

**ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

April 30, 2018, 6:00 PM.
Assembly Chambers - Municipal Building

Assembly Work Session - No Public Comment

I. ROLL CALL

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

- A. **March 19, 2018 Committee of the Whole Minutes**
- B. **April 16, 2018 Committee of the Whole Minutes**

IV. AGENDA TOPICS

- A. **Utility Advisory Board Annual Report**
- B. **Issues relating to Homelessness**
- C. **Ordinance 2018-04 An Ordinance Amending the Land Use Code Relating to Variances.**
- D. **JPD Recruitment and Retention**

V. EXECUTIVE SESSION

- A. **Update on Labor Negotiations**
- B. **Update on Pending Litigation**

VI. ADJOURNMENT

ADA accommodations available upon request: Please contact the Clerk's office 72 hours prior to any meeting so arrangements can be made to have a sign language interpreter present or an audiotape containing the Assembly's agenda made available. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.org

**ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

March 19, 2018, 6:00 PM.

Assembly Chambers - Municipal Building

Assembly Work Session - No Public Testimony Taken.

I. ROLL CALL

Deputy Mayor Jerry Nankervis called the meeting to order at 6:00 p.m. in the Assembly Chambers.

Assemblymembers Present: Rob Edwardson, Maria Gladziszewski, Norton Gregory, Loren Jones, Jesse Kiehl, Ken Koelsch, Beth Weldon, Jerry Nankervis, Mary Becker(telephonic).

Assemblymembers Absent: None.

Bartlett Hospital Board Members Present: Brenda Knapp, President; Robert Storer, Marshal Kendziorek, Rosemary Hagevig, Linda Thomas, and Mark Johnson

Staff present: Rorie Watt, City Manager; Mila Cosgrove, Deputy City Manager; Beth McEwen, Acting Clerk; Jane Mores, Deputy City Attorney; Robert Palmer, Assistant City Attorney; Greg Chaney, Lands Manager; Beth McKibben, CDD Planning Manager; Chuck Bill, BRH CEO; Dallas Hargrave, HR/RM Director; Joe Warner, BRH CFO; Bradley Grigg, Chief Behavioral Health Officer

II. APPROVAL OF AGENDA

The agenda was approved as submitted.

III. APPROVAL OF MINUTES

A. February 26, 2018 Committee of the Whole Meeting

Mr. Nankervis noted that he submitted minor grammatical corrections in the minutes of the February 26 meeting to the Clerk. *Hearing no objection, the minutes were approved with correction.*

IV. AGENDA TOPICS

A. Joint meeting with the Bartlett Regional Hospital Board

Bartlett Regional Hospital (BRH) President Brenda Knapp and CEO Chuck Bill introduced their staff and board members present.

Mr. Bill and Mr. Warner presented information about the finances and recent programs of the hospital over the past year. One of the items highlighted by Mr. Bill included the new three dimensional mammography imaging system, a significant improvement.

The hospital annually sees about 2500 patients with 9300 days of patient care, 3100 days of Rainforest Recovery Center (RRC), and 333 babies were delivered in 2017. They are running around 16,000 emergency visits a year. BRH is working closely with the University of Alaska on a nursing program and has hired 25 of their students over the last few years. There are approximately 10 students currently enrolled in the UAS program.

Mr. Bill said that last year they were talking about the sunset of the Small Hospital Demonstration Project. He said that is a project that pays them the difference between the Medicare Fee for Service pays and the cost of what BRH provides. He said they were successful in getting that renewed and it

brings in about \$3.5 million a year to them. It has played a significant role in keeping the hospital from being in the red at this time and without it, they would be losing approximately \$260,000 overall. It has recently been renewed and they hope to break even by the time it ends in 2020.

Hospital staff answered a number of questions from Assemblymembers about particular line items on the revenue and expense sheet. Some of the topics covered were the impact of PERS as well as the merit increases on the salary and benefits side of the finance sheet. They also discussed the impacts of federal and state legislation on the future of the BRH including a bill in the State Senate that addresses how assaults against health care workers can be charged in a way similar to that of assaults against first responders. At this time, those rules stop at the hospital doors and police cannot arrest a perpetrator without having seen the assault themselves.

Following Mr. Bill and Mr. Warner's presentations, Mr. Grigg provided an overview of the Rainforest Recovery Center and the progress of the expansion project funded from the 1% Sales Tax. He stated that project is currently in the design phase and it will add four detox bays to the current facility which in turn creates a one stop shop detox center.

Discussion took place regarding a detox vs. a sleep off facility and the models required for each and the need/demand for each of those two separate types of care. Mr. Bill explained that since Housing First has come online, they have seen a drastic reduction in the need for sleep off beds and this frees up some of that area for the much needed detox treatment.

Additional discussion took place regarding the opioid epidemic and the grant funding BRH has received to address this issue. Mr. Grigg explained that they are currently in the second year of a three year grant program and as of this date, they have 35 patients engaged in that program. The third year of the program starts July 1 and they anticipate its continued growth through the end of the program.

Discussion then turned to ways the Assembly might be able to assist BRH in recruiting and retaining personnel. Mr. Bill explained that there are a variety of components that play into recruiting and retaining professionals to work at the hospital. Lifestyle and family reasons are usually near the top of the list but while housing is one component, it is slightly less of an issue over that of recruitment and spouses willing to move to or stay in Juneau.

Mr. Gregory also brought up issues relating to patients getting stuck in Juneau and not well enough to travel on a commercial air flight but not so sick that they would be eligible for Medicaid travel. Mr. Bill explained that while Medicaid kicks in for flights to Juneau, it is often more difficult to get patients back to their homes outside of Juneau. Mr. Gregory said he has heard about a nominal insurance that people can purchase for a nominal fee that would pay for their transportation to get back home once they have come to Juneau. Mr. Bill said he was not aware of that type of insurance but they will look into it further.

Mr. Nankervis thanked the Hospital Board and staff members for attending the meeting and their work at the hospital.

B. Hurlock Avenue Property

Mr. Watt reported that there was a detailed memo in the packet which includes a "four-option" decision tree that was meant to be a road map for the Assembly's decision making.

1) If the decision is made to dispose of the Hurlock property to a private, for-profit entity, then a fair market value sale would be required per CBJ 53.09.200(e).

2) If the decision is made to sell the Hurlock property at less than fair market value to a non-profit entity - CBJ Code 53.09.270 applies.

3) If the Assembly decided to sell the property via a competitive bid process, CBJ 53.09.250 would

apply.

4) If the decision is made to lease the property, CBJ 53.20.040 leasing rules with respect to appraisals and timing of the lease rates would apply.

Mr. Watt explained that this matter has been before the Assembly Lands Committee and received quite a bit of discussion and public testimony and involvement from the neighborhood as well as the proposers. The Lands Committee struggled with the issue and the proposals and they were not able to easily identify one best single option so they rated the top two as Gehring Nursery School and Alaska Legacy Partners coming in at a tie, followed by Polaris House, then by Aunt Margaret's Home, and Prama Home respectively.

Assemblymembers asked questions about the option to sell the property outright and/or demolish the building, subdivide the property and then sell it as separate lots vs. the proposals that were brought before the committee. Ms. Becker as Chair of the Lands Committee explained that the fair market value sale was always an option on the table but that the Lands Committee took the route of seeking proposals from the community for community purpose uses so those could be weighed against an option to sell the property.

Additional discussion took place with members debating the pros and cons of the various proposals as well as the option to sale the property.

Mr. Nankervis said he was having a hard time determining how best to proceed, whether that would be through a process of inclusion or excluding certain options.

MOTION by Ms. Weldon to limit the discussion to the Alaska Legacy Partners and Gehring Nursery School proposals.

Ms. Weldon said that as she sat on the Lands Committee and heard all the proposals and received all the information, the other proposals had significant holes in them that did not rise to the level of these two proposals. Ms. Weldon said she was more in favor of the Alaska Legacy Partners than the Gehring Nursery School option.

Mr. Jones objected to the motion and offered an amendment.

AMENDMENT from Mr. Jones that they include the option of demolishing the building and subdividing and selling the property outright as one of the options in the above motion.

Additional discussion took place regarding non-profit or for profit status of the two proposers in the primary motion. Mr. Nankervis also asked Mr. Palmer to weigh in on whether or not the amendment would actually fit in with the primary motion.

Mr. Palmer said his understanding of the primary motion was to exclude everything other than Alaska Legacy Partners and Gehring Nursery School and Mr. Jones' amendment was also to include an amendment to tear down, subdivide and sell the property. He said that he thinks all three of those could go forward. He said it may be more clearly handled if Ms. Weldon's motion was withdrawn and take up the motion to tear down, subdivide and sell and if that failed then it would make sense for Mr. Weldon's motion to be brought back up.

Additional discussion took place regarding process.

Ms. Weldon withdrew her motion (which resulted in the amendment also being withdrawn).

MOTION by Mr. Jones that the Committee of the Whole recommend to the Assembly that the City proceed with demolishing the existing building, subdividing the existing lot, and selling those lots in at fair market value in a competitive process.

Ms. Weldon objected to the motion. She said that \$380,000 is a pretty good deal for that property and she feels that the property should be used for an identified need in the community.

In response to a question about possibly subdividing the property, Mr. Chaney said such a subdivision would result in approximately 4 lots.

Mr. Gregory also objected to the motion. He said the Lands Committee went through an extensive process to date and if this was approved, he said public comment should be reopened.

Mr. Edwardson said such a proposal should have been identified earlier in the process.

Roll Call

Aye: Jones,

Nay: Edwardson, Gladziszewski, Gregory, Becker, Kiehl, Koelsch, Nankervis

Motion failed 1 aye, 7 nays.

***MOTION* by Ms. Weldon to exclude Aunt Margaret's House, Prama Home Inc., Polaris House from the entities they are considering to purchase the land.**

Mr. Nankervis asked for clarification. Ms. Weldon explained that her motion is trying to exclude the three entities above and narrow the options to just the Alaska Legacy Partners and Gehring Nursery School and that those two would be considered under a land purchasing option rather than leasing option. Mr. Edwardson asked if the intent of her motion was for the land purchase to be at full market value. Ms. Weldon answered that was her intent.

Mr. Jones objected to the motion.

Mr. Gregory said the process has been narrowed down to two and he would like to narrow it down to one and he wished to make an amendment to narrow it down to just the one option.

***AMENDMENT* by Mr. Gregory to also exclude Gehring Nursery School from the list of the proposals being considered.**

Mr. Jones said that he objected to the amendment.

Mr. Kiehl said he was getting lost and that he didn't feel the COW has had the conversation yet about whether this should only be looking at a sale of the property or if they want to do a lease and the reasons they might want to select one vs. the other.

Mr. Jones said that the motion is to sell so if they vote for the motion, they are voting to sell the property rather than leasing it.

Ms. Weldon explained the reason why she suggested they go with a purchase over a lease. Mr. Edwardson asked if it changed his point of order with respect to discussion of a purchase or a lease.

Mr. Palmer said the motion is for a purchase by and the amendment is to narrow that down to one of the two. He said that the Assembly does not have to abide by either of those if it decides to vote otherwise. It can do what it thinks is necessary, whether that is a lease or a purchase. He said that at this point, the lease option is still on the table and still available so Mr. Edwardson's question is still relevant to the amendment.

Mr. Nankervis asked for a roll call vote on the amendment.

***AMENDMENT* by Mr. Gregory to also exclude Gehring Nursery School from the list of the proposals being considered.**

Ayes: Gregory, Becker, Weldon, Koelsch

Nay: Edwardson, Gladziszewski, Jones, Kiehl, Nankervis

Motion failed 4 ayes, 5 nays.

Mr. Nankervis said the original motion was back before the body:

MOTION by Ms. Weldon to exclude Aunt Margaret's House, Prama Home Inc., Polaris House from the entities they are considering to purchase the land.

Mr. Jones stated that he maintained his original objection.

Mr. Kiehl said he would like to leave open the possibility of a lease. He said he is OK with narrowing the field to the two finalists and is reasonable and was well discussed in Lands and information provided in the written materials but he said it seems that there is work yet to do. If the city is going to provide any potential uplift to the finances at this point, they should leave the option of a negotiated sale or negotiated lease at fair market value. He said he doesn't know how to amend a motion to exclude but he would like to offer a conceptual amendment to remove the requirement that this be a sale moving forward.

AMENDMENT by Mr. Jones to add to the purchase option that the Assembly might also consider a lease.

Mr. Jones stated that Mr. Kiehl has a point that if they are going to limit it to two options, both of the two finalists have issues about not being non-profit, both serve a need, and if the Assembly is going to try to meet the community need, the Assembly should be able to consider a lease. If they are both for profits, then it would have to be a fair market lease and they can deal with it on that basis rather than an outright sale.

Ms. Weldon objected to the amendment and stated that both entities are willing to purchase the property for fair market value so the Assembly should honor their wishes. Ms. Gladziszewski noted that on page 20 of 24, Gehring said that would prefer to purchase the property.

Mayor Koelsch said that one of the things that came out during the discussion at this meeting was that this property was leased for the past 50 years and the building was in pretty poor shape so they may not wish to go into any lease at this junction.

Ms. Becker said that she didn't want to add to the motion but just make note that one of the things they were looking for was that during the negotiations, the city is looking for a time certain for the entity to actually have their program up and running.

Mr. Nankervis asked for a roll call vote on the amendment:

AMENDMENT by Mr. Jones to add to the purchase option that the Assembly might also consider a lease.

