THE CITY AND BOROUGH OF JUNEAU, ALASKA

Meeting Minutes - November 9, 2015

MEETING NO. 2015-28: 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 Greg Fisk.

I. ROLL CALL

Assembly Present: Mary Becker, Karen Crane, Greg Fisk, Maria Gladziszewski, Loren Jones, Jesse Kiehl, Kate Troll and Debbie White (teleconference).

Assembly Absent: Jerry Nankervis.

Staff Present: Kim Kiefer, City Manager; Amy Mead, Municipal Attorney; Laurie Sica, Municipal Clerk; Rorie Watt, Engineering / Public Works Director; Bob Bartholomew, Finance Director; Bryce Johnson, Police Chief; Beth McKibben, Planning Manager; Chrissy McNally, Planner; Carl Uchytil, Port Director.

II. SPECIAL ORDER OF BUSINESS

A. Employee Recognition - Joe Castillo

Mr. Rorie Watt recognized Joe Castillo of CBJ Engineering for 32 years of employment with the City and Borough of Juneau and wished him many happy days of fishing. Mayor Fisk issued a certificate of appreciation to Mr. Castillo and the Assemblymembers and staff thanked him for his service to the community.

III. APPROVAL OF MINUTES

A. October 20, 2015 Regular Meeting No. 2015-26

Hearing no objection, the minutes of the October 20, 2015 Regular Assembly Meeting 2015-26 were approved as amended with changes provided at the meeting in the red folder.

B. October 21, 2015 Special Meeting No. 2015-27

Hearing no objection, the minutes of the October 21, 2015 Special Assembly Meeting 2015-27 were approved.

IV. MANAGER'S REQUEST FOR AGENDA CHANGES

Ms. Kiefer noted the addition of a revised 2016 Assembly meeting calendar in the red folder for discussion later in the meeting.

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Ruth Baumgartner said she was concerned about the compliance and enforcement of a conditional use permit. She distributed a letter to the Assembly. The business near her home has been operating since July 2014 without full compliance with the conditional use permit.

CDD has failed to do its job to enforce the conditions of the permit. She said the business was operating illegally. There was no follow up on conditions unless she were to call the department and inform them of the non-compliance. She asked why there was no pro-active enforcement of permit conditions and the business owners were given such latitude. CBJ should not have ordinances if the laws were not followed and conditions on permits were not enforced. The conditions should be met prior to the business starting operations. Her neighborhood has fought hard on this issue and would continue.

Paul Voelkers was present to speak about the Juneau Ocean Center (JOC) project. Progress has continued and a legal entity has been formed. The JOC would like to partner with the city on shared interests and is making plan improvements and will talk with the Alaska Mental Health Trust (AMHT) to define a right of way through its property so that traffic can access the facility through an existing stoplight.

Linda Nicklin said she is part of the the Juneau Ocean Center project and spoke with Beth Kerttula, who is excited about the project and will assist by identifying potential federal funding sources for the project. They spoke with Rick Caulfield of UAS and he will be providing input on the project through professors at the university.

Carlton Smith represented the AMHT and said the trustees of AMHT want to add value to their property in Juneau and were very sensitive to community goals. We need to answer to the people in each community in Southeast. We have facilitated some initial discussions with the Trust Land Office regarding the subport area property and the location of the whale and the Juneau Oceans Project. The trustees have not weighed in on this project specifically but he would be meeting in Anchorage this week with the Trust Land Office and would tell them more about the project.

Russ McDougal said he sat on the Affordable Housing Commission and asked people to watch for the Housing Action Plan. The head presenter from the consulting firm was here and there were a number of questions from the Assembly, and more discussion has taken place between AHC and the consultant and they will be polishing the plan and hope it will be an important tool.

Mr. Jones asked about public hearings prior to the plan going to the Planning Commission. Mr. McDougal said he anticipated a final draft being submitted in the first part of December and we believe it should have 60 days for a public comment period.

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 White, to adopt the consent agenda. Hearing no objections, the consent agenda was adopted.

1. Ordinances for Introduction

a. Ordinance 2015-44 An Ordinance Amending the Real and Personal Property Tax Code to Repeal the Property Tax Deferral and Create a Property Tax Exemption for Certain Subdivided Property.

Last session, the Legislature amended AS 29.45.050 by adding an optional exemption that authorizes municipalities to exempt all or a portion of an increase in assessed value directly attributable to the subdivision of a single parcel of property into three or more lots.

This ordinance would provide for the allowable exemption with the exemption terminating for each individual lot when the lot's ownership is transferred, a residential or commercial structure has been completed on the lot and a certificate of occupancy or a temporary certificate of occupancy has been issued, or taxes have been exempted for three years. While the statute permits up to five years for the exemption, it is staff's recommendation that the exemption be limited to three years to serve the public purpose of increasing housing and promoting commercial development.

In 2013, the Assembly created an exemption for the deferral of increased taxes caused by a subdivision. No one has taken advantage of that opportunity. This ordinance, if adopted, will replace the property tax deferral with a tax exemption. The ordinance was drafted at the request of the Committee of the Whole at its August 24, 2015 meeting.

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

b. Ordinance 2015-20(X) An Ordinance Appropriating to the Manager the Sum of $5,487.44 as Funding for the Reimbursement of Bullet Proof Vests for JPD Officers, Funding Provided by the U.S. Department of Justice.

The Department of Justice offers a Bulletproof Vest Partnership program to law enforcement agencies across the nation. JPD has a mandatory vest-wear policy which makes our agency eligible for this partial reimbursement.
This is a 50/50 match program.

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

2. Resolutions

a. Resolution 2732 A Resolution Authorizing the Manager to Apply For a Community Development Block Grant From the Alaska Department of Commerce, Community and Economic Development for the Juneau Housing First Collaborative Project.

