SPECIAL ASSEMBLY MEETING
THE CITY AND BOROUGH OF JUNEAU, ALASKA

Meeting Minutes - August 20, 2018

MEETING NO. 2018-25: The Special Meeting of the City and Borough of Juneau Assembly, held in the Assembly Chambers of the Municipal Building, was called to order at 6:25 p.m. by Mayor Ken Koelsch.

I. CALL TO ORDER / ROLL CALL

Assemblymembers Present: Ken Koelsch, Mary Becker, Rob Edwardson, Loren Jones, Jesse Kiehl, Jerry Nankervis, Maria Gladziszewski.

Assemblymembers Absent: None. *(Clerk's Note: There were two vacant Assembly seats at this time due to former member Beth Weldon resigning effective July 31, 2018 and Norton Gregory resigning effective August 13 in order to file candidacy for Mayor.)*

Staff present: Deputy City Manager Mila Cosgrove, Interim Municipal Attorney Robert Palmer, Municipal Clerk Beth McEwen, Finance Director Bob Bartholomew, Deputy Clerk Diane Cathcart

II. AGENDA TOPICS

A. Introduction of Ordinance 2018-11(J) An Ordinance Appropriating to the Manager the Sum of $1,800,000 as Funding for the Juneau Housing First Collaborative (JHFC); Funding Provided by the Sales Tax Fund's Fund Balance, the Tobacco Tax Fund's Fund Balance and the General Fund's Fund Balance.

This funding is to provide match for the Alaska Housing Finance Corporation's FY2019 Special Purpose GOAL Round Notice of Funding Availability (NOFA) for supportive housing, issued May 24, 2018, with applications due on October 5, 2018. This funding opportunity was not anticipated and has a tight timeline for applications. This NOFA will provide grants, zero interest loans, tax credits and rental assistance to successful respondents who will acquire, rehabilitate, construct, or otherwise expand housing opportunities for Alaskans who have few, if any, housing options due to chronic homelessness, disability and / or histories that present barriers to accessing mainstream housing. These populations must require intensive support service delivery needs, though this is not a program to provide treatment or correctional facilities. The original Phase 2 request from Housing First included a $1.5 million grant and a $2.7 million loan. Based on experience from the first phase, the Assembly opted to provide a $1.8 million grant.

This ordinance was requested by the Assembly Committee of the Whole at its meeting on August 9, 2018.

The City Manager recommends this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

Public Comment: None.

Assembly Action:

MOTION by Mr. Nankervis to introduce Ordinance 2018-11(J) and set it for public hearing at the next regular Assembly meeting and asked for unanimous consent. *Hearing no objection, the motion carried.*

B. Public Hearing: Ordinance 2018-40 An Ordinance Authorizing the Issuance of General Obligation Bonds in the Principal Amount of Not to Exceed $12,000,000 to Finance Capital Improvements to the Facilities of the City and Borough, and Submitting a Proposition to the Voters at the Election to Be Held Therein on October 2, 2018.

This ordinance authorizes placing on the October 2, 2018 general election ballot the question of issuing $12 million in fifteen-year general obligation bonds for the purpose of funding a variety of capital projects. The identified projects include:

· Renovations to Centennial Hall, including upgrading the HVAC system and expanding the lobby area;

· Construction and equipping of a portion of a new arts and culture center; and

· Construction of an enclosed and heated corridor between Centennial Hall and the new arts and culture center.

The temporary 1% sales tax approved by voters during the October 2017 general election will pay for $4.5 million of the debt service. Beginning in FY20 to pay off the remaining $7.5 million of debt and interest would require .15 mills in property taxes for debt service payments for 15 years. This amount of debt service would require an annual property tax levy of approximately $15 (.15 mills) per $100,000 of assessed value or approximately $59 for an average single family home (estimated 2018 value $393,000 per CBJ Assessor). The annual payment funded by property taxes would be about $719,000.

This proposal was discussed at the Assembly Finance Committee meeting on July 25, 2018 and at the Assembly Committee of the Whole meeting immediately preceding this August 20 Special Assembly meeting.

Whether to invest further in Centennial Hall and whether to support the New JACC project are policy questions that are before the Assembly. The City Manager has no recommendation at this time.

