THE CITY AND BOROUGH OF JUNEAU, ALASKA

Meeting Minutes – June 24, 2013

MEETING NO. 2013-16: The Regular Meeting of the City and Borough of Juneau Assembly, held in the Assembly Chambers of the Municipal Building, was called to order at 7:00 p.m. by Mayor Merrill Sanford.

I. ROLL CALL

Assembly Present: Mary Becker, Karen Crane, Johan Dybdahl (Teleconference), Loren Jones, Jesse Kiehl (Teleconference), Jerry Nankervis (Teleconference), Merrill Sanford, Carlton Smith, and Randy Wanamaker.

Assembly Absent: None.

Staff Present: Kim Kiefer, City Manager; Rob Steedle, Deputy City Manager; John Hartle, City Attorney; Jane Sebens, Deputy Attorney; Deb Senn, Law Office Manager; Laurie Sica, Municipal Clerk; Beth McEwen, Deputy Clerk; Tricia Everson, Executive Asst. II; Rich Etheridge, Fire Chief; Mary Norcross, Controller; Brent Fischer, Parks and Recreation Director; Myiia Whistler, Parks and Recreation Director; Kathrin Millhorn, Aquatics Director; Hal Hart, Community Development Director; Teri Camery, Senior Planner; Eric Feldt, Planner II; Mila Cosgrove, HRRM Director; Patricia DeLaBruere, Airport Manager; Carl Uchytil, Port Director.

II. SPECIAL ORDER OF BUSINESS

A. City Attorney John Hartle

Mayor Sanford expressed the thanks of the Assembly for City Attorney John Hartle's twenty years of service to the municipality and the citizens of Juneau, and provided Mr. Hartle with a crystal engraved plaque in appreciation of his work. Mr. Hartle thanked the Assembly for the opportunity to be part of a great team. CBJ was a well-run organization. He thanked his wife, Clare, for her support, and acknowledged Deb Senn, Law Office Manager, as the city's unsung hero, for her assistance to him.

III. APPROVAL OF MINUTES

A. June 3, 2013 – Regular Assembly Meeting 2013-13

Hearing no objection, the minutes of the June 3, 2013 Regular Assembly Meeting 2013-13 were approved.

B. June 6, 2013 – Special Assembly Meeting 2013-14

Hearing no objection, the minutes of the June 6, 2013 Special Assembly Meeting 2013-14 were approved.

C. June 10, 2013 – Special Assembly Meeting 2013-15

Hearing no objection, the minutes of the June 10, 2013 Special Assembly Meeting 2013-15 were approved.

IV. MANAGER'S REQUEST FOR AGENDA CHANGES

Ms. Kiefer noted that the red folder contained a substitute version of Ordinance 2012-20(AS)(b) to correct an error in the body of the ordinance to match the title, which was correct. She also noted that her original recommendation of adoption of Ordinance 2013-14 under public hearing had changed, and she was not recommending referral to the Committee of the Whole.

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS.

JoAnn Lockwood spoke about the lack of permitting on the Downtown Snow Storage Site Facility project. Two months ago she asked for the records on file at the Community Development Department (CDD), such as building/land use, etc. and there was nothing on file. Mr. Hart had been very helpful to her, however, on May 21, she filed a public records request and in response she provided a letter to the Assembly which outlined that there were no permits on the project. CBJ stated that a Building Permit, a Development Permit, a Grading Permit, and a Conditional Use Permit were not required. She said there was no City State Project (CSP) Review done, which she believed was required. On the CSP application form, there was a place for the Capital Improvement Program number, and this permit was required to start that funding of the project through the city. She had not been informed that this was incorrect. She spoke about a permit involved with DNR and multiple state agencies, including DOT/PF. She thought this project should be "red tagged" and ceased until permits were obtained. Her letter referred to nine areas that were "skirted" in the project. She asked the Assembly to take action to require the snow storage facility to comply completely with CBJ code and permitting procedures and place this project into its legal land use position at that site, with all necessary files available to the public. She spoke with the city manager and the Law Department and would like a response.