Project ideas were solicited from the community for a grant from the federal Community Development Block Grant (CDBG) program administered in Alaska by the state Department of Commerce, Community and Economic Development (DCCED). Grant proposals must be sponsored by a local government and sent to DCCED by December 4, 2015, where the proposals will be reviewed and compete against each other on a statewide basis. A local government has the choice of generating its own project ideas or soliciting ideas from the general public. CBJ has successfully used the latter method in the past. This year, the CBJ had two proposals as a result of its solicitation for proposals.

The Committee of the Whole reviewed the two proposals at its meeting on October 26, 2015, deciding to recommend to the Assembly that it support the Juneau Housing First Collaborative's proposal for construction of the first floor of the Housing First facility. The new construction would provide conference rooms, support offices, commercial kitchen and a 2,200 square foot health clinic.

Staff recommends the Assembly adopt the attached resolution supporting the Juneau Housing First Collaborative's application for a CDBG grant.

The Manager recommends this resolution be adopted.

3. Liquor License

a. Liquor License #816 El Sombrero Mexican & American Food - Transfer of Ownership and Application for Restaurant Designation Permit

The above liquor license transfer is before the Assembly to either protest or waive its right to protest. The Finance, Police, Fire, and Community Development departments have reviewed the above business and found it to be in compliance with CBJ Code.

In the event the Assembly does protest this transfer, CBJ Code 20.25 requires notice, with specificity regarding the nature and basis of the protest, to be sent to the licensee and provides the licensee an opportunity to exercise its right to an informal hearing before the Assembly.

Restaurant/Eating Place License #816 Transfer & Application for a Restaurant Designation Permit
This is a stock transfer/controlling interest transfer only. It is going from Elizabeth Lehrback 25%, Fritz Moser 25%, Patty Moser 25%, H.T. Lehrback 25%, to Fritz Moser 30%, Patricia Moser 25%, and Ryan Fagerstrom 45%. The owner, DBA, and location are staying the same.

The Manager recommends the Assembly waive its right to protest this transfer of controlling interest and approve the application for a Restaurant Designation Permit.

4. Transfers

a. Transfer T-973 Transferring $5,000 of Sales Tax from West Valley Sewer Expansion – Pederson Phase CIP to Auke Lake Sewer CIP.

This transfer would provide additional funds to cover final quantity adjustments and allow the project to be closed.

The Public Works and Facilities Committee reviewed and forwarded this transfer to the full Assembly at its October 26, 2015 meeting.

The Manager recommends approval of this transfer.

VII. PUBLIC HEARING

A. Ordinance 2015-39 An Ordinance Amending the Land Use Code Relating to Marijuana Establishments.

This ordinance would amend CBJ Title 49, the Land Use Code, as it relates to marijuana establishments by adding four new uses to the Table of Permissible Uses: marijuana cultivation; marijuana product manufacturing; marijuana testing; and marijuana retail.

After a number of meetings and discussions, the Marijuana Committee forwarded to the Planning Commission a draft ordinance providing for the addition of marijuana establishments to the Table of Permissible Uses. The Planning Commission's Title 49 Subcommittee reviewed the Marijuana Committee's recommendations and forwarded a revised version of the ordinance to the Planning Commission for its consideration. The amended draft ordinance was heard before the Planning Commission on September 8, 2015, but failed to pass. The proposed ordinance was heard again on September 22, 2015, at which time the Planning Commission approved forwarding the ordinance with the Commission's revisions to the Assembly for its approval.

The Assembly took public comment and considered the ordinance at its October 26, 2015, Committee of the Whole meeting. The ordinance was forwarded, without change, to public hearing.

Included in the packet is a draft of the ordinance showing the changes, in italics, the Planning Commission made to the proposal forwarded by the Marijuana Committee.

The Manager recommends this ordinance be adopted.

Public Comment:

Zan Oliphant introduced himself and his dog to the Assembly.

Margo Waring said the reason for zoning is to be clear about separating residential from industrial and commercial uses. In the proposed ordinance she saw the introduction of activities that are commercial and industrial in D-1 and Rural Reserve that have not been allowed before. This is a bad precedent. Marijuana cultivation and processing are industrial activities and not like a back yard garden. These operations are in large metal buildings, with chain link fences, lights, exhaust fans and are a commercial/industrial activity and inconsistent with D-1 and RR. Allowing the sale of marijuana in Rural Reserve areas was a mistake and package liquor stores would not be allowed. This encourages people to use the product and drive. The treatment of the D-1 and RR are unequal regarding residential neighborhoods for no reason. She urged the Assembly to reconsider this and prohibit commercial cultivation, processing and sales in Rural Reserve and D-1.

Assembly Action:

MOTION, by Kiehl, to adopt Ordinance 2015-39.

MOTION, by Becker, to remove in section 5 page 2, marijuana cultivation, delete the D-1 category.

Ms. Becker spoke in favor of her motion and said the concerns from residents regarding the use of residential property for marijuana operations were similar to those expressed when the Assembly considered the cell tower ordinance.

Ms. White objected; she said the purpose of the Table of Permissible Uses is to regulate how things are handled in different neighborhoods. Issues such as lighting and odors could be addressed through the conditional use permit. The initiative that legalized marijuana brings out the industry into the public and allows the taxation of the sale. These types of industries are already in residential areas and we want to be able to regulate them.

Mr. Kiehl said Section 14.2 of the TPU already allows commercial agricultural operations in the D-1 zone, with and without farm animals. This was the least dense residential zone and with a conditional use permit the operations could be conditioned and impacts mitigated. He supported allowing the industry to begin and succeed in Juneau and did not support the amendment.

Ms. Crane said that growing tomatoes and peonies was different than growing marijuana and we heard earlier in the meeting how well CBJ was monitoring conditional use permits. There are neighborhoods that are more dense than one house per acre all through D-1. She stated she is not objecting to growing marijuana, rather, she is objecting to growing marijuana in a neighborhood, disparately throughout the community.

