Values will be recalculated for each major category.
- g) The assets in the Asset Pool are all reliable with a long expected life. No depreciation or amortization will be charged against the Asset Pool Value.
- h) The Asset Pool Value may be written down if approved by a majority vote of the Participants.
- i) When dock section(s) are disposed of, for any reason, the net proceeds will be distributed back to the Participants in equal shares, unless agreed by majority vote of the Participants that Management should hold the proceeds to apply against new acquisitions.
- j) When new dock section(s) are acquired, following approval based on a majority vote of the Participants, each Participant shall contribute an equal share of the net acquisition cost.

2. OWNERSHIP, LIABILITY AND FINANCIAL OBLIGATIONS

- a) Each Participant shall own an equal share of the Asset Pool Value. No Participant has ownership or other rights over specific or individual physical assets in the Asset Pool.
- b) The right to install the Dock in the water is granted under a Permit issued by the Province of Alberta and which must be approved by the Summer Village of Jarvis Bay. The permit is issued to the Dock and its collective Participants. No individual Participant has any rights beyond participation in the collective rights conferred by the Provincial permit and those included in this Agreement.
- c) The Participants acknowledge that The Dock has no physical damage insurance nor any liability insurance in respect to operations or ownership of The Dock. Participants are required to carry \$1,000,000 liability insurance for claims arising out of the use and ownership of The Dock.
- d) Participants must promptly pay any cash calls for capital asset purchases, when approved by the Participants by majority vote. Participants must also promptly pay any cash calls for the annual operating costs of the Dock as determined by Management. Management will have the right to make a cash call at the beginning of each boating season for an amount based on estimated operating costs for that season. Any surplus or shortfall may be rolled over to the following boating season as determined by Management.

3. PARTCIPATION REQUIREMENTS

- a) All Participants in this Agreement must be property owners or residents of The Summer Village of Jarvis Bay, as stipulated in the applicable Municipal Policy for approving temporary seasonal docks and mooring structures.
- b) In an event that individual Participants consist of joint owners, and one joint owner is no longer a resident of The Summer Village of Jarvis Bay, the resident owner shall be deemed to be the Participant.

4. MANAGEMENT

a)	The Dock shall	be managed by one designated Participant and may be assisted by
	another Participa	ant. At the time of original execution of this Agreement,
		was designated as Manager (hereinafter referred to as the "Dock
	Manager") and _	was designated as an Assistant Manager.

- b) Management can be replaced by a majority vote of the Participants.
- c) The Dock Manager will have the authority to authorize amendments to this Agreement to record the transfer of Participant interests in the Dock, purchase of Participant interests back to the Dock group or for adding new Participants to the Dock group as further defined in Section 7.
- d) Management has the authority to attend to all financial and operational matters relating to the operation of the Dock, including but not limited to:
 - 1) Obtaining permits,
 - 2) Assignment of slips in consultation with the Participants,
 - 3) All maintenance of the Dock, including purchasing supplies and materials as required to safely operate the Dock,
 - 4) Provide annual financial information in respect to operating costs,
 - 5) Setting and collecting annual operating fees.

5. INSTALLATION AND REMOVALOF THE DOCK

a) Participants must be present and assist in the annual installation and removal of the Dock. If a Participant is unable to assist, they must provide a capable adult to replace them. If a Participant is unable to assist or to have a capable adult replace them, they will be subject to a \$500.00 charge for each time they are not present at the installation and/or removal of the Dock.

6. USE AND ENJOYMENT OF THE DOCK

- a) Participants must respect property owners around the Dock and their rights to peaceful enjoyment of their property.
- b) Participants must not allow drinking, use of drugs, loud noise, rude behavior, untidiness, or any partying on or around the Dock or on the public footpath and road allowance where the Dock terminates onshore.

- c) Participants shall normally only use their assigned slip on the Dock for their own personal boat.
- d) Any Participant who cannot use their slip on the Dock for their own personal boat for an entire boating season, may rent their slip to another resident of the Summer Village of Jarvis Bay, subject to the renter being approved by a majority vote of the Participants. Participants will remain responsible to ensure their renter abides by the terms of this Agreement.

7. TRANSFER OF PARTICIPANT OWNERSHIP

- a) A participant who wishes to sell their interest in the Dock must sell that interest back to the remaining Participants for an amount equal to the Participant's share of the Asset Pool Value.
- b) Participants who sell their home may assign this agreement to the new owner of their home. If a Participant who does not assign their interest in this agreement to their house buyer, then they must sell their interest back to the remaining Participants for an amount equal to the Participant's share of the Asset Pool Value.
- c) Participants who do not utilize their slip on the Dock for a period of more than fourteen months or who do not rent their vacant slip on the Dock to residents or property owners of the Summer Village of Jarvis Bay, must sell their interest back to the remaining Participants for an amount equal to the Participant's share of the Asset Pool Value.
- d) Management of the Dock shall maintain a waiting list for residents of Jarvis Bay who wish to join the Dock. When a share of the ownership of The Dock becomes available, Management shall interview the first person on the waiting list to determine their compatibility for being a Participant of the Dock. If Management feels this individual (or couple) is compatible with the Dock's objectives and operating practices, Management shall make a recommendation to the other Participants. New Participants must be approved by a majority vote of existing Participants. If an individual (or couple) is determined to be incompatible, then the process shall move to the next name on the waiting list.