Ayes: Jones, Kiehl, Becker

Nay: Edwardson, Gladziszewski, Nankervis, Gregory, Weldon, Koelsch

Motion failed 3 ayes, 6 nays.

Mr. Nankervis said the original motion was back before the body:

MOTION by Ms. Weldon to exclude Aunt Margaret's House, Prama Home Inc., Polaris House from the proposals the Assembly is considering to purchase the land.

Ayes: Kiehl, Becker, Edwardson, Gladziszewski, Nankervis, Gregory, Weldon, and Koelsch

Nay: Jones

Motion passed 8 ayes, 1 nay.

Mr. Nankervis asked the City Manager if he had the information he needs in order to proceed.

Mr. Watt said that the question for the Assembly is whether or not they need any further information, and if so, what further information does it need before making a final decision.

Discussion took place about whether or not the Assembly needed additional information to make its decisions or if it wished to make a decision at this time.

Ms. Gladziszewski said she would want quite a bit more information about the two remaining proposals and Mr. Kiehl said some additional information and further research from staff would help in making a decision. Mr. Watt said they have identified two community needs, they have identified the method as a fair market sale and both entities have indicated that they would pay the appraised value. He said they could do something as simple as a coin toss, or a sealed bid/final offer, or they could do an auction. He said that recalling the 2nd and Franklin Street option, there had been a desire for a guarantee in the sale ordinance that specific development proposed would be achieved which brings banks and financing and reversion clauses into the picture. He said they would need to take the pulse of the Assembly to determine how strong of a commitment it required and for what period of time if they would require the provision of either of those services. He said those are the kinds of things still before the Assembly to decide. He said that he could extend an offer to both parties to make a best and final offer and evaluate those and bring a recommendation back to the Assembly.

Mayor Koelsch said they have already crossed the bridge of asking for full value. They have narrowed it down to two entities, and it now is up the Assembly to decide which need is of higher importance to our community right now, senior care or child care. He is comfortable doing something like that in order to move forward.

Ms. Weldon said doesn't like the coin toss/game of chance route. Ms. Weldon said she doesn't necessarily agree with the Mayor that this is a decision between child care vs. senior care. She said when looking at this in Lands Committee, it seemed that one proposal seemed much more financially solvent than the other and it seemed like a better proposal. Ms. Weldon said she would like to see both entities bring their best proposals forward and the Assembly can decide which one is going to make it.

Mr. Jones asked both the City Attorney and Manager to weigh in on this question. Given that they are down to a sale at fair market value for two for-profit entities, they have not affirmatively passed a motion that they will only sale for either a day care center or senior housing. His understanding is that if either for-profit entity purchased the property at fair market value with no other conditions, then they could do anything they wanted with that property.

Mr. Palmer said that consistent with what the City Manager said, yes, unless the Assembly imposes conditions like they did with the 2nd and Franklin property, if it was sold for fair market value then they could construct whatever that entity wants.

Mr. Nankervis asked the Manager if that provided him with the additional information he needed to move forward and bring it back to the Assembly at a future meeting.

Mr. Watt said that he thinks they have done what they could do at this time.

C. Public Safety Task Force Recommendations

Ms. Cosgrove gave a recap of the work of the task force. She said that the Task Force met approximately 10 times and the discussions were both focused and free ranging. There was great participation, lots of ideas shared and recommendations were down to three major categories for possible action:

1) Staffing:

There were three subareas looked at with respect to staffing.

- JPD staffing recruitment and retention - those issues were bumped back to JPD and the HR/RM Department and they are actively working on those issues now and they expect to have a report back to in front of the COW at a future meeting.
- Staffing in the CBJ Law Department as well as seeking additional support for the DA office.

2) Treatment and Diversion:

- Coordination with RRC, GHS, and Dept. of Corrections
- Some discussion about creation of a separate residential treatment center for incarcerated individuals with the belief that mixing incarcerated and non-incarcerated populations doesn't serve either population very well and there might be some missed opportunities for addiction recovery.
- A third option was the possibility of hiring a consultant for conducting an analysis of service gaps. This is something the Juneau Community Foundation has already started on from a narrower scope. The CBJ Law Department believes that if they make that a slightly larger scope, that they may in fact be able to identify some places where they can be taking action or encourage others to take action as the case might be.

3) Legislative fixes:

- There was a lot of discussion about legislative fixes because all of this began before SB54 modified SB91.
- Since that time there have been some additional issues before the legislature that they are trying to track.

Finally, the last topic explored was that pertaining to discussions regarding video surveillance and looking at a pilot program to fill in some of the holes of the existing video camera systems in the higher crime areas. There are a number of ways to go with that as well.

Assemblymembers had questions regarding some of the points in the memo including how the persons move from one portion of the correctional system to another, i.e. how they move from incarceration to recovery and rehabilitation.

Ms. Cosgrove and Mr. Grigg answered the questions and provided background on how persons move through the various programs and how grant funds are tied to those services.

Mayor Koelsch thanked everyone who served on the task force for their work.

Assemblymembers and staff including Chief Mercer, Deputy Chief Campbell and Ms. Cosgrove fielded a wide variety of questions answers that came up as a result of the Task Force's report.

D. State Parking Update (Verbal Report)

Mr. Watt provided an update about parking in the downtown area. The State of Alaska is consolidating work spaces and bringing more of their workers into the downtown area, primarily filling in the office spaces within the State Office building. That in turn has put a lot of pressure on parking.

Mr. Watt updated the members on the status of the Mental Health land and CBJ's role as an intermediary with all the interested parties in coming up with approximately 100 additional parking spaces. He said they are currently working on an interim solution and have asked State Dept. of Administration to work with CBJ on long range visionary parking ideas as well as short term solutions including encouraging employees to use carpool and transit systems.

Mr. Watt said they have recently received an appraisal of the Public Safety Building, for the land only, as if the building wasn't there, at \$520,000 which seems reasonable given other property sales

and transactions. He said that CBJ has a grant from the State of AK that could be used to procure that property.

Additional discussion took place regarding the Willoughby District Parking Report from September 2015 and how that applies to this current situation.

E. Rainforest Recovery Center Intake & Assessment Project Update [Packet Supplement Posted 3-16-2018]

This document was provided as supplemental material after the meeting packet was finalized and printed.

V. ADJOURNMENT

There being no further business, the meeting adjourned at 9:39 p.m.

**ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

April 16, 2018, 6:00 PM.

Assembly Chambers - Municipal Building

Assembly Work Session - No Public Comment

I. ROLL CALL

Mayor Ken Koelsch called the meeting to order at 6:00 p.m. in the Assembly Chambers.

Assemblymembers Present: Rob Edwardson, Norton Gregory, Loren Jones, Jesse Kiehl, Ken Koelsch, Beth Weldon, Mary Becker(telephonic).

Assemblymembers Absent: Jerry Nankervis, Maria Gladziszewski

Staff present: Rorie Watt, City Manager; Mila Cosgrove, Deputy City Manager; Amy Mead, City Attorney; Beth McEwen, Deputy Clerk; Greg Chaney, Lands Manager; Dallas Hargrave, HR/RM Director; Bob Bartholomew, Finance Director; Michele Elfers, Recycleworks/Chief Landscape Architect.

II. APPROVAL OF AGENDA

Approved as presented.

III. APPROVAL OF MINUTES

A. March 7, 2018 Committee of the Whole Minutes

MOTION by Mr. Edwardson to approve the minutes with minor corrections. *Hearing no objections, the minutes were approved as corrected.*

IV. AGENDA TOPICS

A. Mining Ordinance Review

Ms. Mead said the information provided to the Assembly in the packet reflected her work based upon the direction of the Assembly Mining Subcommittee. The committee unanimously approved moving the ordinance to the Planning Commission for its review and consideration and granted her the authority to bring forward two significant potential changes, one to the financial warranty section and one to the reclamation section. She has also brought forward changes to mesh the CBJ ordinance with state law, and that work is underway.

Mr. Gregory reported that the Mining Subcommittee moved forward with Ms. Mead's recommendations.

MOTION, by Gregory, that the Mining Subcommittee forward the draft ordinance to the Planning Commission's Title 49 committee for review and approval, and to authorize the attorney to further provide changes to mesh the CBJ ordinance with state and federal law, and to return the ordinance to the Committee of the Whole for further consideration.

Mr. Edwardson asked what "meshing" with state and federal law meant.

Ms. Mead said she contacted two state attorneys who primarily work on mining issues with the State of Alaska and they were in the middle of a process with Fairbanks to better align the Fairbanks code

with the state's code and those attorneys would like an opportunity to the CBJ code and make some recommended changes. She would like to review the two provisions in depth to ensure that they work seamlessly. The state explained the process to Ms. Mead as that code provisions can overlap but the process is supposed to work as a seamless integration. CBJ can't direct that reclamation occur on state land. State land has the authority to direct that. The state has to work with CBJ if the mining is on CBJ land. There is a lot of interaction and Ms. Mead wanted the code to envision that interaction and to the extent necessary build that into the code language for clarity.

Mr. Edwardson asked if Ms. Mead was looking into bonding and who might be an obligee. Ms. Mead said she was not removing any substantive provisions or protections the CBJ has in existing code. She wants to ensure that CBJ code does not contain language that arguably suggests CBJ is trying to regulate something which CBJ is pre-empted from regulating and to ensure CBJ is required, to ensure the code works with state law.

Hearing no objection, the motion was approved.

B. Centennial Hall Management

Ms. Cosgrove said the COW discussed this topic at the February 26 meeting, the same materials were presented in the packet. Public comment had been solicited. Users of Centennial Hall were contacted and comments were requested, and that input had been received via email and the Finance Committee. CBJ staff continues to meet with Centennial Hall on a management agreement and HRRM has worked on the staffing issues and PERS / termination study.

Mr. Jones reported that the Assembly had heard from three persons at a recent meeting and all three testified in favor of Centennial Hall management going to the JAHG. Most of the emails have been favorable, but more recently some have expressed concern and also happiness with the current Centennial Hall operations and staff.

Ms. Cosgrove said technically it is under the manager's authority to enter into a management agreement, but as this is a major policy move, staff wants the Assembly to be informed and to have the Assembly's support for further investigation into a management agreement, and to understand any questions the Assembly may have.

Mr. Jones asked if there was any estimate regarding the cost of a termination study from PERS. Ms. Cosgrove said that was still an unknown. Staff has a tentative projection of the ongoing cost that could be modified from the actuarial study. Mr. Hargrave got a rough estimate of \$50,000 per year, based upon all six benefitted positions. Regarding a termination cost, there is a one time fee and an ongoing cost, and that is the information staff is still seeking. If the cost was significant, that matter would be returned to the Assembly.

Ms. Becker noted a needed correction on page 53, from "uses to users."

Mr. Kiehl asked how many job classes were discussed. Ms. Cosgrove said there are six benefitted positions at Centennial with 4 job classes, three of which are unique to Centennial Hall. Mr. Kiehl suggested looking at moving job classes so as not to terminate them could avoid termination costs.

Mr. Jones spoke about his concerns regarding termination studies and the potential repercussions, and his concern about replacing city employees.

***MOTION**, by Jones, that the Committee of the Whole agreed with the manager's interest in negotiating a management agreement between CBJ and JAHG for the operation and management of Centennial Hall.*

Ms. Becker had questions about the hotel tax funding and its relation to this agreement and expressed concerns about how that can create a "revenue neutral" situation.

Ms. Cosgrove said the intent is to make sure the funding available is largely the same pots of money available now and it fulfills the same purpose for the community. The long term hope is that the facility use will increase and the method of operation is cost effective.

Mayor Koelsch asked if the JAHC would maintain the same rules in place currently that are imposed for use of the facility by the Centennial Hall staff. Ms. Cosgrove said the intent would be to look at policies and fee structures and make recommendations. The fee structure would need to be approved by the manager's office.

Mr. Watt said management of the "campus" by one operator, the JAHC, made sense. He would like to set this in motion and make it happen and there will be continued discussion on an ongoing basis, particularly during the budget sessions, about the agreement.

Hearing no objection, the motion carried.

C. Hurlock Property

Mr. Watt spoke about the Assembly's work to determine a future use for this property. The building will require some renovation. The COW asked for more information from Alaska Legacy Partners and Gehring Preschool and that information was included in the packet. He said the Alaska Legacy Partners submission has more economic "meat," the budget is more thought out and they are more likely to be successful. It will be difficult, but compared to the child care proposal, it stands a greater chance of success. Child Care is economically difficult in the best of circumstances and the COW determined sale of the property was the best approach, so that would make the child care proposal difficult. Mr. Watt said the Assembly received a letter in the mail from the Juneau Homeless Coalition in favor of the Polaris House proposal. His recommendation would be with Alaska Legacy Partners for senior housing.

The Assemblymembers discussed their thoughts on the proposals.

MOTION by Weldon to direct staff to draft an ordinance for the sale of the Hurlock property to Alaska Legacy Partners and to return that ordinance to the Assembly at a future date.

Roll call:

Aye: Becker, Edwardson, Gregory, Weldon, Koelsch

Nay: Jones, Kiehl.

Motion carried, 5 ayes, 2 nays.

D. Recycleworks Program - Verbal Update

Mr. Watt provided a verbal update of the Recycleworks Program. Staff has been meeting and trying to figure out the ways in which to evolve the program and negotiate options with the Brewery. There are two new issues:

1) Waste Management has approached the city and proposed that they manage both the household hazardous and recycling on their property. This issue will be discussed at a future COW meeting.