Ms. Gladziszewski listed uses allowed in RR and D-1 now and the issues surrounding each were based on the impacts of the operation. The conditional use process is for mitigating the impacts. This will treat neighborhoods the same through the definition of things that have already been allowed in D-1.

Ms. Troll said the number one lesson from Washington was to keep marijuana cultivation out of residential areas. She said we could add in zones later, but to start, we needed to treat all residential districts the same, and she supported the amendment.

Mr. Kiehl said marijuana cultivation was not like growing tomatoes or peonies because marijuana could not be legally grown in the open air, so there wouldn't be smells or sprays outside of a facility. The ordinance only allows the use in D-1 and RR in areas outside the urban service boundary. This was an opportunity to allow the relatively small growers to do this in a small facility and the planning commission will look at these on a case by case basis. Granted there is issues with enforcement of conditions, but there are other tools, such as a local license that could be established. Given the limited land and high land costs, it is the wisest course.

Roll call:
Aye: Becker, Crane, Jones, Troll
Nay: Gladziszewski, Kiehl, White, Fisk
Motion failed: 4 aye, 4 nay.

<u>MOTION</u>, by Crane, to allow only limited marijuana cultivation facilities, defined as cultivation facilities with fewer than 500 square feet under cultivation in D-1 areas.

Ms. Gladziszewski asked for clarification. Ms. Crane said this would be about the size of a garage, not a large commercial facility.

Mr. Jones asked if this amendment included the a/b footnote, regarding the limitation to outside of the urban service boundary.

Ms. Crane said at lines 14 240 and 19 230, it would be amended to add a notation that applies to facilities of 500 square feet or more, and by removing the 3 a/b notes in D-1 areas.

Ms. Gladziszewski said if there were two separate lines it would be more clear.

Ms. Mead said the easiest way to do this would be to separate standard cultivation facilities from limited cultivation facilities and add a definition that tracks the proposed state regulation on how they define square feet under cultivation. She read the state regulation definition.

Mr. Kiehl asked to clarify in both section 5 and 6, a new line would be created, and full size cultivation would not be permitted in D-1 anywhere in the borough, and limited cultivation would be permitted in D-1 outside the urban service boundary but not inside the urban service boundary. She said yes.

Hearing no objection, the amendment passed.

<u>MOTION</u>, by Gladziszewski, regarding Section 1, Marijuana Retail Store, to remove marijuana retail store from the RR district.

She said there was really no other retail allowed in that area.

Mr. Kiehl objected and listed the services that were allowed to be sold in the RR district. He asked why a bar or restaurant would be allowed but a marijuana retail store not.

Ms. Gladziszewski withdrew her motion.

<u>MOTION</u>, by Crane, to make the same motion, to remove Marijuana Retail Store from RR.

Mr. Kiehl objected.

Roll call:
  Aye: Becker, Crane, Jones, Troll
  Nay: Gladziszewski, Kiehl, White, Fisk
Motion failed, 4 aye, 4 nay.

<u>MOTION,</u> by Gladziszewski, to amend Section 2.3 to allow Marijuana Retail Stores in a WI (Waterfront Industrial District) zone.

Ms. Gladziszewski said she did not want to further restrict where businesses could locate.

The Assembly discussed maps.

Mr. Jones objected to the motion.

Roll call:
Aye: Gladziszewski, Kiehl, Troll, White, Fisk
Nay: Becker, Crane, Jones
Motion passed, 5 aye, 3 nay.

<u>MOTION</u>, by Crane, to amend, to prohibit marijuana processing facilities within 1000 feet of a recognized neighborhood association in a Rural Reserve area.

Ms. Crane said there was precedence for this, this was done with the cell tower ordinance.

The Assembly discussed the process to establish a neighborhood association.

Mr. Jones asked for clarification. Ms. Crane said this would amend Section 7 to add new footnote "ac" to the TPU and it would amend Section 4 to add the new footnote to line 4.220 marijuana product manufacturing facilities in rural reserve areas.

Ms. White asked Ms. Mead about the definition of recognized neighborhood associations and Ms. Mead referred to Chapter 11.35 of the CBJ Code and spoke about the application process. Ms. White asked how neighborhood association represented or could represent a group and speak on the behalf of individuals within the area. Ms. Mead said this would work the same way it currently does in the cell tower ordinance and if there was an established neighborhood on record with the clerk's office, such a facility would not be allowed within 1000 feet of the boundary of that association.

Roll call:
Aye: Becker, Crane, Jones, Kiehl, Troll
Nay: Gladziszewski, White, Fisk
Motion passed, 5 aye, 3 nay.

Hearing no objection, Ordinance 2015-39 was passed as amended.

B. Ordinance 2015-20(U) An Ordinance Appropriating to the Manager the Sum of $427,029 as Funding for the 2015 State Homeland Security Program/SHSP; Grant Funding Provided by the State of Alaska Department of Military and Veterans Affairs.

These funds are provided to reimburse the City and Borough of Juneau for expenses incurred in direct support of the goals and activities of the State Homeland Security Program. Funding from this program is provided to support, build, and sustain the ability of states, territories, and urban areas to prevent, protect against, mitigate, respond to, and recover from terrorist attacks and other all-hazard events through planning, training, exercise, and equipment procurement within the grant performance period from September 1, 2015 to September 30, 2017.

Projects to be funded are:

1. Purchase and installation of a bi-directional radio amplification system for the airport

2. Purchase and installation of an alerting and communication system for the fire stations
3. Purchase of ballistic helmets, body armor and CBRN negative pressure respirators for the SWAT team
4. Travel costs for participants in the State of Alaska's Alaska Shield 2016 exercise
5. Transportation costs to move Western shelters to and from the Alaska Shield 2016 exercise location
6. Backfill for participants in the Alaska Shield 2016 HazMat Symposium
7. Travel costs for personnel to attend Mid Planning, Final Planning and After Action Report meetings for Alaska Shield 2016

There is no match requirement for this grant.

The Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Troll, to adopt Ordinance 2015-20(U). Hearing no objection, it was so ordered.

C. Ordinance 2015-20(V) An Ordinance Appropriating to the Manager the Sum of $25,000 as Funding for Portable Breath Testers, Training and Accreditation Expenses; Funding Provided by the Roaded Service Area Fund Balance, Asset Forfeiture Reserve

The Juneau Police Department is requesting $25,000 from the Asset Forfeiture Reserve to support various programs.

JPD needs to replace 30 Portable Breath Testers and one calibration kit, which will cost approximately $13,000. The Department is in the process of becoming accredited with the Oregon State Accrediting Agency because there is no longer an Alaska accrediting agency and hopes to have this complete in early 2016. The cost for becoming accredited is $7,000. In addition, JPD wants to continue to have staff attend the Arbinger Mindset Training. The cost for materials for the next round of participants is $5,000.

All of the above expenses are allowable and appropriate expenses from JPD's equitable sharing/asset forfeiture reserve account. The current balance of the U.S. Justice Asset Forfeiture account is $299,124.

The manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Gladziszewski, to adopt Ordinance 2015-20(V). Hearing no objection, it was so ordered.

D. Ordinance 2015-20(W) An Ordinance Appropriating to the Manager the Sum of $37,789 as Funding for the Master Plan Study Capital Improvement Project; Funding Provided by Juneau International Airport Fund's Fund Balance.

This ordinance would appropriate $37,789 from the Airport Fund's fund balance to the Sustainable Master Plan CIP.

These funds will cover costs in the Sustainable Master Plan CIP that are not eligible for Federal Aviation Administration grant funds, including engineering consultant contracts and administrative staff time.

The Airport Board approved this action at its July 8, 2015 and October 7, 2015 meetings.

The Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Crane, to adopt Ordinance 2015-20(W). Hearing no objection, it was so ordered.

VIII. UNFINISHED BUSINESS

A. Regulation Docks and Harbors Recreational and Commercial Boat Launch Fees

Docks & Harbors, as part of an ongoing comprehensive fee review process, evaluated the regulations pertaining to 05 CBJAC 20.060 (Recreational boat launch fees) and 05 CBJAC 20.070 (Fees for commercial use of boat launches). The proposed amendments to the regulations were made available on the CBJ's website, at the harbor offices, and at the CBJ public libraries. Following the requisite 21-day public comment period, the Docks and Harbors Board held a public hearing on September 21, 2015. At that meeting, the Board approved the draft regulations.

The amendments include, in part:

- The $90 fee for a single trailer permit is unchanged; however, there will be a $5 administrative fee for the second and third registered trailers. Owners desiring to register a fourth trailer must pay another $90.
- Daily recreational boat launch fees were changed from $14 to $15 per day.
- Applicants are now required to validate a residence address matching the trailer registration address.
- Clarification language requiring vehicles launching "non-trailerable vessels" at launch ramps to have requisite permits was added.
- Commercial launch ramp permits have increased from $225 to $250 per trailer.

At the regular Assembly meeting on October 20, 2015, the Assembly tabled the regulations to the November 9, 2015 regular Assembly meeting in order to be able to receive more information.

In reviewing proposed regulations, CBJ 01.60.260 provides that the Assembly may: approve the regulation; decline to consider the regulation, in which case the regulation is deemed approved; or disapprove the regulation. If the Assembly disapproves the regulation, the Assembly may state its reasons for disapproval, but it may not specify explicit conditions for subsequent approval or direct the requesting department to adopt any particular amendments to the regulation. Alternatively, the Assembly may direct that an ordinance or resolution in lieu of the regulation be prepared for its consideration.

Public Comment: None.

Assembly Action:

MOTION, by Jones, for orders of the day, to allow the regulations to become effective. Hearing no objection, it was so ordered.

B. Gastineau Apartments

Wayne Coogan was present to propose an idea to the Assembly about the Gastineau Apartments. He introduced Garth Shumline from public/private partnerships in Seattle, James Hurley, Consulting in Seattle and Tony Yorba with Jensen Yorba Lott Architects in Juneau.

Mr. Shumline spoke to a power point presentation. He said the three men had made a run at buying the apartments and two weeks ago, due to the potential demolition, they were able to secure a binding purchase sale agreement from the Barrett's LLC that obligated them to sell the property to them and obligates them to cooperate with the men in any permitting they would want to do in terms of working with the city to secure permits for the property. He said they had spoken to people in the city and they hoped to be able to preserve the building. He reviewed A - demolition, B - affordable housing, and C - shell renovation. He spoke about the timing and outcome for each option.

Mr. Coogan spoke about the architectural details of the building that should be preserved and he said he was concerned that CBJ was spending money to end up with a vacant lot. The building was built about 20 years before the state capitol, and this one was unique as it was concrete and the detail made the building stand out due to its level of craftsmanship as worthy of preservation.

Mr. Yorba said CBJ had a great resource with the historic resource database and this building was in the database. The idea would be to bring back the level of architectural detail. Members of the statewide historic preservation association are concerned about the loss of another historic building.

Ms. Crane asked about the purchase agreement. Mr. Shumline said there was a purchase to sell agreement which was enforceable and if the Barretts balked they could go to court and force the sale of the property. They have a contingency period of four months and they could pull the trigger any time they want, but they just got the contract October 30. They want the four month period to explore an affordable housing program and pull partners together for the financing, but the sale was not contingent upon that. Ms. Crane asked if the Assembly could find themselves in the same situation in March / April with the CBJ back dealing with the Barretts again. Mr. Shumline said no, because they will know a plan in 30 days and could work with the CBJ on Option C. We need to figure the economics and process in the next 30 days. We will work with our counsel, Dan Bruce, to resolve the matter in that time.