Sara Mertz, said she and her team mates on Glacier Swim Club had been affected by the closure of the Dimond Park Pool on Mondays. She noted her teammates in the room supporting her statements. The closure would cut down on practice time and their club worked very hard to be successful. She said cuts were difficult to make but asked if this was worth a $39,000 cut, considering the impact to the club, which serve more than 500 students. She thanked the assembly for their time.

Don Kussart, said he missed having the Concerts in the Park at Marine Park and even though the weather was sometimes iffy, and sometimes the entertainment wasn't all that great, many tried their best to get there and it had been a great downtown community event. With this beautiful weather, he was missing the concerts. The concerts at the JACC were just not the same as an outdoor concert, and he was not sure of why the pavilion was changed, and he would like to see some type of temporary seating be made available for that site.

VI. CONSENT AGENDA

A. Public Requests for Consent Agenda Changes, Other Than Ordinances for Introduction

None.

B. Assembly Requests for Consent Agenda Changes – None.

C. Assembly Action

MOTION, by Becker, to adopt the consent agenda. Hearing no objection, it was so ordered.

1. Ordinances for Introduction

a. Ordinance 2013-19
An Ordinance Amending the Land Use Code Regarding Flood Hazard Areas and Definitions.

Administrative Report: Attached. The manager recommended Ordinance 2013-19 be introduced and set for public hearing at the next regular meeting.

b. Ordinance 2012-20(AJ)
An Ordinance Appropriating To The Manager The Sum Of $1,969,325 As Additional Funding For The Juneau International Airport Runway Safety Area Capital Improvement Project, Grant Funding Provided By The Federal Aviation Administration And The Juneau International Airport.

Administrative Report: Attached. The manager recommended Ordinance 2012-20(AJ) be introduced and set for public hearing at a Special Assembly meeting to be held on July 8, 2013.

2. Resolutions

a. Resolution 2651
A Resolution Authorizing the Manager to Apply For, and Enter Into, a Loan Agreement with the Alaska Department of Environmental Conservation, Alaska Clean Water Fund State Revolving Loan Fund, for Facility Plan Updates for the Juneau Douglas Wastewater Treatment Plant and the Mendenhall Wastewater Treatment Plant.

Administrative Report: Attached. The manager recommended adoption of Resolution 2651.

b. Resolution 2652
A Resolution De-Appropriating $2,238 From The Ski-To-Sea and Dive Park Underwater Trails and $325 From The Juneau Nordic Ski Trails Capital Improvement Projects.

Administrative Report: Attached. The manager recommended adoption of Resolution 2652.

c. Resolution 2653
A Resolution De-Appropriating $168,270 from the Cruise Ship Berth Enhancement Capital Improvement Project.

Administrative Report: Attached. The manager recommended adoption of Resolution 2653.

d. Resolution 2654
A Resolution De-Appropriating $22,406 from the Taku Harbor Transient Moorage Facility Capital Improvement Project.

Administrative Report: Attached. The manager recommended adoption of Resolution 2654.

e. Resolution 2655
A Resolution Ratifying the Labor Agreement Between the City and Borough and the Public Safety Employees Association, AFSCME Local 83, AFL-CIO.

Administrative Report: Attached. The manager recommended adoption of Resolution 2655.

VII. PUBLIC HEARING

A. Ordinance 2013-14
An Ordinance Relating to Noise, and Amending the Disturbing the Peace Code.

Administrative Report: Attached. The manager recommended referring this to the Committee of the Whole.

Public Comment:

George Utermohle, said he supported a noise ordinance and a reasonable fireworks control ordinance. He asked the Assembly to defeat Ordinance 2013-14 or send it to committee for further review. There were internal inconsistencies that seemed to make it unenforceable. He spoke about the standards that were required to be met that defined a violation of the ordinance and said five of the seven standards were non-substantive.