2) Staff is looking at the way we collect fees for the program and how the revenue is collected and allocated. This issue will be discussed at a future Finance Committee meeting.

The Assembly and staff discussed related issues and no action was taken.

V. EXECUTIVE SESSION

MOTION by Kiehl, to enter into Executive Session for the purposes of discussing matters, the immediate knowledge of which would have an impact on the finances of the city, namely that of Labor Negotiations.

There being no public comment and no objection, the Assembly recessed into Executive Session at 7:23 p.m.

A. Labor Negotiations

The committee returned from Executive Session at 8:21p.m.

Mr. Kiehl noted that during Executive Session, the Assembly heard an update about labor negotiations from staff and gave direction to the Manager regarding labor negotiations.

VI. ADJOURNMENT

There being no further business to come before the committee, Mayor Koelsch adjourned the meeting at 8:22 p.m.

Submitted by Beth McEwen, Deputy Clerk



Engineering & Public Works Department

155 South Seward Street

Juneau, Alaska 99801

Phone: 907-586-0800 | Fax: 907-463-2606

DATE: April 30, 2018

TO: Mr. Jerry Nankervis, Chair
Assembly Committee of the Whole

FROM: Roger K. Healy, P.E.
Director of Engineering and Public Works

SUBJECT: Utility Advisory Board – 2017 Annual Report

The Utility Advisory Board is submitting their 2017 Annual Report. Four members voted for the report. Two members voted against the report. A minority report is included, and supported by the two members opposing the Annual Report.



MEMORANDUM

DATE: April 30, 2018

TO: City and Borough of Juneau Assembly

FROM: Utility Advisory Board (UAB)

SUBJECT: UAB Annual Report to the Assembly for May 2017 – April 2018

BACKGROUND

The Water and Wastewater Utilities did not have a rate increase from 1991 to 2003. The Utilities were in a precarious financial position because of this long period with no rate increases. A rate study completed in 2003 recommended an immediate rate increase of 19% for water and 39% for wastewater and recommended additional specific rate increases over the next 10 years. The Assembly approved the 19% and 39%, increases and due to the public outcry from this “rate shock”, the Mayor empaneled an Ad Hoc Utility Advisory Board (UAB) in February 2004. Made up of seven members of the public, the group’s task was advising the mayor and Assembly on Water and Wastewater Utility issues, including rates, and making recommendations regarding the advisability of a permanent Advisory Board. The Ad Hoc UAB presented their report in December of 2004, recommending, among other things, establishment of a permanent Utility Advisory Board. In February 2005, CBJ Resolution 2299 created a permanent Utility Advisory Board, with seven members of the public, six of whom served on the Ad Hoc UAB. Since its establishment, the UAB has continued to advise the Mayor and Assembly on Utility issues in accordance with the original resolution.

PURPOSE

The purpose of the Utility Advisory Board is to advise the Assembly on issues relating to water and wastewater utilities. The Board’s primary responsibilities concerning the status of water and wastewater utility issues are as follows: (a.) Review and make recommendations to the Assembly and Manager on all matters pertaining to the operation of the water system and the wastewater system, to the end that the consuming public is provided with the best possible service consistent with good utility management and cost containment; (b) Review annual budgets and funding plans and make recommendations for the efficient and economical operation of the water system and the wastewater system including bond issues, staffing, fiscal matters, and public relations; (c) Make recommendations on long-range planning for system expansion replacement, and priorities to meet future needs of the water and wastewater systems; (d) Make recommendations on water and wastewater utility rates to ensure that the rates are equitable and sufficient to pay for operation, maintenance, debt reduction, system replacement, and utility reserves necessary to ensure sustainable public utilities; (e) Make recommendations on measures to increase the efficiency and cost effectiveness of the

water and wastewater utility operations; and (f) Perform such other duties and functions related to the utilities as the Assembly or Manager may request.

MAY 2017- APRIL 2018 BOARD MEETINGS AND MEMBERSHIP

Between May 2017 – April 2018, the Board held five regular meetings and one work session. Leon Vance served as chair throughout the year. Geoff Larson continued to serve as vice-chair. Andrew Campbell and Geoffrey Larson’s terms expire in May 2018. They have re-applied for their seats.

The Board shall consist of seven members comprised of the listed qualifications:

To the extent practicable, appointments shall be made as follows: one engineer registered in the State of Alaska, preferably with training and experience in water, wastewater, and/or utility systems design and operation; one accountant, preferably experienced with utility financial management practices; one general contractor, preferably experienced in the construction of water and/or wastewater utility systems; two commercial customers of the City and Borough water and/or wastewater utility; one residential customer of the City and Borough water and/or wastewater utility; and one member of the general public.

The following is list of May 2017 – April 2018 members with their area of membership qualification(s):

Kevin Buckland – Accountant, Commercial Utility Customer, and Residential Utility Customer
 Andrew Campbell – Alaskan Registered Engineer, General Contractor, Commercial Utility Customer, and Residential Utility Customer
 Bryan Farrell – Commercial Utility Customer and Residential Utility Customer
 Janet Hall Schempf – General Public
 Geoff Larson – Commercial Utility Customer
 Grant Ritter – Residential Utility Customer
 Leon Vance – Residential Utility Customer

WATER AND SEWER RATES

Recommendations

- UAB recommends an annual increase of 2.5% for wastewater utility rates for each of next five fiscal years.
- At this time no increase is recommended for water utility rates for the next five fiscal years.

The Board spent a significant amount of time over the last six months reviewing and analyzing water and wastewater funding and expenditures. This culminated in identifying the appropriate utility rate changes to secure the financial health of the Utilities through FY2024. The projections for capital project spending beyond FY2024 become more speculative as time projections increase. Historically, both utilities have undertaken larger capital funding episodes about every ten years, coinciding with major expansions or reconstructions of major systems. Examples include: construction of Wastewater’s sludge incinerator in 1994; current construction of the Biosolids dryer and Headworks Improvements; Last Chance Basin Water Source Improvements 1993; Salmon Creek Disinfection Improvements 1998; Last Chance Basin Well Field Improvements 2014; and Salmon Creek Water Filtration 2016.

The Board identified a plan through FY2024 that continues the recommended rate increase of 2.5% for wastewater utility and no increase for water utility rates. This approach will allow the Utilities to maintain three to four months of operating cost and continue allocation to capital expenditure. However, this plan after 2024 will be unable to sustain fund balances that equal the financial reserve targets (three to four months operating costs + capital expenditure) as identified by the CBJ Finance Director. The UAB will continually monitor the financial health of the Utility and will make recommendations based upon any deviations from our forecast. Wastewater will fall below the \$7 million (\$3M operational + \$4M capital) financial reserve target in FY2027. Water will fall below the \$3 million (\$1M operational + \$2M capital) financial reserve target in FY2029.

Additionally, the financial reserve targets would be unmet in earlier years if periodic higher capital costs are experienced, such as in the past. While the CBJ's Capital Improvement Plan has a six year outlook for potential projects, the UAB's perspective regarding needed rate structure should adopt a ten year outlook as their horizon.

Objectives for May 2018 – April 2019

- Monitor financial health of the Utilities and make recommendations to the Assembly as needed
- Evaluate asset life expectancies
 - Begin implementing asset management software program
- Develop RFIs and/or RFPs for:
 - Asset evaluation/valuation model/assessment
 - Rate study with ten year outlook
 - Last rate study completed in 2014
 - 2014 rate study projections end in 2024

FURTHER INFORMATION

Engineering and Public Works staff for the UAB include:

Roger Healy – Engineering & Public Works Director
 Autumn Sapp – Engineering & Public Works Business Manager
 Holly Kveum – Administrative Assistant III

Information is also available on the Utility Advisory Board website at:

<https://beta.juneau.org/engineering-public-works/utilities-division/utility-advisory-board>

BOARD MEETING DATES

Meetings

November 9, 2017
 January 11, 2018
 January 19, 2018 (work session)
 February 8, 2018
 March 8, 2018
 April 12, 2018

Meetings were not held from May through October due to lack of agenda items or lack of quorum.

**Utility Advisory Board Attendance
Regular Meetings (2017 – 2018)**

	11/9/2017	1/11/2018	2/8/2018	3/8/2018	4/12/2018	Meetings Absent	Meetings Attended
Buckland	Vacant	X	X	X			
Campbell	O	X	X	X			
Farrell	X	X	X	X			
Hall Schempf	O	X	X	X			
Larson	X	X	X	X			
Ritter	X	X	O	X			
Vance	X	X	O	X			

Special Meetings (2017 – 2018)

	1/19/2018 Work Session
Buckland	X
Campbell	O
Farrell	O
Hall Schempf	O
Larson	X
Ritter	O
Vance	X

Utility Advisory Board

2018 Minority Report



Background

CBJ Resolution 2686 codifies CBJ Advisory Boards Rules of Procedures; Rule 6 calls for advisory board members that are not in agreement with an annual report submitted by the majority to submit a minority report to accompany the annual report.

Accordingly, a minority of Utility Advisory Board (UAB) members respectfully submit this document for the Assembly's review and consideration. This document affords the Assembly alternative viewpoints and recommendations to consider that are not contained in the majority report.

Context and Overview

The majority's primary recommendation to the Assembly is to approve annual 2.5% wastewater rate increases beginning July 2019 that would run through June 2024.

On the surface the rates may appear relatively modest. But in the context of previous increases and upcoming increases already approved by the Assembly,¹ the situation is not so benign. Upon conclusion of the majority's recommended increases, adoption without revision would impose a more than 22% cumulative increase upon CBJ ratepayers (January 2018 - June 2024). With only a slightly longer look back, majority-recommended increases would constitute increases exceeding 66% (January 2015 - June 2024).

We firmly believe adoption of multi-year rate increases is ill advised - dampening the exigency and impetus to revisit the decision and akin to kicking the rate reform can down the same road we've been travelling on for 15 years since the 2003 rate study. There's no better time than the present to begin doing something different than the way we've always done it.

Rather, we recommend the CBJ Assembly refrain from approving multi-year increases this year and until serious, longstanding structural deficiencies in our rates and rate-setting methodologies are properly addressed.

In recent years, Juneau ratepayers have largely acquiesced to the repeated across-the-board one-size-fits-all rate increases that they've been experiencing. Adopting multi-year rate increases constitutes a rinse-and-repeat approach. CBJ ratepayers are overdue for relief from CBJ's current outmoded rate structure.

Declining to adopt multi-year rate increases at this time will afford the UAB and CBJ Public Works time to properly evaluate CBJ's existing rate structure as well as policies with regard to system financing and other issues that materially affect rates. Issues that need to be addressed include:

- Rate Equity and Rate Structures based upon Cost of Service Allocations

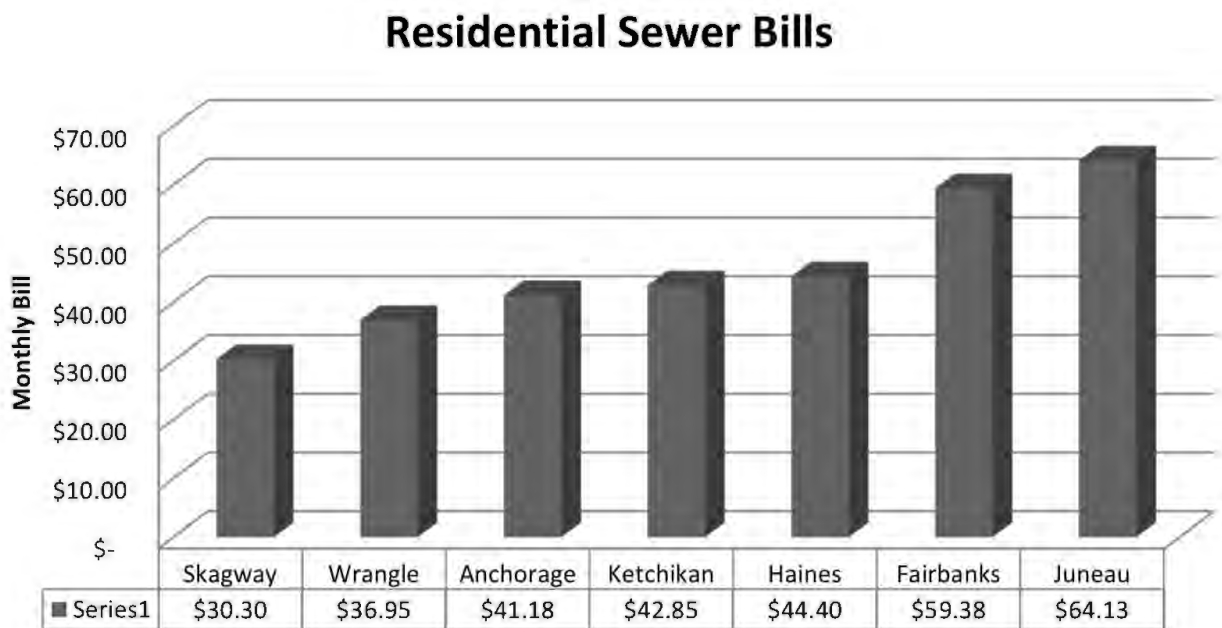
¹ The 2014 Assembly approved Ordinance 2014-36(b)(am) which will increase wastewater rates 8% effective July 1, 2018.