Ms. Gladziszewski said CBJ did not own the building and neither did Mr. Coogan's group, so how did city ownership come about with Option C. Mr. Shumline said assuming there was an agreement with the city, they would purchase the property, do the work to clean it, and allow the city to purchase the property as restored on the outside, new roof, and a shell for future interior renovation. This would be turn key to the city for a variety of options for use, with a return on the CBJ investment in lieu of demolition.

Ms. White said she thought another party also had a purchase to sell agreement with the Barretts. Mr. Shumline said they had a stronger agreement than the other party, who had a letter of intent only.

Ms. Troll said she was trying to understand who really owned the property. Mr. Shumline said he was comfortable with the paperwork he had to proceed with the project. He related his experience as a real estate attorney and developer of many projects.

Ms. Troll asked Ms. Mead for any advice. Ms. Mead said the only legal issue for the Assembly was what the scope of the city's authority is over that property, which is only via the demolition order. None of the agreements she has seen to date contain the necessary language that is required by CBJ code - CBJ has a recorded document that says the buyer of the property has to acknowledge the lien and assume the lien. She did not know which purchase to sell agreement trumped, but it did not matter for the Assembly's purposes. The scope of the Assembly's decision was if it wanted to postpone the current track it was on, but CBJ could not enter into agreements for things to happen on the property unless dealing with the owner of the property. She had concerns about the ability to enter into the agreement in Option C. Ms. Mead said CBJ had a recorded demolition order, which was different than a lien.

Mr. Kiehl said the demolition order was based upon the idea that the building was beyond repair.

Mr. Watt said the building could be renovated but it was a matter of economics and the return on investment. There were no fatal flaws in the concrete shells, but the interior was gone and the gross structural elements could be salvaged.

Ms. Mead said the IPMC provides that when the building official finds that the structure is so far beyond repair or where it is economically not feasible to repair, the demolition order can be entered. When the order was issued, there were three reports, and one suggested a new roof would allow that the structure could be repaired, and the other two recommended demolition. The order required that the building be demolished or that the Barretts provide another plan, and they did not choose the latter. Staff determined that it was better to remove than repair based on cost.

Ms. Crane said eminent domain was not chosen because there was a statement that CBJ was not in the housing business and CBJ believes this should be a private sector enterprise.

Mr. Watt said cost of renovation can vary widely and he spoke about the bids received for demolition.

Ms. Troll asked what a 30 day delay would do to the current process underway. Mr. Watt said the bidders were given a completion date of April 30. The low bidder has not been issued the notice to proceed. We paused for this meeting. The concern is taking time to debate this without losing time for the April 30 date. The more time taken will cost more to maintain the completion period. A 30 day do nothing period could increase the cost of the demolition if the project is to remain on schedule. He said to look at this with the PPP group, would take committing some money, and issue to the low bidder of the demolition a limited notice to proceed which would direct them to prepare the engineered demolition plan, the project schedule, the staging plan, the road closure and trucking routes, the draft PSA's and all items prior to initiating work, at the cost of $50,000 and spend that money on that work while working with the PPP group. It would not include any cleanup.

Mr. Jones asked when the notice to proceed should be issued to maintain the bid price. Also, there was discussion about accelerating the process on the park demo, and there was not mention of the park in the PPP proposal. Mr. Watt said a standard is for bidders to hold their price for 60 days. If we sat on it for that long, we would need to adjust the completion date, or likely increase the price. The bidders are eager to start abatement work and they are listening in to the meeting on the radio. Whether demolishing or renovating the building, the park area is needed for the work to be done as a staging area.

Mayor Fisk said there were a number of people signed up to testify, and he opened public comment.

Dave Hurley said his firm has an interest in the project proceeding with the demolition and he has also been approached by Bauer and Clifton on their proposal. He said it was exciting that there was so much interest and Mr. Coogan's proposal was intriguing and raised a lot of questions. He said it was worth taking time to think it through. If not following through with the demolition, there was the risk of losing momentum and the problem would continue downtown. He has been involved with downtown revitalization efforts and he wants to see progressive, private, growth based development. Keeping the existing structure limits the potential for private development on the site.

Colleen Goldrich said as a downtown business owner she would like to see the demolition schedule stay on track. The structure impacted the neighborhood. Restoration was a great idea but she did not know if that was realistic and having a nice looking shell could degrade and cost the public more in the long run with continued problems. People still enter the building and she described the bad behaviors and the "sketchy scene" that was detrimental to the area.

Tracy LaBarge said as a downtown business owner she understood there was a need for affordable housing, but this was not the opportunity for that. She supported the idea proposed by Clifton and Bauer. She has spent a lot of money investing in making her businesses look good. It is short sighted to think that $1.8 million is a waste - the returns to the community will be worth it in the long run to tear the building down and invest in smart infrastructure for the future. She said Mr. Coogan had the second highest bid to tear the building down.

Tonya Cadigan said as a downtown business owner, she is passionate about the demolition of the Gastineau Apartments. We are enticing locals to shop locally and are trying to provide a memorable experience for our visitors. The current situation does neither and a demolition will open up other opportunities for the downtown area.

Jeremy Bauer spoke in support of the demolition of the Gastineau Apartments and against the loss of the current demolition contract. Renovation of this building does not support the goal of revitalizing downtown. He spoke about the potential for development of a mixed use facility on the site with parking for public and private use and the potential tax revenues from such a facility at $700-800,000 a year to the city. The cost of the demolition is a short term investment by the CBJ into downtown investment.

Ms. Troll asked Mr. Bauer if he was a new owner. She wanted CBJ to work with the owners of the property. Mr. Bauer said they have tried every method to get there and he has also heard about a third potential purchase agreement. He said the owners are struggling. Their project was not going away.

Jason Clifton said he was a member of Cascade Development with a purchase agreement with the Barretts and spoke about their potential investors in their proposed mixed use facility. The news that the property owner have entered into a second purchase agreement has put them on hold and shows that the property owners hold themselves above common law. He encouraged the Assembly to proceed with the demolition, to provide a clean slate to use the property to its full potential.