8. REMOVAL OF A PARTICIPANT

- a) Any Participant can be removed from the Dock by a vote of the majority of the Participants.
- b) A Participant who is removed from the Dock must sell their interest back to the remaining Participants for an amount equal to the Participant's share of the Asset Pool Value.

9. GOVERMENT REGULATORY CHANGES

- a) The Participants acknowledge that government regulations can change over time and the Dock configuration may not meet future regulations when a permit renewal is required.
- b) If any future renewal of the Dock permit requires a reduction in the number of boat slips and/or Participants, then a group of Participants may be forced to buy out other individual Participants. Such buy outs shall be done for an amount equal to the departing Participant's share of the Capital Pooled Cost.

- c) In the event of a forced buy out, Participants may volunteer to be bought out.
- d) If there are insufficient volunteers to meet the number of forced buy outs required, the selection of Participants to be bought out will occur in the order of Last-In/First-Out. The identification of Last-In/First-Out will be based on the chronological timing of when Participants joined The Dock. Then interpretation of "Participants" in the previous sentence refers to the specific Participant named as a signatory to this Agreement. How a Participant obtained their interest in the Dock or the longevity of the person the interest was obtained from will not be a factor.
- e) The Participants acknowledge that the chronological sequence of Participants from oldest to most recent, at the time of the original execution of this Agreement is:

1)	
2)	
3)	
4)	

10. ARBITRATION

- a) If any dispute arises between the Parties relating to the application, interpretation, implementation or validity of this agreement, the Parties agree to resolve the dispute by arbitration using the Canadian Arbitration Association Expedited Arbitration Rules.
- b) The parties agree that the Arbitrators decision is final and binding on all parties. Cost of the arbitration shall be determined by the arbitrator.

Execution of this agreement may be done in two or more counterparts which together shall be deemed to be complete execution. This Agreement shall be effective on the date stated thereon or on the latest date stated on any counterpart. EXECUTED AND WITNESSED ON THIS ______ DAY OF _____, 2021 Participant #1 Name **Spouse or Partner's Name** WITNESS: Witness Signature Witness Name (Printed) EXECUTED AND WITNESSED ON THIS $_$ DAY OF $_$, 2021 Participant #2 Name **Spouse or Partner's Name** WITNESSED BY: Witness Name (Printed) Witness Signature EXECUTED AND WITNESSED ON THIS DAY OF , 2021 **Spouse or Partner's Name** Participant #3 Name WITNESSED BY: Witness Signature Witness Name (Printed)

EXECUTED AND WITNESSED ON THIS	, DAY OF, 2021
Participant #4 Name	Spouse or Partner's Name
WITNESSED BY:	
Witness Name (Printed)	Witness Signature

EXECUTED AND WITNESSED ON THIS	, DAY OF, 2021
Kevin Lapp	Nicole Safron
WITNESSED BY:	
Witness Name (Printed)	Witness Signature



Policy Title	Date	Resolution No.
Policy for New Provincial Dock & Mooring Regulations	May 4, 2021	JBC-21-067

General Provision for the 2021 Boating Season:

Due to timing, any dock, mooring structure, swim platform, etc. that is subject to the new regulations and was installed in the 2020 boating season may be installed the same way for the 2021 boating season.

For Waterfront Property Owners:

(Properties which DO NOT have a Municipal Reserve separating the property from the lake)

Waterfront property owners do NOT require Municipal approval for a provincial permit application.

- a) Waterfront property owners who self-assess that they comply with the new standard do NOT need to apply for a provincial permit.
- b) Waterfront property owners who do NOT comply with the new standard but have had a dock and/or mooring structures in the water prior to April 16, 2021 may apply for a "grandfathered" 5-year permit to allow time to be able to adapt and conform with the new standard.

Semi-Waterfront Property Owners:

(Properties which have a Municipal Reserve separating the property from the lake)

Semi-Waterfront property owners require Municipal approval for a permit application, if a permit application is required.

- Semi-Waterfront property owners who self-assess that they comply with the new standard will be granted automatic Municipal approval and do NOT need to apply for a provincial permit.
- b) Semi-Waterfront property owners who do NOT comply with the new standard but have had a dock and/or mooring structures in the water prior to April 16, 2021, may apply for a "grandfathered" 5-year permit to allow time to adapt and conform with the new standard. They will require written Municipal approval, which will automatically be granted, provided a written explanation on how the applicant intends to achieve compliance is included.