- Financing Capital Structure
- Capital Improvement and Replacement Program Levels
- System Replacement Funding

Once the UAB has properly examined areas of concern, we are hopeful to be able to make sound recommendations for the CBJ Assembly that will protect and significantly enhance the interest of CBJ ratepayers while still ensuring for a healthy utility system.

Rate Increases & Rate Comparisons

Unmetered CBJ residential sewer rates are the highest in the region:



Source: FCS Group Memorandum to Kirk Duncan, Public Works Director, November 11, 2014. ²

It is important to note that CBJ wastewater flat residential are now \$87.25 per month and increasing to \$94.23 per month effective July 2018, likely causing the regional disparity to increase.

After a long period of static rates, consultants to the CBJ Public Works Department recommended one-time across the board rate increases for the 2003 rate cycle, followed by a transitioning to cost of service-based rates.

² <https://tinyurl.com/FCS-Duncan-Memo>

In the 15 years since that time, no observable progress has been made towards this end. Rather, the UAB has only recommended across-the-board rate increases applied to all users, with absolutely no regard to relative system burden that our diverse ratepayer groups constitute and has not adopted a work plan or timeline to transition to cost of service-based rates. The end result is that low burden commercial ratepayers subsidize high burden users.

Potential areas of concern that warrant further analysis are not limited to commercial users, however.

Residential Disparity

An informal random sampling of metered residential homeowner association (HOA) utility bills indicate the average HOA unit pays significantly less for water and sewer while unmetered households shoulder a significantly larger burden.

	Typical HOA unit		Flat Residential ³	<i>Flat Residential \$ Premium</i>
Water	\$6.82	x 4.98 =	\$33.96	\$27.14
Sewer	\$25.34	x 3.44 =	\$87.25	\$61.91
Household Waste	\$4.00	x 1.00 =	\$4.00	\$0.00
Sales Tax	<u>\$1.61</u>	x 3.89 =	<u>\$6.26</u>	<u>\$4.65</u>
Monthly Bill	\$37.77		\$131.47	\$93.70

Commercial Inequity & Relative Competitiveness

Metered CBJ commercial users are charged the same rate regardless of the content of the their wastewater. CBJ commercial metered rates have become uncompetitive with Anchorage, whose wastewater tariff utilizes a sliding rate relative to customers' estimated discharge strength as a proxy for charging relative to the system load that disparate ratepayers impose onto the system.

³ CBJ Unmetered Residential Rates as of July, 2017

Estimated Discharge Strength ⁴	Anchorage Usage Charge ⁵ per 1000 gal	Juneau Volume Charge ⁶ per 1000 gal
Low	\$5.08	\$12.53
Medium	\$6.75	\$12.53
High	\$7.88	\$12.53

Geography and unique operating challenges of Juneau aside, the Assembly should be provided with periodic regional comparisons when contemplating rate increases and consider whether CBJ rates have become a deterrent for business investment within CBJ.

Not enjoying the captive customers that CBJ's utilities have, water-intensive businesses with a high sensitivity to rates do not have the luxury to simply pass along the Assembly's annual rate increases without facing a significant risk of losing business. Repetitive increases result in deteriorating operating margins for businesses with rate sensitivity — and at some point investing capital in Anchorage — or any other city besides Juneau — eventually becomes preferable.

Conclusion

CBJ Water and Sewer Utilities are valuable and essential infrastructure that must be protected, safeguarded, and properly managed. As with any such monopoly, those who oversee delivery of essential services have a duty to ensure services are delivered to ratepayers in a responsible manner.

⁴ The Anchorage Wastewater Utility charges differentiated rates based on the following monitored or estimated wastewater loadings: Low (wastewater loadings $\leq$ 275 mg/liter), Medium (wastewater loadings $>$ 275 mg/liter but $\leq$ 450 mg/liter) and High (wastewater loadings $>$ 450 mg/liter).

⁵ Anchorage rates (as of January, 2018); excludes \$13.54 customer charge. Anchorage rates have been approved on an interim basis by the Regulatory Commission of Alaska (RCA) and are refundable should the RCA rule the rates are not justified. Juneau's water and wastewater utility rates are not subject to RCA review or approval as it has a provisional certificate of public convenience and necessity. CBJ is not subject to RCA jurisdiction as there are no competing water or wastewater cooperatives operating with CBJ.

⁶ Juneau volume charges effective July 2018. Does not include additional base cost of \$94.23; unadjusted for 4,000 gallon monthly allowance.

Yea _____ - iz - it - ll rate increases has culminated in ratepayers suffering harmful unintended consequences and exasperated the inequity said rates cause to the various classes of ratepayers.

We recommend the CBJ Assembly refrain from approving multi-_____ increases for this year and revisit the issue next year after receiving the 2019 recommendations of the UAB.

MEMORANDUM



TO: CBJ Committee of the Whole

FROM: Scott Ciambor, 
Chief Housing Officer

Irene Gaillon, 
Housing and Homelessness Coordinator

DATE: April 23, 2018

SUBJECT: Homelessness Update

2018 Point In Time Homeless Count

The annual HUD Point in Time Count numbers are now available. This data was collected for the night of January 24, 2018, in three ways:

- 1) at the Project Homeless Connect event;
- 2) street outreach on the day of the count; and
- 3) from shelter and transitional housing programs. (The CBJ Cold Weather Emergency Shelter was included as part of the count this year.)

Juneau Point In Time Count Results 2016-2018			
Point In Time Count	2018	2017	2016
Unsheltered	44	59	51
Emergency Shelter	83	56	77
Transitional Housing	108	100	83
Total	235	215	211

Trends

- In 2018, the overall homeless population continues to increase, up to 235 individuals.
- The unsheltered homeless count decreased. (44 individuals, down from 59)

To compare 2018 Point In Time Count numbers with other communities in Alaska, [here is a statewide map](#).

Juneau Housing First Collaborative Forget-Me-Not Manor Update

Forget-Me-Not Manor is currently at full occupancy with 32 residents in place. The project opened in October 2017 and has seen some turnover since opening, including:

- 4 mutual terminations;
- 1 person found in violation of probation conditions for past crimes; and
- 2 persons who have died due to pre-existing health conditions.

This level of turnover is not entirely unexpected in the first year of a permanent supportive housing program with a high volume of initial move-ins and for a project that has identified and targeted for housing the most vulnerable persons in the community.

Evaluation

The Juneau Housing First Collaborative project is conducting a 3-year evaluation of program impact, conducted by University of Alaska Fairbanks' Heidi Brocious, PhD, MSW, and Morgan Erisman, MSW & MPH Candidate. Here is data from the first 6 months with a couple of caveats:

- All Bartlett and Juneau Police Department six month data is based on **22 study participants**. Rainforest Recovery Center data is based on 21 participants. (Data on other residents will still be gathered.)
- ER visit data is a **six** month pre, **five** month post comparison that will be updated when six month post comparison data is available.

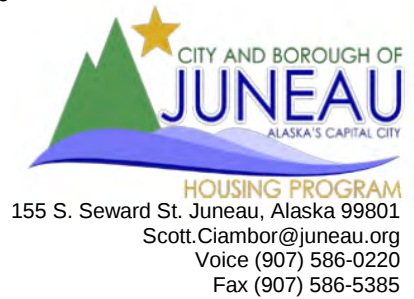
Housing First (HF) Preliminary Data Review - April 9, 2018			
	Total HF Resident Contacts 6 months prior to move in	Total HF resident contacts 6 months post move in	% Decreased Usage
Bartlett Emergency Room Visits	360	97	73.1%
Rainforest Recovery Center sleep off visits	354	2	99.4%
Contacts with Juneau Police Officers	674	151	77.6%

Coordinated Entry Referral System

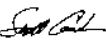
Juneau's providers are developing protocols for a **coordinated entry referral system**, which would prioritize individuals for housing based on their needs. When clients enter the homelessness services system, staff will collect data that is used to develop a vulnerability index. The staff interview is very involved, and may take multiple visits before a homeless client completes it. Participating housing providers (Glory Hole, AWARE, JYS, St. Vincent DePaul, etc.) will take the person at the top of the list that qualifies for the next housing availability. If they cannot take the person at the top of the list for some reason, that will be discussed at a **coordinated entry case conferencing** meeting to take place monthly or more frequently. There may be valid reasons for not accepting someone into housing but the coordinated entry process ensures the discussion will not end there. For each individual bypassed, a plan will be developed to get them permanently housed. Solutions may include shelter or transitional housing, assistance getting entitlements, and/or mental health services.

The coordinated entry process will illustrate gaps in our Continuum of Care and inform funding decisions. *Workgroup sessions begin May 1, 2018.*

MEMORANDUM



TO: CBJ Committee of the Whole

FROM: Scott Ciambor, 
Chief Housing Officer

DATE: April 23, 2018

SUBJECT: CBJ Cold Weather Emergency Shelter

The CBJ Cold Weather Emergency Shelter operated in the Alaska Mental Health Trust Authority Public Safety Building between December 1, 2017 and April 15, 2018 on nights when the temperature was below freezing. Hours of operation were 11:30pm – 6:30am. Existing emergency shelter providers (Glory Hole, AWARE) provided 2 staff persons for each night the shelter was open.

Homeless Management Information System (HMIS) Data

The shelter was open for 70 nights and served 158 unique individuals with 715 total bed nights.

Other HMIS data collected provides additional details about the individuals that utilized the shelter this winter.

- 34 Chronically Homeless individuals;
- 114 individuals used the shelter for 2 nights or less;
- 45 individuals (28%) utilized another shelter during the winter; and
- Individuals residence prior to project entry:
 - o Place not meant for habitation = 80
 - o Staying at friends/family members room, apartment, house = 37
 - o Emergency shelters = 26

Review Meeting Feedback

On April 10, 2018 a project review meeting took place with CBJ staff, Glory Hole and AWARE staff, and representatives from emergency services providers.

The overall impression was that the additional shelter space during the cold winter months likely saved lives and relieved pressure from the emergency services system. Even though the project was up and running quickly, additional safety precautions and staff training would be essential to operating a similar project in the future. Providing adequate staffing was a big challenge for Glory Hole and AWARE. Successful operation this winter was due in larger part to one staffer, Jackie Bryant, who worked most nights and stabilized the project. Planning would need to begin in the summer for future winter operations.

Additional Feedback

Agency	Feedback From Participating Agencies
Glory Hole	<i>This was the first winter in years that GH was not over capacity. JPD support was excellent, especially Officers Colon and Smith. Two well-trained staff is a good staffing level for the shelter.</i>
AWARE	<i>Time limits were very good, 11:00 pm to 6:30 am a good range. Established that the purpose of the shelter was to sleep.</i>
JPD	<i>Downtown camping concerns were minimized during shelter operations. Officers appreciate having the shelter as an alternative for clients.</i>
CCFR	<i>CFR had six calls to the shelter, all legitimate. CFR had a reduction in “fake medical” calls this winter, where clients would claim an ailment in order to get some sort of shelter.</i>
Bartlett	<i>Emergency Room (ER) has seen a significant winter months reduction in returning clients, partially due to this shelter and to Housing First. This allowed ER to focus on medical emergencies.</i>
JAMHI	<i>Suicidal ideation reduced. Conjecture is that clients did not have to be suicidal in order to receive shelter (previously, would have been housed at the Bartlett Mental Health Ward).</i>
Rainforest Recovery Center	<i>There was a drop in Rainforest Sleep-Off, helpful for clients to have somewhere else to go.</i>

Risks & Challenges (all)

While the emergency shelter was a success, security and service systems need to be buttressed to reduce risks.

Providing adequate, appropriate staff is a challenge.

Economic efficiency this year due to dedicated staff who endure low compensation but are required to do stressful work. Future shelter staffing costs should balance:

- o Prep services team in October or November.*
- o Training*
 - Alcohol and overdose recognition*
 - De-escalation*
 - Security/Weapons*
- o Note that RRC is staffed by EMTs. Do RCC and the shelter overlap? Could services be provided more efficiently through combining some elements?*

Get guidance from other low/no barrier shelters on how they handle challenging clients.

Establish standards for “too drunk,” at RCC it is 0.4, which is quite high and results in an ER visit.

Rough start with laundry services, but three day pick-ups seem to work. Shelter staff were key to finding the solution.

Some clients suffer severe mental illness to the point that communications are difficult. Establish protocols to make sure these clients are in the system and can use any entitlements they qualify for. Need an organized plan to get the mentally ill into a system. There are about half a dozen who are very challenging and would benefit greatly.

Concern that some clients have homes, but it is more convenient to stay at the emergency shelter. Easy to check with Housing First (HF) clients, but more challenging with others. Police officers were not instructed to ask clients if they had a home to go to. They interact with the clientele regularly and assume they are unhoused.

Page 3

Budget

On November 6, 2017, the CBJ Assembly passed Ordinance 2017-06(L) appropriating the sum of \$75,000 as funding to work with existing emergency shelter providers to establish a warming center to be operated when the temperature drops below 32 degrees. Budget to-date:

CBJ Cold Weather Emergency Shelter Budget	
Lease	\$16,425
Personnel	\$58,856
Incidentals	\$250
Total Costs	\$75,531

Total cost to operate the shelter in 2017-2018 will be less than the total above due to:

- Alaska Mental Health Trust Authority grant for \$16,425 to cover the lease;
- Donations received for the project through the Juneau Community Foundation \$4,000.

2017-2018 total cost: \$55,106

Future Shelter Operations

If the Assembly is interested in providing this service in the future there is opportunity through the current budget process.