Russ McDougal said he specialized in residential remodel and he had not been inside the Gastineau Apartments and he thought it was likely that the building could be rebuilt. He thought Clifton/Bauer made a good point about a better utilization of the land, but in the long run he did not want to see another "pit" similar to the one at Front and Seward so he supported the PPP proposal.

Ms. Troll asked why Option C included city ownership as a result instead of a private owner. Mr. Shumline said PPP did not think they could develop the project fully in such a short period of time and this was a proposal to deal with the short time period and the 30 days kept the option open with the demolition.

Mayor Fisk asked the Assembly if there was a motion to change direction on the project at this time.

Ms. White asked if Tony Yorba supported Mr. Coogan's project. Mayor Fisk said yes. Ms. White said that his firm had said through an AHFC report that it was not feasible to rehabilitate the building. We have conflicting agreements on who the owners are and a purchase and sale agreement and letter of intent are confusing. She does have concerns about the removal of a building holding up the hillside, but she does not believe there is sufficient information to make a determination.

<u>MOTION</u>, by Troll, to proceed with a limited notice to proceed with the demolition for the next 30 days.

Ms. Troll said that the time may allow the questions to be answered on ownership of the building.

Several Assemblymembers objected.

Roll call:
Aye: Troll, White
Nay: Becker, Crane, Jones, Gladziszewski, Kiehl, Fisk
Motion failed, 2 aye, 6 nay.

C. Comments on State Marijuana Regulations

Ms. Kiefer noted a letter in the packet that the Marijuana Committee drafted to be sent to the Marijuana Control Board and asked if the letter was acceptable for mailing.

Mr. Kiehl explained the work and reasoning of the Marijuana Policy Committee in drafting the letter. Point 1 requests that violation of a local law relating to marijuana as evidence for an accusation against the marijuana establishment, Point 2 requests that local officials be given inspection rights, including access to the inventory tracking system, and Point 3 requests that decisions on whether marijuana clubs are allowed or prohibited be left to a decision of the municipalities.

Ms. Troll said she did not disagree with this letter, but would like some support for point number 3 to back up the point.

Ms. Crane said there has not been any discussion on that issue by the Assembly on that point, but she did support the concept based on local control.

Mr. Jones said he did not see how local control could be an issue when state law says that there shall be no public consumption. He said by sending this letter, the Assembly took away his vote on the marijuana control board, on which he was currently serving as a member.

Mr. Kiehl disagreed with the ruling of Mr. Jones vote, but the definition of what was public or private was also a defined locally. He did not believe the state could ban marijuana clubs.

Ms. Becker supported Point 1 and 2 and opposed Point 3.

Roll call vote to amend the letter and remove Point 3:
Aye: Becker, Jones
Nay: Crane, Gladziszewski, Kiehl, Troll, Fisk
Telephonic participation by Ms. White was cut off and she did not vote.
Motion failed, 2 aye, 5 nay.

There being no further objection, the letter would be sent.

IX. NEW BUSINESS

None.

X. STAFF REPORTS

A. Adoption of 2016 Assembly Calendar

The Assembly considered a calendar that was revised with the October 3 meeting to be held instead on October 10.

MOTION, by Crane, to adopt the calendar as presented at this meeting. Hearing no objection, the 2016 Assembly meeting calendar was adopted.

XI. ASSEMBLY REPORTS

A. Mayor's Report

Mayor Fisk reported that he has attended a couple of the Southeast Conference's Transportation Committee meetings on the ferry system and the urgency surrounding that. He said there was some pretty inspiring comments at the end of the first meeting from Lt. Governor Byron Mallott. He said there was quite a bit of interest in looking at the short term issues that are facing the legislature this year which is also broken up into two groups with the second group trying to address longer term issues. He said they hope to have some hard core recommendations coming out from that group before too long that will be sent to the legislature as well as our fellow communities in Southeast and elsewhere.

B. Committee Reports

Human Resources Committee (HRC) Chair Loren Jones reported that they held two meetings earlier that evening. The first one was the Full Assembly sitting as the HRC to interview applicants for the Docks and Harbors Board and the second was a regular HRC meeting. He forwarded the following recommendations for board appointments from those meetings and they passed without objection:

Docks & Harbors Board: Appoint Weston Eiler to a term effective immediately and expiring June 30, 2016 to fill the unexpired term of a member who had resigned.

Douglas Advisory Board: Appoint Arnold Liebelt and Michelle Stuart Morgan to terms beginning immediately and expiring September 30, 2016.

Local Emergency Planning Committee: Nominate Andrew Bogar to fill seat #7 - the American Red Cross seat for appointment by the State Emergency Response Commission.

Utility Advisory Board: Appoint Brian Farrell to the remainder of the current term on the Utility Advisory Board beginning immediately and expiring May 31, 2016 plus the full subsequent term beginning June 1, 2016 and expiring May 31, 2019. This appointment required a suspension of the advisory board rules of procedure to allow for appointment beyond the six month limit and that motion passed by unanimous consent.

Mr. Jones noted that there was only one application submitted for the Juneau Human Rights Commission and that applicant had also applied for two other boards which were presently under review for other appointments. Mr. Jones noted that the HRC chose not to take any action at this time but rather would continue to advertise/recruit for those open seats on the commission and take it up at a future meeting.

Mr. Jones noted that the HRC has reviewed the work of the Social Services Advisory Board (SSAB) over the course of the past year and they requested that the City Manager work with the Juneau Community Foundation (JCF) to consider moving the administration of those funds to the JCF rather than the SSAB. He reported that they are at the point now of having a draft Memorandum of Agreement (MOA) with JCF which was reviewed at the HRC meeting. The HRC recommends that the Assembly have the City Manager continue with negotiations with JCF and have an agreement within the next couple of months. The JCF would then operate the grants beginning July 1, 2016 for a two year period. There would be an audit requirement and there would be a few other changes made to the current process. For that, the JCF would be paid $25,000 year for the two years of the agreement to manage the grants and to work on working with their matching money for looking at how the groups can get out of their silos and better communicate. This would allow for the JCF to have approximately $2 million between their HOPE grants and the CBJ grants, to award to the social service needs in the community and would require the JCF to report those awards back to the Assembly.