Mr. Smith asked for a background memo on the history of this ordinance.

Mr. Kiehl said he did not understand Mr. Utermohle's interpretation regarding impulsive noise. Mr. Utermohle said the 53 db was a night time limit, but there appeared to be no limit to noise during the day.

Assembly Action:

MOTION, by Dybdahl, to refer Ordinance 2013-14 to the Committee of the Whole for further review. Hearing no objection, it was so ordered.

B. Ordinance 2012-20(AS)(b)
An Ordinance Appropriating to the Manager the Sum of $16,164 as Funding For The Law Enforcement Liaison Program, Grant Funding Provided by the State of Alaska Department of Transportation and Public Facilities, Alaska Highway Safety Office.

Administrative Report: Attached. The manager recommended Ordinance 2012-20(AS)(b) be adopted.

Public Comment:

Assembly Action:

MOTION, by Wanamaker, to adopt Ordinance 2012-20(AS)(b). Hearing no objection, it was so ordered.

C. Ordinance 2012-20(AT)
An Ordinance Appropriating To The Manager The Sum Of $300,000 As Additional Funding For The Capital City Fire/Rescue, Emergency Services Program Fiscal Year 2013 Operating Budget, Funding Provided By The General Fund Fund Balance of $300,000.

Administrative Report: Attached. The manager recommended Ordinance 2012-20(AT) be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Crane, to adopt Ordinance 2012-20(AT). Hearing no objection, it was so ordered.

VIII. UNFINISHED BUSINESS

A. Appeal of USE2012 0019 – Dau Appeal Lemon Creek Gravel Extraction–Request for Reconsideration by Appellants.

Mr. Hartle said the appeals code CBJ 01.50.180 allowed the Assembly itself, when it served as the appeal agency, or a party to an appeal, such as the Daus, to ask the Assembly to reconsider its decision on appeal. Mr. and Mrs. Dau asked for reconsideration in an email and it was placed upon this meeting agenda. There was no provision in the code for further argument or evidence. If the Assembly decided to reconsider the matter, a process would need to be set and it could include more argument or another hearing.

Mayor Sanford noted that Mr. Smith had been excused from the matter due to a conflict and Mr. Dybdahl had not been able to participate in the hearing, and therefore neither of them would participate in this discussion.

Mr. Wanamaker asked if the Assembly wished to let the matter lie, what would be the appropriate action. Mr. Hartle suggested a motion could be made to reconsider the appeal and a "no" vote could be requested, or a motion for "orders of the day" could be made.

MOTION, by Wanamaker, for orders of the day.

Mr. Jones objected.

Roll call:
Aye: Becker, Nankervis, Wanamaker, Sanford
Nay: Crane, Jones, Kiehl
Motion failed, 4 ayes, 3 nays. Mr. Hartle said that as it was only a procedural question, orders of the day stood, and the Assembly could move to the next item. No action was taken to reconsider the Assembly's decision.

IX. NEW BUSINESS

A. Appeal of AME2013 0007 – Comprehensive Plan Map Amendment for Honsinger Pond

Bicknell, Inc. Appeal Of Planning Commission Notice of Decision Regarding AME2013-0007, An Application for Planning Commission Recommendation to the City of Borough Assembly to Amend the Comprehensive Plan Map G from *Resource Development* to mix of *Industrial, General Commercial,* and *Resource Development* in the Area of Honsinger Pond.

Mr. Hartle said he had reviewed the matter and saw no reason not to accept the appeal.

Mr. Wanamaker asked if the Assembly did not hear the appeal, if there was another method for the appellant to address the issue. Mr. Hartle said the next step would be to appeal to Superior Court. Mr. Hartle said there had been a close question about whether this was an appealable action, however, he recommended that the appeal be accepted because the Assembly recently changed the code to allow denials of rezoning to be appealable, and rezoning must be consistent with the comprehensive plan maps. The applicant had applied for a map amendment and went through the process and was denied, and his interpretation was that this was an appealable matter.