(907) 586-0715
CDD_Admin@juneau.org
www.juneau.org/CDD
155 S. Seward Street • Juneau, AK 99801

DATE: April 19, 2018

TO: Assembly Committee of the Whole

FROM: Laura A. Boyce, AICP, Senior Planner
Community Development Department

A handwritten signature in black ink, appearing to read 'L. Boyce', is placed to the right of the 'FROM:' field.

SUBJECT: Background for Ordinance 2018-04, an Amendment to the Land Use Code
Relating to Variances

The purpose of a variance is to provide relief from the Land Use Code requirements when application of those requirements would place an unreasonable burden on the property owner. However, over time, the variance has instead become a tool for flexibility, offering relief to property owners to relax or waive Code requirements in cases when no hardship exists. The variance process has been used often, broadly, and in some cases, inappropriately.

Staff and the Planning Commission have worked over the past year to develop more rigorous variance requirements and to provide more flexibility elsewhere in the Code since it is evident that flexibility is something the community values.

The proposed ordinance is intended to accomplish the following major goals:

- Provide clarity regarding what is and what is not variable;
- Amend the variance criteria to reduce subjectivity; and
- Amend the De Minimis/Administrative variance for greater flexibility.

What can be varied

The current Code states that a variance is required to vary dimension or design standards of Title 49. CBJ 49.20.250(b) further clarifies that:

A variance may vary any requirement or regulation of this title concerning dimensional and other design standards, but not those concerning the use of land or structures, housing density, lot coverage, or those establishing construction standards.

The CBJ has consistently prohibited variances that could alter density, lot coverage, the use of land or structure, or reduce a construction standard. This ordinance prohibits variances from varying any requirement or regulation concerning the use of land or structures, housing density, lot area, the specific use requirements in chapter 49.65, or the construction standards in chapter 49.35.

Assembly Committee of the Whole

File No.: AME2016 0009

April 19, 2018

Page 2 of 2

Variance Criteria

The existing criteria are not clear and are too subjective. The purpose of the proposed criteria changes are to provide greater certainty for developers and property owners and to deter the inappropriate use of the variance process where no hardship exists. The following criteria are proposed in the ordinance:

1. Enforcement of the ordinance would result in an unreasonable hardship.
2. The unusual or special conditions of the property are not caused by the person seeking the variance.
3. The grant of the variance is not detrimental to public health, safety, or welfare.
4. The grant of the variance is narrowly tailored to relieve the hardship.

De Minimis Variance/Administrative Variance

In the current Code, the director may allow a De Minimis Variance for encroachments up to 25% into required yard setbacks after a building has been constructed. This “after-the-fact” variance can be granted if it can be shown that the building was not intentionally constructed within the setback.

The proposed changes seek to eliminate the potential arbitrariness of the existing de minimis variance standards. The amendment provides that an administrative variance can be applied for before or after a project when projections will not encroach more than 25%, or two feet, into yard setbacks, whichever is less. The Director may approve an administrative variance after determining all of the following:

- Enforcement of the setback ordinance would result in an unreasonable hardship;
- The grant of the variance is not detrimental to public health, safety, or welfare; and
- The grant of the variance is narrowly tailored to relieve the hardship.

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-04

An Ordinance Amending the Land Use Code Relating to Variances.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment of Article. CBJ 49.20 Article II Variances, is amended to read:

49.20.200 Variance.

Pursuant to this article, a variance may be granted to provide an applicant relief from the requirements of this title. A variance is prohibited from varying any requirement or regulation of this title concerning the use of land or structures, housing density, lot area, requirements in chapter 49.35, or requirements in chapter 49.65. Applications for prohibited variances shall not be accepted for filing or shall be rejected by the director. A variance is required to vary dimensions or design standards of this title.

49.20.210 Submittal.

Except as provided in this article for an administrative variance ~~de minimis variances~~, an application for a variance shall be submitted to the board of adjustment through the department.

49.20.220 Scheduling and fee.

(a) An application for an administrative variance shall be administered by the department.

~~If the director determines that the variance applied for is de minimis, the application shall be administered by the department according to subsection 49.20.230(a) and subsection 49.20.250(a).~~

(b) If the director determines that the request is not for an administrative variance ~~that the variance applied for is other than de minimis~~ and the application is complete, it shall be scheduled for public hearing. If the application is filed in conjunction with a major development permit, a separate public notice shall not be required and the variance fee shall be reduced by 20 percent. For separate variance applications, a fee and public notice according to section 49.20.230 shall be required.

49.20.230 Public notice.

(a) Upon determination that the administrative variance application is complete, the director shall mail notice of the application to the immediately adjoining property owners, as determined by the director, and provide at least 14 days to submit comments before issuing a

decision. ~~Public notice according to subsection 49.20.250(a)(1)(C) shall be required for consideration or issuance of a de minimis variance.~~

(b) For variances other than administrative de minimis, public notice according to section 49.15.230 shall be given prior to a hearing on the application by the board of adjustment, ~~except that the placement of a sign on the subject lot is not required.~~

49.20.240 Board of adjustment action.

The board of adjustment shall hear all variance requests except administrative variances ~~other than those administered by the director as de minimis~~ and shall either approve, conditionally approve, modify or deny the request based on the criteria in section 49.20.250(b) of this chapter.

49.20.250 Variance standards ~~Grounds for variances.~~

(a) Administrative variance. ~~De minimis variances.~~

(1) An administrative variance may be granted to allow projections (i) not to exceed 25 percent of the yard setback requirements of this title, or (ii) two feet, whichever is less, upon the director determining the following:

(A) Enforcement of the setback ordinance would result in an unreasonable hardship;

(B) The grant of the variance is not detrimental to public health, safety, or welfare; and

1
2 (C) The grant of the variance is narrowly tailored to relieve the hardship.

3 (2) An administrative variance decision of the director may be appealed if a notice of
4 appeal is filed within 20 days of the director filing a notice of decision with the
5 municipal clerk.
6

7 (b) Non-Administrative Variance. A variance may be granted to provide an applicant relief
8 from requirements of this title after the prescribed hearing and after the board of adjustment
9 has determined that:

10 (1) Enforcement of the ordinance would create an undue hardship resulting from the
11 unusual or special conditions of the property;
12

13 (2) The unusual or special conditions of the property are not caused by the person
14 seeking the variance;

15 (3) The grant of the variance is not detrimental to public health, safety, or welfare;
16 and
17

18 (4) The grant of the variance is narrowly tailored to relieve the hardship.

19 (a) ~~*De minimis variances.*~~

20 ~~(1) Where a minor setback infraction could be corrected only at unreasonable expense~~
21 ~~or inconvenience the director may, after taking into account the views of the owners of~~
22 ~~adjoining property, and upon a finding that the infraction was not the result of a~~
23 ~~deliberate effort to evade the dimensional requirement, grant a de minimis variance in~~
24 ~~harmony with the general purpose and intent of this title. A de minimis variance may~~
25 ~~be granted after it is shown that all the following conditions have been met.~~

~~(A) The variance is for one or more projections into yard setbacks, none of which extend beyond 25 percent of required setback distance.~~

~~(B) The de minimis variance would not aggravate an infraction previously granted a variance.~~

~~(C) The applicant submits on forms provided by the department written statements from the owners of adjoining property, each acknowledging that the owner has been notified of the application. In lieu of statements provided by the applicant, the department will provide at least five days notice by mail to each such owner.~~

~~(D) The applicant submits a certified, as built survey to scale, showing all lot line locations, building dimensions, orientations, setbacks, and other distances and features relevant to the requested relief.~~

~~(b) Variances other than de minimis. Where hardship and practical difficulties result from an extraordinary situation or unique physical feature affecting only a specific parcel of property or structures lawfully existing thereon and render it difficult to carry out the provisions of this title, the board of adjustment may grant a variance in harmony with the general purpose and intent of this title. A variance may vary any requirement or regulation of this title concerning dimensional and other design standards, but not those concerning the use of land or structures, housing density, lot coverage, or those establishing construction standards. A variance may be granted after the prescribed hearing and after the board of adjustment has determined that:~~

1
2 ~~(1) The relaxation applied for or a lesser relaxation specified by the board of~~
3 ~~adjustment would give substantial relief to the owner of the property involved and be~~
4 ~~more consistent with justice to other property owners;~~

5
6 ~~(2) Relief can be granted in such a fashion that the intent of this title will be observed~~
7 ~~and the public safety and welfare preserved;~~

8 ~~(3) The authorization of the variance will not injure nearby property;~~

9
10 ~~(4) The variance does not authorize uses not allowed in the district involved;~~

11 ~~(5) Compliance with the existing standards would:~~

12 ~~(A) Unreasonably prevent the owner from using the property for a permissible~~
13 ~~principal use;~~

14 ~~(B) Unreasonably prevent the owner from using the property in a manner~~
15 ~~which is consistent as to scale, amenities, appearance or features, with existing~~
16 ~~development in the neighborhood of the subject property;~~

17 ~~(C) Be unnecessarily burdensome because unique physical features of the~~
18 ~~property render compliance with the standards unreasonably expensive; or~~

19 ~~(D) Because of preexisting nonconforming conditions on the subject parcel, the~~
20 ~~grant of the variance would not result in a net decrease in overall compliance~~
21 ~~with the land use code, title 49, or the building code, title 19, or both; and~~

22
23
24 ~~(6) A grant of the variance would result in more benefits than detriments to the~~
25 ~~neighborhood.~~

49.20.260 Conditions of approval.

The board may attach to a variance conditions regarding the location, character and other features of the proposed structures or uses as it finds necessary to carry out the intent of this title and to protect the public interest.

49.20.270 Expiration and extensions of approval.

Expiration and extensions of variances shall be governed by the procedures and standards established for development permits in chapter 49.15, article II.

Section 3. Amendment of Section. CBJ 49.85.100(10) Generally, is amended to read:

49.85.100 Generally.

Processing fees are established for each development, platting and other land use action in accordance with the following schedule:

...

(10) Board of adjustment.

(A) Administrative variance ~~De minimis variance~~, \$120.00;

(B) Non-Administrative Variance ~~other than a de minimis variance~~, \$400.00;

(C) Alternative development permit, \$400.00.

...

Section 4. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2018.

Kendell D. Koelsch, Mayor

Attest:

Laurie J. Sica, Municipal Clerk



Planning Commission

(907) 586-0715
PC_Comments@juneau.org
www.juneau.org/plancomm
155 S. Seward Street • Juneau, AK 99801

PLANNING COMMISSION NOTICE OF RECOMMENDATION

Date: March 2, 2018
File No.: AME2016 0002

City and Borough of Juneau
City and Borough Assembly
155 South Seward Street
Juneau, AK 99801

Application For: Planning Commission Recommendation to the City and Borough Assembly regarding a text amendment to CBJ code 49.20 regarding variances.

Hearing Date: February 27, 2018

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum, dated February 16, 2018, and recommended that the City and Borough Assembly adopt staff's recommendation for approval and chose Option No. 2, as outlined in the Law Department memo, Attachment C of the report, regarding variances. Option No. 2 also includes the deletion of the proposed fifth criterion. Option No. 2 is listed below.

CBJ 49.20.200 Option 2: Variance allowed except to five items.

Pursuant to this article, a variance may be granted to provide an applicant relief from the requirements of this title. A variance is prohibited from varying any requirement or regulation of this title concerning the use of land or structures, housing density, lot area, requirements in chapter 49.65, or requirements in chapter 49.35. Applications for prohibited variances shall not be accepted for filing or shall be rejected by the director. A variance is required to vary dimensions or designs standards of this title.

Attachments: February 16, 2018 memorandum from Laura A. Boyce, Senior Planner, Community Development, to the CBJ Planning Commission regarding AME2016 0002.

City and Borough Assembly

File No.: AME2016 0002

March 2, 2018

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This Notice of Recommendation constitutes a recommendation of the CBJ Planning Commission to the City and Borough Assembly. Decisions to recommend an action are not appealable, even if the recommendation is procedurally required as a prerequisite to some other decision, according to the provisions of CBJ 01.50.020 (b).

Project Planner:


Labra A. Boyce, AICP, Planner
Community Development Department


Benjamin Haight, Chair
Planning Commission



3/5/2018

Filed With City Clerk

Date

cc: **Plan Review**

NOTE: The Americans with Disabilities Act (ADA) is a federal civil rights law that may affect this recommended text amendment. ADA regulations have access requirements above and beyond CBJ - adopted regulations. Contact an ADA - trained architect or other ADA trained personnel with questions about the ADA: Department of Justice (202) 272-5434, or fax (202) 272-5447, NW Disability Business Technical Center (800) 949-4232, or fax (360) 438-3208.



(907) 586-0715
CDD_Admin@juneau.org
www.juneau.org/CDD
155 S. Seward Street • Juneau, AK 99801

DATE: February 16, 2018

TO: Planning Commission

FROM: Laura A. Boyce, AICP, Senior Planner
Community Development Department

A handwritten signature in black ink, appearing to read 'L. Boyce', is positioned to the right of the 'FROM:' field.