The motion from the Human Resources Committee was to have the City Manager move forward with the MOA and bring the final version back through the Assembly Finance Committee and then to the full Assembly for action.

Additional discussion took place regarding the timeline and whether it needed to go to the Assembly Finance Committee or the Assembly for final approval. Ms. Kiefer said she was given a couple of changes by the HRC to work into the agreement and was also asked to have the Law Department review the agreement before it was signed. Mayor Fisk clarified that in light of the tight timeline involved, the City Manager would proceed with the agreement with the changes requested by the HRC and she would only bring it back to the Assembly for additional discussion if those committee recommended changes could not be implemented, otherwise she would proceed without it coming back to the AFC or the Assembly for further action. The Assembly agreed to this approach without objection.

Assembly Finance Committee (AFC) Chair Karen Crane reported that the next AFC meeting would be taking place in December.

Lands Committee Chair Jesse Kiehl reported that Ms. Troll presided at the most recent meeting of the Lands Committee while he was out of town. The discussion was briefly about the wetlands inventory, and more extensively about the stream mapping project that CBJ is doing with grant funds. He said there was some discussion about the possibility under consideration of CBJ taking over anadromous stream mapping duties from the Dept. of Fish and Game and the committee had quite a number of questions about that. He said there may be some joint work on that in the summer but there was no decision made at this time on that issue.

Marijuana Committee (MC) Chair Jesse Kiehl said the Assembly acted on the letter to the state Marijuana Control Board at this meeting. The committee also had an initial discussion about how CBJ might tax marijuana. They plan on discussing that further at their next meeting and hopefully will make a recommendation to the full Assembly about the tax question. The MC has also begun discussion of a draft ordinance on local rules for marijuana businesses beyond those by the state. He said the committee is having intensive discussions of the question about whether there ought to be a local license or if the conditional use permit is sufficient. He said the committee is currently divided on that so he anticipates a robust discussion on that.

Committee of the Whole (COW) Chair Mary Becker said the COW met and discussed the Housing Action Plan and heard from the consultant on all the things that need to be done to improve housing. They received a report on the Airport Master Plan. The COW held a public hearing on the marijuana proposal that was voted on at this Assembly meeting. They received a report from the people working on the Ocean Interpretive Center and they heard an update on the Seawalk. The COW decided on applying for the Community Development Block Grant on behalf of Housing First.

C. Liaison Reports

Juneau Economic Development Council (JEDC) Liaison Loren Jones reported that JEDC would be meeting on November 10, in part to interview applicants for the board of directors, most likely to take place in executive session. He said he would not sit in on those interviews since they do come before the Assembly and HRC for appointment consideration. He said JEDC would be making a presentation regarding their economic indicators this Thursday (11/12) to Chamber of Commerce.

Downtown Business Association (DBA) Liaison Loren Jones reported that they met last month and the Mayor attended that meeting as well. He said they looked at their committee structure and are trying to get some issues about parking and trying to get a better way to communicate some of their concerns and issues with CBJ. He said their next meeting is Thursday (11/12) morning at 8:30 a.m. Ms. Troll asked Mr. Jones if he could ask for feedback on the suggestion of 90 minute parking vs. 2 hour parking. Mr. Jones said he mentioned that a number of meetings ago and it is part of the DBA's committee on organizational topics. Mayor Fisk mentioned that DBA is probably going out with a survey that they have been coordinating with Skye Stekoll on sending out to their membership on parking questions.

Planning Commission (PC) Liaison Loren Jones reported that the Planning Commission received a report from Mr. Chaney about the draft Land Management Plan during its most recent Committee of the Whole. It will be coming back to the full Planning Commission for its regular meeting on Tuesday, Nov. 10. That meeting will also include discussion about the Wetlands Management Plan. He said the PC also had a discussion with Mr. McDougal about the Housing Action Plan. He said that the CBJ project about street improvements to Whittier Street will also be on the agenda for the regular PC meeting on Nov. 10. He mentioned that there is also a public meeting on the Whittier Street Improvement Project being held on November 12 @360 North at the KTOO building beginning at 6pm.

Aquatics Board - Mr. Jones said he has not had a chance to attend the most recent meetings of the Aquatics Board. He said he hasn't seen their reports and would ask the Mayor to look at having a formal Assembly liaison assigned to that group. Mayor Fisk asked if Mr. Jones was volunteering. Mr. Jones said he would volunteer as it was in part a creature of his making, he also suggested maybe Ms. Gladziszewski serving since she is also the PRAC liaison and the Aquatics Board schedule conflicts with that of the Planning Commission meetings he is required to attend.

Affordable Housing Commission (AHC) Liaison Kate Troll reported that the commission met November 3 and Mr. McDougal spoke about the Housing Action Plan and that the commission is pushing for some additions and improvements to the existing draft of the plan. She said they discussed some of the tax credit development and they support that effort.

Juneau Commission on Sustainability (JCOS) Liaison Kate Troll stated that the JCOS was meeting tonight so she was unable to attend.

Local Emergency Planning Committee (LEPC) Liaison Maria Gladziszewski stated that the LEPC has not met since the last Assembly meeting and that since their regular meeting date is on the Veterans' Day Holiday, they will not be holding a November meeting but their next meeting is on December 9.

Parks and Recreation Advisory Committee (PRAC) Liaison Maria Gladziszewski reported that the PRAC met on November 3. They talked a little bit about a proposal received for the Kaxdigoowu Heeni Dei Trail for some potential commercial uses of the trail which is not currently allowed on that trail. They will be having more discussion about that in the future. She also reported that the PRAC fees and charges subcommittee will be meeting on November

10 and will be reviewing all the fees for all facilities. The next PRAC meeting will be held on December 1.