Municipal Reserves and Road Allowance (Excluding Petro Beach):

The specific activities permitted on the various Municipal reserves and road allowances are regulated separately. This policy applies only to Municipal reserves and road allowances where docks and mooring structures are permitted.

A provincial permit will be required accompanied by written Municipal approval for the permit application. Only one dock may be installed on permitted municipal reserves and road allowances.

- Municipal approval will only be given to docks operated by self-administered shared groups under a written sharing agreement. The Municipality will NOT administer groups.
- b) Participants in shared dock groups must be property owners or residents of the Summer Village of Jarvis Bay.
- c) Preference for Municipal approval will be given to applicants who have operated a previous dock, with or without mooring structures, at the same location prior to April 16, 2021.
- d) Docks, with or without mooring structures that fully comply with the provincial standard will be granted automatic municipal approval in writing to attach to their provincial permit application.
- e) Docks, with or without mooring structures, that DO NOT comply with the new standard, but have operated in the same location prior to April 16, 2021, may apply for a "grandfathered" 5-year provincial permit to allow time to be able to adapt and conform with the new provincial standard. "Grandfathered" 5-year permit applications will require written Municipal approval which will automatically be granted, provided a written explanation on how the applicant intends to achieve compliance is provided.

Petro Beach:

No docks will be allowed at Petro Beach. Boat lifts will continue to be permitted under specific Municipal regulations which have not been finalize. For the 2021 boating season, see the General Provision above.

How to Apply for Permits

Provincial TFA Permit Application:

Links to information and the application process for the *Alberta Disturbance Standard for temporary Seasonal Docks and other Mooring Structures for Personal Recreational Purposes* are posted on the Summer Village of Jarvis Bay website. The Municipality can not provide advice or direction on how to interpret the regulations or how to apply.

Where required, written Municipal approval to accompany a provincial application, can be requested in writing from the Summer Village Administration office. A complete copy of the provincial TFA application must be included with all required attachments. The applicant must indicate if the application is for a fully compliant dock and/or mooring structure or for a "grandfathered" 5-year non-compliant permit. For "grandfathered" 5-year non-compliant applications, the request for Municipal approval must include a written explanation on how the applicant plans to become compliant.

Summer Village of Jarvis Bay

June 9, 2021

Council & Legislation

Request for Decision

Agenda Item: Purchase of 10 Thevenaz Industrial Trail

Background:

An offer has been made to Jarvis Bay for the purchase of 10 Thevenaz Industrial Trail (the lot behind the current building) and has been accepted by Jarvis Bay. The Condo Corporation to which we belong has an accepted offer at \$248,000 plus legal fees. The Condo Corporation will require \$35,000 from each bay to cover the purchase price and some improvements including:

- Widening of the laneway at the rear to accommodate more parking and enable a turning radius
- Trees along the highway frontage to meet the Town's landscaping requirements and have some privacy
- Each bay owner would have dedicated yard space behind their bay
- Fencing / gates

The Summer Village Administration will be on the hook for \$35,000. This would then further be split 5 ways for each summer village at \$7,000

The purchase of this lot would mean that the sale of our current building would come with 1/8 of an acre for a laydown yard, parking, equipment storage, etc. and would, according to their realtor, add approximately \$50,000 of value to each bay.

The original "New Building Memo" that became the new building Joint Ownership Agreement included a provision for the purchase of this lot. Jarvis Bay has agreed to provide a loan at 0% interest for the shared condo bay's cash call (\$7,000 to each village). The loan would be subject to an agreement that SV of Jarvis Bay would be paid out of the sale proceeds from the shared condo before any further distributions.

Each SV currently owes NGW \$70,812 when we sell the condo, which is currently listed at \$350,000. Should any SV choose to take the loan from JB, it would add another \$7,000 to be paid out after the sale of the condo – however we will be able to adjust the listing price, hopefully lessening any potential losses.

The summer villages of Half Moon Bay and Sunbreaker Cove have accepted this offer. Jarvis Bay now needs to decide which reserve to move \$21,000 from to cover the costs until the sale of the old building. These funds can be put directly back where they came from upon receipt of the funds for the sale of lot 10, or all of the proceeds can be placed in a Capital Replacement Reserve.

General Contingency - \$305,125.53

Environment - \$260,000

Mill Rate Stabilization - \$50,000

Water & Sewer - \$400,000

Roads, etc. - \$400,000

Twin Fawn Bridge - \$30,000

Fleet - \$8,950.32

IT - \$8,000

Street Lights - \$6,600

Options for Consideration:

- 1. Provide direction to Administration as to which reserve will cover the costs, and move the proceeds of the sale into a Capital Replacement Reserve.
- 2. Discuss and make recommendations to Administration

Administrative Recommendations:

1. Council discuss and provide direction to Adminsitration.

Authorities:

n/a