FILE NO.: AME2016 0002

PROPOSAL: A text amendment to CBJ code 49.20 regarding variances

ATTACHMENTS:

- Attachment A: Draft Ordinance 2018-04 – Amending CBJ 49.20, *Variances*
- Attachment B: Planning Commission Meeting Minutes, January 23, 2017
- Attachment C: Memorandum, Assistant Municipal Attorney Palmer, February 7, 2018

INTRODUCTION

The proposed ordinance would amend Title 49, the Land Use Code (“Code”), regarding variances. At the December 12, 2017 Planning Commission Public Hearing this item was continued to a future meeting in order for staff to expand upon the intent of each proposed variance criterion as well as to draft an administrative variance process. This staff report and attached ordinance incorporate the requested changes.

The City and Borough of Juneau (CBJ) Code states in CBJ 49.10.170(d) that the Commission shall make recommendations to the Assembly on all proposed amendments to the Land Use Code, indicating compliance with its provisions and with the Comprehensive Plan.

BACKGROUND

The intent of a variance is to provide relief from the Code requirements in cases of hardship when application of those requirements would place an unreasonable burden on the property owner. Over time the variance has instead become a tool for flexibility, offering relief to property owners to relax Code requirements or even to waive requirements outright in cases when no hardship existed. The variance process has been used often, broadly, and in some cases, inappropriately.

Staff worked with the Title 49 Committee over the past year to propose more objective amendments to the variance requirements and to provide more flexibility elsewhere in the Code, since it is evident that this is something the community values.

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The Planning Commission discussed the proposed amendment at its Committee of the Whole meetings on June 13, 2017, and August 8, 2017. The Planning Commission reviewed and proposed changes to this ordinance at its regular meetings on December 12, 2017, and January 23, 2018 (Attachment B). The Title 49 Committee of the Planning Commission also met December 20, 2017 to discuss the proposed administrative variance process. The attached ordinance incorporates those changes (Attachment A).

DISCUSSION

As stated above, a variance is intended to provide relief from Code requirements when application of the Code results in an unreasonable hardship. The proposed ordinance is intended to accomplish the following goals:

- Provide clarity regarding what is and what is not variable;
- Remove the preliminary threshold requirement;
- Require the posting of a public notice sign for those variances requiring a public hearing;
- Amend the variance criteria to reduce subjectivity; and
- Amend the De Minimis/Administrative variance.

I. WHAT CAN BE VARIED

The current Code states that a variance is required to vary dimension or design standards of Title 49 (CBJ 49.20.200). CBJ 49.20.250(b) further clarifies that:

A variance may vary any requirement or regulation of this title concerning dimensional and other design standards, but not those concerning the use of land or structures, housing density, lot coverage, or those establishing construction standards.

Those provisions have been interpreted broadly. For example, the following items have been considered design or dimensional standards and for which variances have been approved, and will be discussed in more detail below:

- | | |
|----------------------------|---|
| • lot width, | • parking requirements, |
| • lot depth, | • access requirements, |
| • yard setbacks, | • panhandle requirements, |
| • building height, | • sign requirements, and |
| • fence height, | • design standard changes, including Planned Unit |
| • streamside buffers, | Developments (PUDs), canopies, mobile home parks, |
| • vegetative cover, | cottage housing, accessory apartments, common |
| • eagle nest tree buffers, | walls, and historic district requirements. |

At the meeting on January 23, 2018, a number of Commissioners expressed hesitation with limiting the scope of what can be varied (CBJ 49.20.200). The Law Department has provided a

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memo (Attachment C) that includes two options for CBJ 49.20.200. Option 1 restricts variances to six items. Option 2 allows variances to everything except two Code chapters. Staff believes both options are reasonable, and staff prefers Option 1.

The CBJ has consistently prohibited variances that could alter density, lot coverage, the use of land or structure, or reduce a construction standard. In the draft of the proposed changes brought to the Committee of the Whole at its August meeting, staff proposed Criterion 6, which stated that *"The variance would not vary lot density, lot coverage, construction standards, or the use of the land or structure."* At that meeting, the Planning Commission asked for staff to remove Criterion 6 from the criteria and include it as part of the overall introduction to variances located at CBJ 49.20.200. After additional evaluation and discussion, the prior concept of Criterion 6 is now located in Criterion 5; however, the wording has changed. The specifics of proposed Criterion 5 are discussed more below. When the Code specifies what *cannot* be done, it implies that anything *not* listed *can* be done. This is not the intent. The intent is to make clear that variances that are granted do not result in a secondary impact to lot size, lot coverage, or density that is less than the minimum requirement of the zoning district. This is why the concept was not moved to the introductory paragraph but to a modified Criterion 5. Note that, if Option 2 in the Law Department memo (Attachment C) is selected, then Criterion 5 will need to be deleted.

Design standards are no longer proposed as being variable because a hardship is usually difficult to justify in these instances. Typically, a design modification is "wanted" rather than is "needed." Common design standard variances have included access and frontage related requests, panhandle lot design requests, and accessory apartment design requests. However, recent Code changes regarding shared access, privately maintained access roads in public rights-of-way, panhandles, accessory apartments, parking waivers, and eagle habitat have provided more flexibility in these instances such that there is likely no need to make them subject to a variance. This is discussed in more detail below.

(Continued on the following page.)

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Types of Variances Considered Since 1987

Variance Type	Total Number of Cases	Percent of All Variances	Total Number Approved by Type	Approval Percentage by Type
Setbacks	492	53%	451	92%
Parking	114	12%	92	81%
Streamside Buffers	70	7%	66	94%
Dimensional Standards	65	7%	57	88%
Access-Related	49	5%	40	82%
Eagle Tree Setbacks	42	5%	42	100%
Design Standards	39	4%	31	80%
Vegetative Cover	25	3%	24	96%
Height	19	2%	18	95%
De Minimis	12	1%	12	100%
Lot Area	6	>1%	5	83%
Lot Coverage	4	>1%	3	75%
Total	937	100%	853	89%

Source: Variance Permit Data 1987 through 2015

Setbacks

As the table above indicates, of the 937 variances considered in the past thirty years, approximately 53% of all variance requests have been for setback reductions. Setback variances are the most frequent type of area variance, and will continue to be variable going forward. Additional changes to the Land Use Code and Zoning Maps that will create additional flexibility and will better fit properties are currently underway. These changes are expected to reduce the requests for variances to setback requirements.

CBJ 49.25, *Zoning Districts*, establishes the minimum required setbacks for each zoning district. It also provides for a number of setback exceptions and setback reductions that can be applied administratively, without a variance or any special approval. These include the following:

Front Yard Setback Reductions

- **Sloping lots** – lot grades that exceed 25% may have the front yard setback reduced, but may be no closer than 5 feet to the front property line.
- **Substandard Setbacks on Neighboring Properties** – new buildings may have a front yard or street side setback reductions equal to the average of the three closest adjacent buildings.

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Side and Rear Yard Setback Reductions

- **Undersized/Substandard lots** – Setbacks may be reduced to the same percentage that the lot width or depth is reduced, but in no case may be less than 5 feet to the side or rear property line.
- **Tidewater lines** – yard setbacks are not required from tidewater/shore lot lines.

Encroachments Allowed:

- **Carports and garages** – in some instances, a garage or carport may be located no closer than 5 feet to any property line.
- **Architectural features** – architectural features and roof eaves may encroach into setbacks four inches for each foot of yard setback required, but no closer than two feet to a property line.
- **Unenclosed balconies, ramps, parking decks** – these items are exempt from setback requirements when constructed at the same grade as the adjacent roadway.
- **Unenclosed porches and decks.**
- **Uncovered porches, terraces, and patios.**
- **Accessory buildings (non-living spaces) such as sheds, fuel tanks, greenhouses, and playhouses.**
- **Temporary boat or RV shelters.**
- **Arctic entries** – unheated and not used for living space, with gross floor area 65 square feet or less.

The following changes are also being proposed to provide greater flexibility and to alleviate the number of setback variance requests:

- **Area zone district changes** – The downtown residential area, including the Highlands, the Flats (Casey-Shattuck), and Starr Hill, are undergoing rezoning efforts as the majority of setback variances occur in this area of the CBJ. This is a clear indication that the current zoning doesn't "fit" these neighborhoods. Staff is working on developing zoning district standards that better fit these areas before August of 2019, when the Alternative Design Overlay District (ADOD) sunsets.
- **Energy efficiency improvements** – Ordinance 2018-06 is set for public hearing with the Assembly, it would amend Title 49 to allow a setback exception for exterior energy efficiency improvements to encroach into setbacks up to eight inches.

These efforts should help reduce the amount of setback requests and provide additional Code flexibility.

Parking

Approximately 12% of all variance requests have been to parking standards listed in CBJ 49.45. Historically, requests for parking variances are the second most requested variance. Parking variances have been granted to reduce parking standards, to reduce parking or loading space

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dimensions, to change parking district standards (change standards from one district to another), and to allow back-out parking onto a street where it is not allowed.

The majority of parking variances granted have been to reduce required parking standards. Title 49 was amended in 2017 (Ord. 2016-46) to add Parking Waivers, a new tool to provide parking flexibility. Parking reductions for minor development may be approved by the Director. The Planning Commission may approve parking reductions for major development. Denial of a waiver can be appealed to the Board of Adjustment or the Assembly as described in CBJ 49.20. The parking waiver is expected to provide relief for a majority of these requests. Additionally, there are three parking districts for the downtown area that provide relief. The Parking District 1 (PD-1) allows for a 60% reduction in required parking while the Parking District 2 (PD-2) allows for a 30% reduction. A Parking Fee-In-Lieu District also allows for the payment in lieu of providing required parking. Those funds are allotted towards downtown parking strategies.

Streamside Buffers

Seven percent of requested variances were for streamside buffers. Staff is currently working on proposed amendments to the streamside buffer requirements; the concept for the update is to allow some types of encroachments when mitigation is provided to minimize impacts to anadromous waterbodies. For encroachments that are not allowed by the Code change, a variance option still needs to be available.

Dimensional Standards

Variances to dimensional standards are requested prior to a new lot being created through the subdivision process. Variance requests to lot width and lot depth may be granted if they do not result in a reduction in lot size below the minimum for the zone district. Dimensional standard variances were seven percent of total requests.

Access and Frontage-Related

Approximately five percent of all variance requests were for access or frontage-related relief. The subdivision updates approved in 2015 (Ordinance 2015-03(am)) included new frontage and access options. Prior to the Code change, a number of variance requests were made to these standards that resulted in shared driveways and/or gravel access roads. The subdivision code update included the Privately-Maintained Access (PMA) road in public rights-of-way. For minor subdivisions (13 or fewer lots) located outside the Urban Service Area, a private gravel road in a public right-of-way may be constructed to access lots in new subdivisions. Recent Code changes in 2017 regarding shared access and panhandle requirements also resulted in additional frontage and access options that previously had been the subject of variance requests regarding shared driveways. These Code amendments have provided development flexibility. Regardless of which option is recommended by the Planning Commission – Option 1 or 2 – the standards in CBJ 49.35 will not be variable. However, the Planning Commission recommended

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approval for a street waiver process at its February 13, 2018 meeting which will provide additional flexibility.

Design Standards

Design standards variances totaled four percent of all variance requests. Over the past 30 years fewer than 40 requests were made to design standards. These included accessory apartment standards, canopy standards, and panhandle standards, for example. Over half of the design standard variance requests were to accessory apartment or panhandle standards. Recent Title 49 amendments to those requirements provide the flexibility sought by the previous variance requests. Canopy standards in Title 49 are currently being reviewed.

Vegetative Cover

A Code change in 2013 resulted in the removal of the Mixed Use (MU) zoning district requirement for vegetative cover. The MU zoning district requirement for 5% vegetative coverage was in conflict with the lot coverage requirement of 0%, allowing complete build out of the lot. Build out of lots in the MU district is encouraged and is consistent with the established development pattern in the Downtown Historic District where many of the previous variance requests occurred. Since the Code was amended, there have been no requests to vary vegetative cover.

Height

Height will continue to be variable. There has been less than one height variance request a year since 1987. A variance is not the only way to exceed the maximum height established in zoning districts. A height bonus may be granted when a developer satisfies the minimum development standards provided in Code. Based upon a point system, the Planning Commission may approve a height bonus for major developments located in the Mixed Use 2 (MU-2), Waterfront Commercial (WC), and Waterfront Industrial (WI) zoning districts. There is no maximum height limit in the Industrial (I) or Mixed Use (MU) zoning districts. Height exceptions also exist for things as church spires, tanks, belfries, cupolas, monuments, flagpoles, chimneys, masts, and similar structures.

De Minimis/Administrative

De minimis cases only account for one percent of all variance types. This ordinance (2018-04) includes an administrative variance provision that would allow the Director to approve before-the-fact and after-the-fact setback variances up to two feet or 25%, whichever is less. This would allow administrative approval for minor encroachments when a hardship exists. Providing for small, before-the-fact variances greatly increases the flexibility of required setbacks.

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Lot Area

Less than one percent of all variance requests were for reduced lot area. In a small number of cases (six cases total) variances have been allowed to create lots that were smaller than the minimum that zoning district standards require. This variation to density is explicitly impermissible and should not be allowed to happen in the future. The proposed non-conforming Code changes, as well as the downtown Juneau and Douglas rezoning efforts will address some of these situations.

Lot Coverage

In the past 30 years there have been only four requests to vary lot coverage. Three of those were approved. Downtown Juneau and Downtown Douglas areas have a higher chance of having issues with lot coverage requirements as many of the lots are already non-conforming. Through the Alternative Development Overlay District (ADOD) process, property owners may apply for an ADOD permit approval that could allow greater setback encroachments, lot coverage, and height than what is currently allowed. Staff is working on developing zoning district standards that better fit these areas.