Public Comment: None.

Assembly Action:

MOTION by Mr. Jones to adopt Ordinance 2018-40 and asked for unanimous consent.

Objection was noted by Mr. Nankervis.

Assemblymembers debated the merits of this ordinance with Mr. Jones, Mr. Kiehl, Ms. Gladziszewski, and Mr. Edwardson speaking in favor of passing the ordinance so the question could be placed on the ballot.

Mr. Nankervis, Ms. Becker, and Mayor Koelsch spoke against placing the question on the ballot.

Roll Call Vote
Ayes: Edwardson, Kiehl, Gladziszewski, Jones
Nays: Becker, Nankervis, and Koelsch
Motion failed: 4:3

(Clerk's note: Even with only 7 members remaining on the Assembly, it still requires 5 votes in the affirmative for a motion to pass.)

C. Public Hearing: Ordinance 2018-43(b): An Ordinance Authorizing the Issuance of General Obligation Bonds in the Principal Amount of Not to Exceed $7,000,000 to Finance Capital Improvements to the Facilities of the City and Borough, and Submitting a Proposition to the Voters at the Election to Be Held Therein on October 2, 2018.

This ordinance authorizes placing on the October 2, 2018 general election ballot the question of issuing $7 million in fifteen-year general obligation bonds for the purpose of funding capital projects. The identified projects include: renovations to Centennial Hall, including upgrading the HVAC system, making improvements to the sound system, lighting system and technology, making improvements to the interior flooring, furnishings and wall systems and

expanding the lobby area and construction of an enclosed and heated corridor between Centennial Hall and the potential new arts and culture center.

The temporary 1% sales tax approved by voters during the October 2017 general election will pay for $2.5 million of the debt service. The remaining $7 million of debt and interest would require .13 mills in property taxes for debt service payments. This amount of debt service would require an annual property tax levy of approximately $13 (.13 mills) per $100,000 of assessed value or approximately $51 for average single family home (estimated 2018 value $393,000 per CBJ Assessor).

The annual payment funded by property taxes would be about $635,000. This proposal was discussed at the Assembly Finance Committee meeting on July 25, 2018 and at the Assembly Committee of the Whole meeting immediately preceding this August 20 Special Assembly meeting.

Whether to invest further in Centennial Hall and whether to support the New JACC project are policy questions that are before the Assembly. The City Manager has no recommendation at this time.

Public Comment: None.

Assembly Action:

MOTION by Mr. Nankervis to adopt Ordinance 2018-43(b) and asked for a NO vote.

Mr. Jones objected.

Roll Call Vote
Ayes: None.
Nays: Nankervis, Edwardson, Gladziszewski, Jones, Kiehl, Becker, and Koelsch
Motion failed: 7:0

D. Public Hearing: Ordinance 2018-39 An Ordinance Increasing the Hotel-Motel Room Tax by Two Percent and Providing for a Ballot Question Ratifying the Increase.

This ordinance would place the question of increasing the hotel-motel room rental tax from seven to nine percent on the ballot at the next regular municipal election. In accordance with a request proposed by the Assembly Finance Committee at its meeting on June 13, 2018, the increase would be permanent, with an effective date of January 1, 2019.

The hotel-motel room rental tax was last increased in 1988. The increased rate authorized by this ordinance would initially generate an estimated $440,000 per year in additional revenue. It is the intent of the Assembly to use this increase in the hotel-motel room rental tax to provide partial funding for the construction of capital improvements for the Juneau Arts & Culture Center and as funding for improvements to Centennial Hall, visitor information, marketing services, and other tourism and visitor services and facilities. Additionally, if approved by the voters, proceeds could be used to help pay for debt service relating to the new JACC or Centennial Hall.

This proposal was discussed at the Assembly Finance Committee meeting on July 25, 2018 and at the Assembly Committee of the Whole meeting immediately preceding this August 20 Special Assembly meeting.

This ordinance is a tax policy issue. The City Manager has no recommendation at this time.

Public Comment: None.

Assembly Action:

MOTION by Mr. Jones to adopt Ordinance 2018-39 and asked for unanimous consent.