Mr. Wanamaker asked if the Assembly accepted the appeal and decided to hear it itself, he asked if it was appointing a hearing officer or a presiding officer. Mr. Hartle said it would be termed a presiding officer, as a hearing officer would be appointed from outside the Assembly's membership.

Mr. Smith noted a potential conflict involving one of the parties that could involve compensation for him at a future date. Mr. Hartle recommended that Mr. Smith step down. Mayor Sanford excused Mr. Smith from this discussion based on a conflict.

Mr. Kiehl said taking up the appeal seemed to be the fair thing to do, and said that due to the noise on the phone line he wanted to make sure that Mr. Hartle felt that this was an appealable question. Mr. Hartle said yes, it was. Mr. Hartle said the parties to the appeal could argue that the Assembly should not accept the appeal and they would have an opportunity to brief that matter if they felt it was appropriate.

MOTION, by Wanamaker, to accept the appeal, to hear the appeal itself, and to have Mayor Sanford serve as the presiding officer.

Mayor Sanford asked if any other member wished to serve as presiding officer.

Ms. Becker offered to serve as presiding officer.

Ms. Crane objected to the motion to hear the appeal.

Roll call:
Aye: Becker, Dybdahl, Kiehl, Nankervis, Wanamaker, Sanford
Nay: Crane, Jones
Motion passed, 6 ayes, 2 nays. The appeal was accepted.

X. STAFF REPORTS

A. CBJ Regular Municipal Election - Timeline Information

Ms. Sica referred to her annual memo on election timeframes and said that if there were any ballot measures to be place on the ballot, it was time to consider the questions and formulate an ordinance for consideration and adoption. The candidate nomination petitions for Assembly and School Board seats were available on-line and in the Clerk's office, and the Clerks were available to answer any questions the public had about running for office.

Mr. Wanamaker said that several years ago the Assembly adopted a provision that allowed voting by mail, yet had never exercised that option. He supported its adoption as a potential way to increase voter turn-out. He asked Ms. Sica to comment on what it would take to use this option and her current thoughts.

Ms. Sica said that a by-mail election would be solely an election by mail, similar to having an absentee ballot sent by mail, but with a ballot mailed to each individual voter registered within the CBJ, and there would be no polling places set up. It was worthy of consideration and she had supported the idea when it was adopted, but since that time she had had some second thoughts on the procedures involved as it had not been tested at the state level and she preferred to follow the lead of state as the Division of Elections was an expert on elections. If the Assembly was interested in this she would be willing to look into this further.

Mr. Wanamaker asked what the Assembly would have to do to set up the election by mail and what type of timeline would be needed. Ms. Sica said that she did not believe this could be done for the 2013 election as procedures would need to be determined and reviewed by the U.S. Department of Justice for pre-clearance a minimum of 60 days following adoption of the procedures due to the Voting Rights Act. She thought it could be done in subsequent elections. Ms. Sica said that the costs would also need to be considered.

Ms. Kiefer said that staff could bring back information on procedures and costs involved in this type of election. Hearing no objection, the information would be presented at a future meeting to the Assembly.

Mr. Dybdahl encouraged people to consider running for the Assembly, especially younger people with a long-term stake in the community

XI. ASSEMBLY REPORTS

A. Committee Reports

Ad-Hoc Housing Committee: Chair Becker said the committee met and determined that its work would be final and the matter would be referred to the Assembly Committee of the Whole. At the Committee of the Whole meeting on July 1, the COW would take up the matrix of ideas submitted and reviewed for committee assignments. The Subdivision Ordinance and Tax Deferral for Subdivided Properties Ordinance were under development in the Law Department.

Mayor Sanford thanked the committee for its diligent work. Ms. Becker thanked the CBJ staff for its work on this project.