Summary

Due to many recent Code amendments, there are now more tools available to provide the flexibility previously sought with the variance requests from the past 30 years. Staff continues to work on Code changes designed for more flexibility options.

II. REMOVAL OF THE THRESHOLD REQUIREMENT

In a recent variance appeal, *Olmo, LLC. V. BoA* (Feb. 14, 2017), the Assembly held that for a variance the applicant must first show that an unreasonable hardship exists (threshold requirement) prior to determining if a proposal meets the six criteria for granting a variance.

That decision was based on the language of CBJ 49.20.250(b), *Variances other than de minimis*, which states the following:

Where hardship and practical difficulties result from an extraordinary situation or unique physical feature affecting only a specific parcel of property or structures lawfully existing thereon and render it difficult to carry out the provisions of this title, the board of adjustment may grant a variance in harmony with the general purpose and intent of this title...

Prior to this decision variance decisions were generally made by evaluating the six criteria only, none of which included specific evaluation whether a hardship indeed existed.

The draft ordinance (Attachment A) incorporates the Commission's proposal to remove the threshold requirement and incorporate it into the criteria (Criteria 1 and 2). In the draft

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ordinance, a variance request would need to meet the proposed five criteria only and not have to meet an initial threshold requirement as is currently required.

III. PROPOSED CRITERIA

The existing criteria are not clear and are too subjective. The purpose of the proposed criteria changes in the draft ordinance (Attachment A) are to provide greater certainty for developers and property owners and to deter the inappropriate use of the variance process where no hardship exists. The following criteria are proposed in the draft ordinance:

1. Enforcement of the ordinance would result in an unreasonable hardship.

The purpose of this criterion is to analyze whether a hardship exists, and if so, whether it is unreasonable. This differs from the existing Code in that a hardship was implied as a threshold issue, but not explicitly stated as a criterion. With this amendment the applicant must establish that the property has an undue or unnecessary hardship caused by a code requirement in a way that is distinct from other similarly situated properties. Consistent with Criterion 2, the only way an applicant can establish an unreasonable hardship is by identifying an unusual or special condition on the property. (E.g.: *Durkin Vill. Plainville, LLC v. Zoning Bd. of Appeals of Town of Plainville*, 107 Conn. App. 861, 870 (2008) which states that the “basic zoning principle that zoning regulations must directly affect land, not the owners of land” is especially relevant in the context of variances.)

This is consistent with what the Alaska Supreme Court stated in the *City & Borough of Juneau v. Thibodeau*, 595 P.2d 626, 635-636 (Alaska 1979),

Peculiarities of the specific property sufficient to warrant a grant of a variance must arise from the physical conditions of the land itself which distinguish it from other land in the general area. The assertion that the ordinance merely deprives the landowner of a more profitable operation where premises have been substantially the same value for permitted uses as other property within the zoning classification argues, in effect, for the grant of a special privilege to the selected landowner.

For example, the applicant has the burden of proving that an unusual or special condition of the property directly causes the need for a variance. By focusing on an unreasonable hardship this criterion prevents an applicant from seeking a variance solely to relieve pecuniary hardship or inconvenience, which is consistent with Alaska Statute 29.40.040(b)(3). For example, odd-shaped lots or unusual topography are conditions that may contribute to a hardship. The applicant must then explain how the condition creates an unreasonable hardship from complying with Code requirements. The *Thibodeau* decision reiterated that where an ordinance equally affects all property in the zoning district, relief from the ordinance must come from the Assembly through an amendment to the zoning code.

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2. The unusual or special conditions of the property are not caused by the person seeking the variance.

The purpose of this criterion is to reinforce the concept that the hardship must result from an unusual or special condition on the property and to ensure that the hardship is not self-imposed. This is sometimes known as the “self-created hardship” test. It is similar to the criterion in Alaska Statute 29.40.040(b)(1) that a variance may not be granted if “special conditions that require the variance are caused by the person seeking the variance.” This also means that the special conditions or circumstances identified in the application do not result from the actions of the applicant. To otherwise grant such a variance would reward or excuse the owner’s lack of due diligence or poor project planning, which is not the intent. For example, property owners may, intentionally or unknowingly, construct a building that violates the zoning regulations and then later ask for a variance to correct the situation or to minimize expenses in order to correct the situation. This criterion is intended to prevent a variance from being granted in such a case. The applicant will need to provide evidence that the hardship is not self-imposed and that the special conditions do not result from the applicant’s actions. In other words, the applicant will need to provide evidence that the variance is due to circumstances that are beyond the control of the applicant. Furthermore, the request cannot be solely to make it more convenient to use the property.

Examples of self-imposed conditions or conditions resulting from the owner’s actions may include:

- Wanting a larger structure or an addition not allowed by Title 49 when the property does not have an unreasonable hardship.
- Constructing a structure or building without the necessary permits or development that is not in compliance with an approved permit.

Review of Self-Created Hardship Cases

Throughout the United States courts have decided a variety of variance appeals regarding self-created hardship. The most challenging cases appear to involve survey or height errors. Some decisions go to the extreme that a self-created hardship exists when, for example, the owner hires an architect or contractor who constructs the home in the wrong location or too high, the result is considered a self-created hardship and a variance is not available. *E.g., Morikawa v. Zoning Bd. of Appeals of Town of Weston*, 126 Conn. App. 400, 411 (2011).

Similar to this extreme other courts have held that if you have one degree of separation from the landowner to the actor causing the hardship, then some courts will allow the issuance of a variance. An example of that type of decision occurred in *Osborne v. Zoning Board of Appeals*, 41 Conn. App. 351 (1996). In that case, the Osbornes hired an architect who then hired a surveyor. The surveyor made an error and the house was constructed in the setback. Since the architect hired the surveyor and not the Osbornes directly, the court held that the hardship was not self-created because it was not on behalf of the applicant, but on behalf of the architect.

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The Osbornes were separated by one degree from the person who made the error so the error was not self-created and they could seek a variance.

Staff believes the CBJ wishes to take a different approach with the self-created hardship concept similar to the approach discussed in *Turik. v. Town of Surf City*, 182 N.C. App. 427 (2007). In this case an error made in good faith that resulted in a newly constructed building erroneously being built into the setback, even though a building permit and a survey were relied upon, resulted in a hardship that could be considered for a variance. While the error occurred because of the applicant's efforts, it was not considered self-created because the applicant made a good faith effort to build as required by the survey and the limits of the permit.

Reviewing the court cases regarding self-created hardships there appeared to be three approaches to determine what is self-created. In some cases, the courts held:

1. Survey errors done by the owner or owner's direct employees/agents are self-created (*Morikawa*).
2. Survey errors done by people with more than one degree of separation from the owner are NOT self-created (*Osborne*).
3. Surveys, although erroneous, but relied on in good faith is NOT self-created (*Turik*).

Based upon the discussions to date by the Planning Commission, staff believes that #3 is more aligned with the Planning Commission's direction. Errors made, but relied on in good faith, are not self-created and may be considered for a variance.

3. The grant of the variance will not be detrimental to public health, safety, or welfare.

This analysis is to determine whether the variance will conflict with the purpose of the Land Use Code. The purpose and intent of the regulations in the Land Use Code are found at CBJ 49.05.100. Public health, safety, and welfare are one of those primary goals. For instance, if there is a request to reduce a front or street side setback on a corner lot, the analysis should include considering if the sight distance for vehicles will be impaired by reducing the setback, thereby potentially causing a safety issue. The applicant should explain how the variance will not affect safety or health standards, light, traffic, noise levels, and air or water quality.

4. The grant of the variance is narrowly tailored to relieve the hardship.

The purpose of this criterion is to only provide the relief necessary to alleviate the unreasonable hardship. This criterion is not meant to reduce any more of a requirement than is necessary. This criterion limits the extent of the allowed variance while providing the Commission the ability to narrowly tailor relief.

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5. The grant of the variance does not result in a smaller lot size, a greater density, or greater lot coverage than allowed for the zone district.

This criterion is needed is only needed if Option 1 is selected. The purpose in this criterion is to specifically analyze whether the requested variance to lot width, lot depth, building setbacks, or height will have a direct or secondary effect of reducing the minimum requirements in the Table of Dimensional Standards (CBJ 49.25.300) regarding density, lot size, or lot coverage. For example, if a variance to lot depth is approved, the approval cannot result in a lot size less than the minimum area allowed in the zoning district, which affects density. Zoning district standards create neighborhood character, which is one of underlying principles of our zoning code.

IV. AMEND THE DE MINIMIS VARIANCE

The De Minimis Variance was added to the Code in 1995, but has been minimally used. In the current Code, the director may allow a De Minimis Variance that encroaches up to 25% into the required yard setbacks after the building has been constructed. This is an “after-the-fact” variance that can be granted if it can be shown that the building was not intentionally constructed in an erroneous location.

The criteria that must be met in order for the Director to grant approval for these after-the-fact de minimis variances are minimal compared to the criteria for variances. The standards are not the same for these two types of variances, and they are not treated equally. This creates problems because (1) the after-the-fact variance is easier to obtain than non-de minimis variances obtained ahead of time; (2) the underlying policy can encourage developers to seek the after-the-fact variance instead of seeking the non-de minimis variance ahead of time; and (3) CDD already has both the enforcement tools and the discretion to appropriately deal with an inadvertent encroachment. Thus, there is a high likelihood that the de minimis variance provisions would be considered arbitrary.

The intent of this amendment is to eliminate the potential arbitrariness of the existing de minimis variance standards. The amendment provides that an administrative variance can be applied for before or after a project when projections will not encroach more than 25% or two feet into yard setbacks, whichever is less. The Director may approve an administrative variance after determining all of the following:

- Enforcement of the setback ordinance would result in an unreasonable hardship;
- The grant of the variance is not detrimental to public health, safety, or welfare; and
- The grant of the variance is narrowly tailored to relieve the hardship.

Notice will be provided to immediately abutting neighbors. If the Director denies the variance, the applicant may appeal the decision to the Planning Commission. The analysis of the same provisions found in the non-de minimis variance applies equally to administrative variances.

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V. OTHER TITLE 49 AMENDMENTS

As stated previously, one of the purposes of the proposed amendment is to stop using the variance process as a means to reduce Code requirements where no hardship exists. As the data has shown, the types of variances requested and approved indicate that there is a desire for more flexibility in Code. At the beginning of the review of the variance criteria staff and the Title 49 Committee identified areas of Code where increased flexibility should be created. Making these changes will rectify the practice of using the variance as a catch-all. The list below identifies the Code changes that provide additional flexibility that have been made in the last few years, as well as contemplated changes.

As stated previously, yard setbacks, lot width, lot depth, and building height are proposed to remain variable.

The following Code changes have occurred that provide additional flexibility:

- Vegetative cover requirement for Mixed Use zone districts eliminated (2013).
- Accessory apartment – regarding design (2009) and changes to apartment size and permitting requirements (2015).
- Parking – the parking waiver is now in effect (2017).
- Shared access – allows four or fewer lots to share access, frontage on a publicly maintained right-of-way is not required (2017).
- Alternative Development Overlay Districts (ADOD) – The downtown Juneau and the downtown Douglas overlay districts can provide flexibility regarding lot coverage, vegetative cover, and setbacks until zoning that “fits” the downtown residential areas are proposed (2017).
- Panhandle subdivision requirements (2017).
- Removed setbacks from trees with active eagle nests (2018).

As staff continues to update the Code and build in desired flexibility, the list of what can be varied can be amended to delete items as the Code is amended. Staff and the Planning Commission will continue to keep a watchful eye on future opportunities to provide development flexibility.

COMPLIANCE WITH THE COMPREHENSIVE PLAN

Comprehensive Plan Contents

The following discussions, policies, and objectives in the 2013 Comprehensive Plan are relevant to the proposed variances amendment:

From COMPREHENSIVE PLAN VISION AND GUIDING PRINCIPLES (Page 2):

The City and Borough of Juneau is a vibrant State Capital that values the diversity and quality of its natural and built environments, creates a safe and satisfying quality of life for

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its diverse population, provides quality education and employment for its workers, encourages resident participation in community decisions and provides an environment to foster state-wide leadership.

To achieve this vision, the CBJ followed these principles in formulating its Comprehensive Plan:

- ***A safe place to raise a family.*** *Maintain safe neighborhoods and circulation systems; provide public spaces and facilities that foster community interaction and cohesiveness.*
- ***Quality education from Pre-school to University levels.*** *Promote quality educational programs and experiences in the schools and lifelong learning for our residents as well as a healthy lifestyle with adequate recreational facilities, resources and programs. Support a vital arts community, celebrating our diverse cultural heritage and unique historic resources.*
- ***A balanced economy.*** *Ensure a balanced, sustainable and diverse economy, actively encouraging employment opportunities for residents of all levels and ages that provide a livable wage and a dependable municipal tax base.*
- ***Natural resources.*** *Highlight and protect our scenic beauty, protect our streams and fish and wildlife habitat and foster the sustainable use of our natural resources.*
- ***A balanced community.*** *Ensure a balance between natural resource protection and the built environment, the efficient provision of infrastructure and goods and services, and housing affordable to all income levels.*
- ***Neighborhood livability and housing.*** *Maintain the identity and vitality of our neighborhoods, actively pursuing affordable housing for a diversity of households while promoting compatible livability and high quality design in new buildings.*
- ***Mobility.*** *Provide an accessible, convenient and affordable transportation system that integrates vehicle, vessel, rail and aircraft transport with sustainable and innovative transportation options— including convenient and fast public transit service, particularly for commuters to work, and bicycle and pedestrian networks throughout the community.*
- ***Involved citizenry.*** *Solicit resident participation and leadership in implementing the Plan policies and actions from all sectors of the community, encouraging mutual understanding and cooperation among all.*

From CHAPTER 2 - SUSTAINABILITY:

POLICY 2.1 TO BUILD A SUSTAINABLE COMMUNITY THAT ENDURES OVER GENERATIONS AND IS SUFFICIENTLY FAR-SEEING AND FLEXIBLE TO MAINTAIN THE

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VITAL AND ROBUST NATURE OF ITS ECONOMIC, SOCIAL, AND ENVIRONMENTAL SUPPORT SYSTEMS.