Objection was noted by Mr. Nankervis.

Assemblymembers debated the merits of the ordinance and the current uses of the CBJ hotel-motel bed tax and how it compares to other communities use of their hotel-motel bed taxes.

Roll Call Vote
Ayes: Edwardson, Gladziszewski, Jones
Nays: Becker, Kiehl, Nankervis, and Koelsch
Motion failed: 3:4

E. [Documents provided at the meeting]

Documents handed out at the meeting included:

- Ordinance 2018-43(b) red line version from Mr. Nankervis
- Resolution 2824 (b) with proposed amendment language from Ms. Gladziszewski

MOTION by Ms. Gladziszewski to bring up Resolution 2824 (b) under Reconsideration.

Resolution 2824(b) *A Resolution Calling for an Advisory Ballot Proposition on City and Borough Financial Support for Improving and Expanding Access for all Juneau Families to Affordable High Quality Child Care and Early Learning/Pre-school.*

Mayor Koelsch noted that it would take five votes in the affirmative to reconsider Resolution 2824(b). When Ms. Gladziszewski asked Mayor Koelsch how best to proceed, he noted that he would permit a less formal debate on the topic of reconsideration as well as the merits of the resolution and any amendments.

Ms. Gladziszewski asked the Clerk to distribute copies of the Resolution 2824(b) as well as a copy of a proposed amendment that she would like to have considered with the resolution. The suggested amendment that Ms. Gladziszewski provided was to delete the following text on page two of the resolution:

"In accordance with the taxable value in the CBJ in 2018, a $2.8 million expenditure would require the equivalent of 0.58 mill increase, resulting in a property tax increase of $58 for each $100,000 of assessed property value of property tax in 2018."

and replace it by the following text:

"The cost of the program is expected to increase over five years and at full funding is estimated to cost $2.8 million annually. The Assembly could fund this program by increasing taxes, reducing existing city services, or a combination. For purposes of illustration only, if the Assembly were to choose one single funding source, the cost of a $2.8 million program would be equal to an added 1/2 of 1% sales tax, 0.58 mills of property tax ($58 per $100,000 of assessed value), or the cost of operating both swimming pools. An increase in sales tax would require voter approval."

Assemblymembers debated whether to take up reconsideration of Resolution 2824(b), with or without the amendment as noted above by Ms. Gladziszewski.

Roll Call Vote on Reconsideration of Resolution 2824(b)
Aye: Kiehl, Jones, Gladziszewski, Edwardson
Nay: Nankervis, Becker, Koelsch
Motion failed: 4:3

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Mr. Tom Williams stated that at the August 13 Assembly meeting, the Assembly, upon the verbal advice of the City Attorney Amy Mead, declined to take up the matter of Appeal #2018-04 stating that the appeal was not appeal-able. He stated that he just provided a letter to the Clerk along with a handout requesting reconsideration. He reviewed the CBJ Code sections on the criteria for matters that are subject to appeal and while he is not an attorney, he believed that the appeal he made clearly meets those criteria. As a result, he requested the Assembly reverse their prior decision not to hear the appeal and to in turn accept the appeal.

Mayor Koelsch asked if there was a letter to be distributed to the Assembly. Interim City Attorney Robert Palmer noted that there was a letter submitted to the Clerk. Mr. Palmer said there was a letter but he advised the Assembly not to look at the letter at this time but they could if they wished to. He stated that his reason for providing that advice was that Mr. Williamson has an opportunity to appeal their decision to Superior Court at this time and he did not feel that reconsideration was ripe at this time for the Assembly on this matter. Mr. Palmer said that if they wanted to go down a different path, there may be a way do it but he is not currently aware of what that might be.