Public Works and Facilities Committee: Chair Wanamaker said the next meeting was set for July 1, at Noon, in the Assembly Chambers.

Human Resources Committee: Vice-Chair Crane said the HRC heard an annual report from the Juneau Commission on Aging and reviewed and recommended the following board appointments. Hearing no objection, the following appointments were made:

Aquatic Facilities Advisory Board:
Appointment of Michelle Umbs to a term expiring June 30, 2016.

Historic Resources Advisory Committee:
Appointment of Mark Sowers to a term expiring June 30, 2016.

Juneau Commission on Aging:
Reappointment of Clifford Cole for a public seat for a member age 65+ for a term expiring June 30, 2016.

Ms. Crane noted that there was one vacant seat remaining on each of the aforementioned boards.

Finance Committee: Chair Crane said the committee would likely begin meeting once a month, perhaps in August, and this was still under discussion.

Lands Committee: Chair Smith said the committee met and heard a report from Lands and Resources Manager Greg Chaney on CBJ property that could be developed for multi-family housing. Mr. Chaney asked for further guidance on disposal of the site adjacent to Dzanti ki Heeni Middle School and would return a recommendation with specifics to the committee, which would be forwarded to the Assembly. This property was significant as it was situated on an existing right-of-way. The majority of CBJ Land was far from an existing right-of-way and required road development for access. The next meeting was set for Monday, July 1, at 5 p.m. in the Assembly Chambers.

B. Liaison Reports

Airport Board: Liaison Nankervis attended the June 12 meeting and the Board passed its budget, modified its rates regarding fuel flowage fees and was still looking for a restaurant concessionaire. The Board was questioning how to handle the liquor license at the Airport as well. They had a consultant present a report on the degradation of the airport runway, which would likely be the next major project at the airport.

Juneau Commission on Sustainability: Liaison Nankervis said work was ongoing on the energy plan and the commission would enter an electric vehicle in the 4th of July parade.

Juneau Convention and Visitors Bureau: Liaison Smith said the JCVB would hold its annual membership meeting on Friday, June 28 at 8:30 a.m. at the Baranof Hotel and Mr. Smith would speak on the things CBJ was doing to have a positive impact on tourism in Juneau.

Bartlett Regional Hospital Board: Liaison Crane said the next meeting was set for Tuesday, June 25.

Affordable Housing Commission: Liaison Kiehl said the next meeting was set for Tuesday, July 2.

Ad Hoc City Attorney Hire Committee: Liaison Kiehl said the committee met on Saturday, June 22, and reviewed applications, recommending four applicants for the Assembly to interview: Karen Jennings, Amy Meade, Deborah O'Gara and Jane Sebens. Hearing no objection, those names were forwarded to the full Assembly for interviews.

Mr. Kiehl said that it was unlikely to have a decision made before Mr. Hartle left his position and recommended that the Assembly follow the CBJ standard operating procedure and until the vacancy was filled, appoint Deputy City Attorney Jane Sebens to serve as the acting attorney. Hearing no objection, it was so ordered.

The Assembly discussed and agreed to hold a Special Assembly Meeting on Friday, June 28, at 8 a.m., in executive session, to conduct candidate interviews. Mr. Kiehl asked that the writing samples be provided to the Assembly and Ms. Cosgrove said she would distribute those electronically.

XII. ASSEMBLY COMMENTS AND QUESTIONS

Mayor Sanford asked the Assembly for its direction regarding the Snow Dump site. Mr. Wanamaker asked for a staff report. Ms. Kiefer said that Mr. Watt had addressed the COW and had distributed a memo to the Assembly regarding the matter and had determined the project was less than one acre, which did not require a CSP. He did say that in hind sight he would have done a CSP review and he would meet with Engineering and CDD staff to clarify issues to change for the future.