Bartlett Regional Hospital Board Liaison Karen Crane said there was nothing that couldn't wait to be reported on until the next Assembly meeting.

UAS Campus Council Liaison Jesse Kiehl noted that they met this past Tuesday. He said he was out of town but they received a good briefing from the Chancellor on the role of UAS within the economy. There was significant discussion taking place at the Board of Regents about possible tuition changes that they were considering.

School Board Liaison Jesse Kiehl said they will be meeting on November 10. He also noted that the Assembly will hold a joint meeting with the School Board on Wednesday, November 11 at 2 p.m. to allow everyone time to attend the Veterans' Day observances in the morning.

Juneau Convention and Visitors Bureau (JCVB) Liaison Debbie White reported that Liz and Jesse went to a big convention called (IMEX) which is an international incentive travel type of convention and came back with strong leads on things coming up in Juneau soon. UAF had a meeting about invasive species that was held October 25-30. They just had a convention called "Sharing Our Knowledge" held Oct 28-Nov. 1. She also mentioned the Juneau Public Market coming up on November 27-29.

Airport Board Liaison Debbie White reported that she reported the board's action at the last Assembly meeting and the next meeting is scheduled for Tuesday, November 10 and she will not be able to call into that meeting.

Alaska Committee Liaison Mary Becker reported that the next meeting of the Alaska Committee was scheduled for Wednesday, November 11.

Downtown Improvement Group (DIG) Ms. Becker reported that she has been attending the DIG meetings and it is different from the Downtown Business Association but there are still business owners who attend the meetings. They are focusing a lot on how to improve downtown as far as the looks and other issues.

Ms. Becker stated that she also attends the meetings of the Juneau Chamber of Commerce as well.

D. Presiding Officer Reports

None.

XII. ASSEMBLY COMMENTS AND QUESTIONS

Ms. Crane noted that there was a very good official opening of the Mendenhall Public Library on Saturday, November 7. She said that staff did an excellent job and that it was extraordinarily well attended and she was sorry to see that it was not covered by the newspaper. Mayor Fisk agreed and said the building is very impressive.

Ms. Troll said she had two action items as well as comments.

Action Items:

1) She would like to ask the City Manager to develop a resolution of conceptual support for the Juneau Ocean Center and bring that back to the Assembly for action. She said her intent is to have it be at the 30,000 foot level without getting into the details of the particulars of the proposal but to lend support to their efforts as it will help in their fundraising and with the rapport with the Alaska Mental Health Lands Trust. *Hearing no objection, the Assembly approved that direction to the City Manager.*
2) Ms. Troll noted that SB23 helps make Narcan available and she would like to see the City Manager work with the Police Department and come up with some means to support that action and to step up as a community and do what we can on the heroin problem. She asked that a letter of support for SB23 be drafted by the City Manager to come back to the Assembly before being sent to the legislature. *Hearing no objection, the Assembly approved that direction to the City Manager.*
Ms. Troll said she wanted to give a shout out to City Attorney Amy Mead for the APARC decision; winning the summary judgment was a rare legal victory. Hopefully they can move onto the next step with the bankruptcy piece. Ms. Troll said she also wanted to give a shout out to Amy Jo Meiners for receiving the Alaska Teacher of Year Award.

Mr. Jones said that since he was the presiding officer for the appeal on the Landscape Alaska issue, There has been a lot of discussion at the Assembly level as this issue has proceeded. He said the neighborhood failed to understand the difference between what was appealable and what are enforcement actions as they relate to the conditional use permit and various other things. He said the neighborhood group continued to go to court and the court final decree came through a couple of weeks ago that basically said that the Assembly was justifiable in terms of what they did as the Assembly through the appeal process. He said his concern is that CBJ may be getting too positive with its response to that ruling and has not paid as close attention to the conditions on the conditional use permit requirements. He said there was quite a bit of confusion between the neighbors, the staff, and the Planning Commission and he asked for a final review and some kind of report that says, CDD has done everything that they could do with documentation of each of the steps taken, or if they haven't, the reasons for that. He asked if staff could put together a conclusive document that shows all the steps taken. Ms. Kiefer said they will try to have a report available by the next Assembly meeting.

Ms. Becker displayed an origami bunny rabbit made by her granddaughter who asked her to bring up the rabbit problem that is happening in the community and find a way to resolve it. Ms. Becker said she did not know if this is even something within CBJ's jurisdiction but would like to know if there is anything CBJ can do about the problem.

Ms. Gladziszewski said she had two things and one of them is about generically enforcing conditional use permits. She said it is an ongoing issue that has been issue for a long time. She said there had been one enforcement officer and that was not adequate and now we have zero and that is less adequate than one. She said that residents should not have to go through this much trouble to petition their government so she is looking forward to hearing the information about this issue.

Ms. Gladziszewski also commented that people have been asking her what the procedures are for our police department regarding use of force in light of the taser incident in Sitka.

Ms. Mead stated that the police chief recently drafted an updated "Use of Force Policy" that is currently in her office for review. She said that the chief regularly reviews their standard operating procedures and they are sent to the Law Department for review and comment and then she sends them back for adoption. She said if the Assembly wants more information on how he comes up with the ideas that he puts in the policies, she would leave that to the City Manager to have that discussion with him.

Ms. Gladziszewski said she would like that information. Ms. Kiefer said she would be willing to do that provided the chair of the COW agrees to add that to a future agenda.

XIII. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

None.

XIV. EXECUTIVE SESSION

None.

XV. ADJOURNMENT

There being no further business to come before the Assembly, the meeting adjourned at 10:40 p.m.

Signed:_________________________ Signed:________________________
Laurie Sica, Municipal Clerk Mary Becker on behalf of Greg Fisk, Mayor