Mr. Williams stated that he was not asking the Assembly to make a decision at this meeting. He asked if the Assembly would forego the necessary legal action and put into place the merits of his appeal request. He said that the most critical part of this has to do with the fact that the City Attorney, in her verbal testimony, appeared to have dismissed this appeal by referring to it only as a disagreement of a policy decision. He stated that a significant policy decision is and must be subject to appeal to the Assembly. He gave the example of Planning Commission policy decisions that have historically been appealed. He said that if such decisions are not appealable, the Assembly has irrevocably delegated its authority and responsibility to members of an appointed but unelected enterprise board and other boards and he feels that is unacceptable public policy. He submitted the request and copied the City Manager and the City Attorney. He said there has not been a written decision relative to why the decision was not appealable from the City Attorney on August 13. He noted that it was a verbal discussion and nothing had been put on the public record in terms of the logic of that so he would find it very difficult to challenge it to the court without such a finding from the Department of Law.

Mr. Kiehl asked Mr. Palmer in regard to the appellant's right to take this to Superior Court, why it would be necessary for that to occur before the Assembly could take up the matter of whether or not to consider this matter on reconsideration. Mr. Palmer explained that he was not at the last meeting and that the Assembly already voted and chose not to accept the appeal. He said that there was no opportunity for reconsideration to be taken on that through a notice of reconsideration at this meeting. He stated that Mr. Williams' opportunity to challenge that decision is through court if it is a legal appeal. He

stated that it could come back to the Assembly if the court disagrees with the decision the Assembly made.

Mr. Edwardson asked Mr. Palmer about the customary process for follow-up documents that are provided to an appellant after the Assembly took action. Mr. Palmer explained that he wasn't at the meeting so couldn't speak to that particular decision of August 13. He stated that roughly 3-4 years ago, the Assembly made a similar decision on an appeal from the Planning Commission and while he doesn't recall the specifics in that case, that matter ended up being litigated all the way up to the Alaska Supreme Court. He said that the minutes of that meeting were provided to the appellant with a cover letter from the Clerk stating that was the decision of the Assembly.

Ms. Joy Lyon spoke to the economic impacts that a lack of child care has on the community and the benefits that additional child care would provide to the community. She explained that there are 2,000 children in the community under 5 years of age and 5,000 school aged children who cannot vote and what the Assembly has done is to bar all of their parents, teachers, and community members from voting on this issue. She said that even though this did not make it onto the ballot, they will be doing a major voter education drive to help continue the public discourse on this topic.

Mr. Kevin Ritchie expressed his disappointment in the Assembly not placing the question of Child Care on the upcoming ballot. He shared a quote from Winston Churchill that "Success depends on going from failure to failure without loosing enthusiasm." He stated they cannot lose enthusiasm and their group will plan to move forward, albeit in an different way, but they will continue to work on this issue.

Mr, Jim Ayers expressed his disappointment of the child care issue not being placed on the ballot and spoke about the very real impact preschool has on preparing children for kindergarten.

Ms. Kristin Garot, Principal at Montessori School, said she started the first day of school with a Wisdom Day at the turf field at Marie Drake. She said they celebrated the privilege of going to school and she expressed her hope that the Assembly reconsiders its decision about placing the child care issue on the ballot in the future.

Mr. Kiehl asked for a brief recess to discuss the potential of taking up Mr. Williams' request for reconsideration on the appeal so that the Assembly might read Mr. Williams' letter.

Mr. Palmer stated that when he spoke earlier he was under the assumption that Mr. Williams was presenting this in the Assembly's capacity as a legislative body. He stated that he just had a conversation with Mr. Williams and there is a way to present this

through the CBJ appellate code, not in the Assembly's legislative capacity role. He said that there is a way to construe the decision on August 13 such that Mr. Williams could file a motion for reconsideration on that issue and the Assembly then has 30 days to decided it and through that capacity, Mr. Williams' letter could be handed out.

Mr. Kiehl stated that approach worked for him. Ms. Gladziszewski asked for clarification about reconsideration and said her understanding is that normally under legislative matters, the reconsideration would have to be taken up at this meeting, however under the appeals process, it follows different rules and was not constrained to be decided upon at this meeting.

Mr. Palmer said that Ms. Gladziszewski's interpretation was correct and that the CBJ appellate code 01.50.180 would apply to this instance.

IV. ADJOURNMENT

There being no further business to come before the Assembly, the meeting was adjourned at 7:43 p.m.

Signed: _____ Signed: _____
Elizabeth J. McEwen, Municipal Clerk Kendell D. Koelsch, Mayor