Ms. Crane said her concern was there had been no opportunity for public comment on this project and it seemed that this kind of project should have come before the public in some manner. Ms. Kiefer said the only time there was a public comment opportunity would have been through its inclusion in the Capital Improvement Process in PWFC and in the Assembly as a project, however this project wasn't specifically outlined as it had been a general project combined with the site in the valley on Forest Service property.

Mr. Wanamaker asked staff to address the concerns that were presented tonight at a future COW meeting so the Assembly could ask questions at that time.

Ms. Kiefer said she was in discussions with the Department of Natural Resources regarding activities that could take place on mining sites.

Mayor Sanford asked CBJ staff to meet with Glacier Swim Club to get an understanding of the changes due to the budget and the plans for implementation.

Mayor Sanford asked CBJ staff to contact Mr. Kussart about the Marine Park planning efforts. Ms. Kiefer said the hill seating was removed for safety to allow patrol officers to drive by and see activities in the area. The area was in transition and there would be long-term changes for the area in Dock Project 16b and a planning process was in place.

Mr. Jones said there were three resolutions on the consent agenda that had been discussed at the PWFC meetings on May 30, but no minutes for the PWFC meeting were available for review. He suggested that minutes should be available in a timely manner in order to better inform the Assembly and the public.

Mayor Sanford said the issue of minutes being timely was important and asked the manager to look into this. Ms. Kiefer said she would investigate and report back.

Mr. Kiehl said he was interested to hear about the planning and public process for Marine Park.

Mr. Kiehl said there was a significant group of organizations putting together a public meeting about assisted living on Wednesday, June 26, at 6:30 p.m. at the Nugget Mall. This was a gap in housing in the community and he encouraged attendance.

Mr. Kiehl thanked Mr. Hartle for his many years of work and remarkable thinking, as well as writing.

Ms. Becker thanked Mr. Hartle for his patience and for answering her questions.

Ms. Becker reported on her attendance, along with Mayor Sanford and Mr. Wanamaker, at the ribbon cutting ceremony conducted with Governor Parnell and Goldbelt's Board of Directors for the extension of the Veteran's Highway.

Ms. Becker reported on her attendance at the Alaska Builders Association BBQ, which was a nice social time to meet casually with many of the builders in town.

Ms. Becker said she spoke to the League of Women Voters at their recent monthly meeting and had a good discussion about many local issues.

Mayor Sanford asked for Assembly approval to contribute to the hosting costs for the North Pacific Fisheries Management Council meetings recently held in Juneau in the amount of $250. Hearing no objections, it was so ordered.

Mayor Sanford asked for Assembly approval to write a letter in support of an Economic Development "LUD" overlay of electrical (hydropower/geothermal and tidal power sources) and mining possibilities in the Tongass National Forest Service Five Year Plan Update. He said this idea was supported by the Southeast Conference, Tlingit Haida Central Council, the Alaska Mining Association, the Juneau Chamber of Commerce and other organizations drafting similar letters. Mr. Kiehl said he would like more information and Mayor Sanford said he would provide it to Mr. Kiehl. Hearing no objections, Mayor Sanford would send such a letter.

XIII. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None.

XIV. EXECUTIVE SESSION

A. City Manager Evaluation
B. City Attorney Candidates

MOTION, by Becker, to recess into executive session to discuss personnel matters, including the city manager evaluation and questions and other actions concerning the hiring of a city attorney.

Hearing no objections, the Assembly recessed into executive session at 8:35 p.m. and returned to regular session at 9:25 p.m.

Mayor Sanford said that in executive session, the Assembly attempted to discuss the City Attorney hire process but communications via teleconference were difficult. The City Attorney Hire Subcommittee would meet on Thursday to review the interview questions with Mr. Hartle and Ms. Cosgrove prior to Friday's Special Assembly meeting. The City Manager evaluation was delayed to allow for better in-person participation.

XV. ADJOURNMENT: 9:30 p.m.

Signed: _____
Laurie Sica, Municipal Clerk

Signed: _____
Merrill Sanford, Mayor