From CHAPTER 10 – LAND USE:

POLICY 10.2. TO ALLOW FLEXIBILITY AND A WIDE RANGE OF CREATIVE SOLUTIONS IN RESIDENTIAL AND MIXED USE LAND DEVELOPMENT WITHIN THE URBAN SERVICE AREA.

POLICY 10.3. TO FACILITATE RESIDENTIAL DEVELOPMENTS OF VARIOUS TYPES AND DENSITIES THAT ARE APPROPRIATELY LOCATED IN RELATION TO SITE CONDITIONS, SURROUNDING LAND USES, AND CAPACITY OF PUBLIC FACILITIES AND TRANSPORTATION SYSTEMS.

Discussion

The proposed amendment balances the varied Comprehensive Plan policies and is generally consistent with the overall vision.

COMPLIANCE WITH CBJ LAND USE CODE

The proposed amendment to Title 49 will not create any internal inconsistencies within the Code. As stated in CBJ 49.05.100, the purposes and intent of Title 49 are as follows:

- 1. To achieve the goals and objectives, and implement the policies of the Juneau comprehensive plan, and coastal management program;*
- 2. To ensure that future growth and development in the City and Borough is in accord with the values of its residents;*
- 3. To identify and secure, for present and future residents, the beneficial impacts of growth while minimizing the negative impacts;*
- 4. To ensure that future growth is of the appropriate type, design and location, and is served by a proper range of public services and facilities such as water, sewage, and electrical distribution systems, transportation, schools, parks and other public requirements, and in general to promote public health, safety and general welfare;*
- 5. To provide adequate open space for light and air; and*
- 6. To recognize the economic value of land and encourage its proper and beneficial use.*

The variance amendment was drafted with the purpose and intent of Title 49 taken into account. If approved as drafted it will be consistent with the above purposes.

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SUMMARY

Because of all of the changes made to Title 49 in the past few years to provide development flexibility staff supports Option 1 outlined in the Law Department memo, dated February 7, 2018 (Attachment C).

Option 1 is limited to six items being variable, as follows:

A variance is required to and can only vary the following (a) dimensional standards of this title: building setbacks, lot width, lot depth, and building height; and (b) standards directly related to habitat and canopies. Applications for prohibited variances shall not be accepted for filing or shall be rejected by the director.

Option 2 allows variances with the exception of five items, as follows:

Pursuant to this article, a variance may be granted to provide an applicant relief from the requirements of this title. A variance is prohibited from varying any requirement or regulation of this title concerning the use of land or structures, housing density, lot area, requirements in chapter 49.65, or requirements in chapter 49.35. Applications for prohibited variances shall not be accepted for filing or shall be rejected by the director.

Option 1 provides the predictability and consistency that the public, including the development community, have continually requested. It provides clarity for the public and staff, the applicants and neighbors. The Land Use Code is a living document and can be amended as necessary when it is warranted. As the data shows, recently approved Code amendments and amendments in review provide the standards and tools to achieve the flexibility requested through the variance process over the past thirty years. Option 2 would continue the pattern of the past thirty years, leaving much of the Code subject to a variance. This amendment effort has been undertaken to avoid that scenario and provide needed clarity for staff, the Planning Commission, and the public.

FINDINGS

Based upon the above analysis, staff finds that the proposed text amendment to Title 49 is consistent with the goals and policies of the Comprehensive Plan and Title 49. Additionally, this change would not create any internal inconsistencies within any plans or codes.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission review and consider the proposed ordinance and forward a recommendation to adopt Option 1 along with ordinance for approval to the Assembly.

Presented by:
Introduced:
Drafted by:

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-04 PCv5

An Ordinance Amending the Land Use Code Relating to Variances

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment of Article. CBJ 49.20 Article II Variances is amended to read:
49.20.200 - Variance.

[See Palmer and Boyce memos for options]

49.20.210 - Submittal.

Except as provided in this article for an administrative variance ~~de minimis variances~~, an application for a variance shall be submitted to the board of adjustment through the department.

49.20.220 - Scheduling and fee.

(a) An application for an administrative variance shall be administered by the department. ~~If the director determines that the variance applied for is de minimis, the application shall be administered by the department according to subsection 49.20.230(a) and subsection 49.20.250(a).~~

(b) If the director determines that the request is not for an administrative variance ~~that the variance applied for is other than de minimis~~ and the application is complete, it shall be scheduled for public hearing. If the application is filed in conjunction with a major development permit, a separate public notice shall not be required and the variance fee shall be reduced by 20 percent. For separate variance applications, a fee and public notice according to section 49.20.230 shall be required.

49.20.230 - Public notice.

(a) Upon determination that the administrative variance application is complete, the director shall mail notice of the application to the immediately adjoining property owners, as determined by the director, and provide at least 14 days to submit comments before issuing a decision. ~~Public notice according to subsection 49.20.250(a)(1)(C) shall be required for consideration or issuance of a de minimis variance.~~

(b) For variances other than administrative ~~de minimis~~, public notice according to section 49.15.230 shall be given prior to a hearing on the application by the board of adjustment, ~~except that the placement of a sign on the subject lot is not required.~~

49.20.240 - Board of adjustment action.

The board of adjustment shall hear all variance requests except administrative variances ~~other than those administered by the director as de minimis~~ and shall either approve, conditionally approve, modify or deny the request based on the criteria in section 49.20.250(b) of this chapter.

49.20.250 -- Variance standards ~~Grounds for variances.~~

(a) Administrative variance. ~~De minimis variances.~~

(1) An administrative variance may be granted to allow projections (i) not to exceed 25 percent of the yard setback requirements of this title, or (ii) two feet, whichever is less, upon the director determining the following:

(A) Enforcement of the setback ordinance would result in an unreasonable hardship;

(B) The grant of the variance is not detrimental to public health, safety, or welfare; and

(C) The grant of the variance is narrowly tailored to relieve the hardship.

(2) An administrative variance decision of the director may be appealed if a notice of appeal is filed within 20 days of the director filing a notice of decision with the municipal clerk.

~~A de minimis variance may be granted by the director after it is shown that all the following conditions have been met~~

~~(1) Where a minor setback infraction could be corrected only at unreasonable expense or inconvenience the director may, after taking into account the views of the owners of adjoining property, and upon a finding that the infraction was not the result of a deliberate effort to evade the dimensional requirement, grant a de minimis variance in harmony with the general purpose and intent of this title. A de minimis variance may be granted after it is shown that all the following conditions have been met.~~

~~(A) The variance is for one or more projections into yard setbacks, none of which extend beyond 25 percent of required setback distance.~~

~~(B) The de minimis variance would not aggravate an infraction previously granted a variance.~~

~~(C) The applicant submits on forms provided by the department written statements from the owners of adjoining property, each acknowledging that the owner has been notified of the application. In lieu of statements provided by the applicant, the department will provide at least five days notice by mail to each such owner.~~

~~(D) The applicant submits a certified, as built survey to scale, showing all lot line locations, building dimensions, orientations, setbacks, and other distances and features relevant to the requested relief.~~

(b) Non-Administrative Variance. A variance may be granted to provide an applicant relief from requirements of this title after the prescribed hearing and after the board of adjustment has determined that:

- (1) Enforcement of the ordinance would result in an unreasonable hardship;
- (2) The unusual or special conditions of the property are not caused by the person seeking the variance;
- (3) The grant of the variance is not detrimental to public health, safety, or welfare;
- (4) The grant of the variance is narrowly tailored to relieve the hardship; and
- (5) The grant of the variance does not result in a smaller lot size, a greater density, or greater lot coverage than allowed for the zone district. [If 49.20.200 Option 2 is chosen, then this needs to be deleted]

~~Variances other than de minimis. Where hardship and practical difficulties result from an extraordinary situation or unique physical feature affecting only a specific parcel of property or structures lawfully existing thereon and render it difficult to carry out the provisions of this title, the board of adjustment may grant a variance in harmony with the general purpose and intent of this title. A variance may vary any requirement or regulation of this title concerning dimensional and other design standards, but not those concerning the use of land or structures, housing density, lot coverage, or those establishing construction standards. A variance may be granted after the prescribed hearing and after the board of adjustment has determined that:~~

- ~~(1) The relaxation applied for or a lesser relaxation specified by the board of adjustment would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners;~~

~~(2) — Relief can be granted in such a fashion that the intent of this title will be observed and the public safety and welfare preserved;~~

~~(3) — The authorization of the variance will not injure nearby property;~~

~~(4) — The variance does not authorize uses not allowed in the district involved;~~

~~(5) — Compliance with the existing standards would:~~

~~(A) — Unreasonably prevent the owner from using the property for a permissible principal use;~~

~~(B) — Unreasonably prevent the owner from using the property in a manner which is consistent as to scale, amenities, appearance or features, with existing development in the neighborhood of the subject property;~~

~~(C) — Be unnecessarily burdensome because unique physical features of the property render compliance with the standards unreasonably expensive; or~~

~~(D) — Because of preexisting nonconforming conditions on the subject parcel, the grant of the variance would not result in a net decrease in overall compliance with the land use code, title 49, or the building code, title 19, or both; and~~

~~(6) — A grant of the variance would result in more benefits than detriments to the neighborhood.~~

49.20.260 - Conditions of approval.

1
2 The board may attach to a variance conditions regarding the location, character and other
3 features of the proposed structures or uses as it finds necessary to carry out the intent of this
4 title and to protect the public interest.
5

6
7 49.20.270 - Expiration and extensions of approval.

8 Expiration and extensions of variances shall be governed by the procedures and standards
9 established for development permits in chapter 49.15, article II.
10

11
12 **Section 3. Amendment of Section.** CBJ 49.85.100(10) Generally is amended to
13 read:

14 49.85.100 - Generally.

15 Processing fees are established for each development, platting and other land use action in
16 accordance with the following schedule:

17 ***

18
19 (10) Board of adjustment.

20 (A) Administrative variance ~~De minimis variance~~, \$120.00;

21 (B) Non-Administrative Variance ~~other than a de minimis variance~~, \$400.00;

22 (C) Alternative development permit, \$400.00.
23

24 ***
25

Section 4. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2018.

Kendell D. Koelsch, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

Agenda
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
January 23, 2018

I. ROLL CALL

Ben Haight, Chairman, called the regular meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:05 p.m.

Commissioners present: Ben Haight, Chairman; Paul Voelckers, Vice Chairman; Michael LeVine, Nathaniel Dye, Dan Miller, Dan Hickok, Kirsten Shelton, Carl Greene

Commissioners absent: Percy Frisby

Staff present: Rob Steedle, CDD Director; Beth McKibben, Planning Manager; Teri Camery, Senior Planner; Laura Boyce, Senior Planner; Allison Eddins, Planner II; Amy Liu, Planner I; Robert Palmer, Assistant Attorney II; Dan Bleidorn, Deputy Lands Manager

Assembly members: Beth Weldon, Loren Jones, Jerry Nankervis

At the request of Mr. Steedle, the Planning Commission approved the relocation of AME2016 0002, a text amendment of CBJ code 49.20 regarding variances, to the end of the agenda.

II. APPROVAL OF MINUTES

December 12, 2017 Draft Minutes - Regular Planning Commission Meeting

MOTION: *by Mr. LeVine, to approve the December 12, 2017, Planning Commission minutes with any minor alterations by staff or Commission member.*

The motion passed with no objection.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

IV. PLANNING COMMISSION LIAISON REPORT

Assembly Liaison to the Planning Commission Beth Weldon reported that on January 22, (2018), the Assembly approved the filing of an annexation petition with the local Boundary Commission. The Assembly is also considering how to participate in the Hydro One AEL&P purchase, she reported. The Assembly passed an ordinance amending the Land Use Code regarding eagle nests and eagle habitats. The Assembly also approved the adoption of the Lemon Creek Area Plan, said Ms. Weldon. The next meeting of the Public Works, Lands Committee, and Committee of the Whole will be Monday, January 29, (2018). The next regular meeting of the Assembly is February 12, (2018).

V. RECONSIDERATION OF THE FOLLOWING ITEMS

AME2017 0013: A request to rezone 7.06 acres from D-10 Residential to Light Commercial
Applicant: Douglas Island Development LLC
Location: 3853 Bayview Ave, 12020 Glacier Highway, 11998 Glacier Highway, 11950 Glacier Highway

Staff Recommendation

Staff recommends that the Planning Commission concur with the Director's analysis and findings and recommend approval to the Assembly for a rezone request to change 7.06 acres located at 3853 Bayview Avenue, 12020 Glacier Highway, 11998 Glacier Highway, and 11950 Glacier Highway from D-10 to LC (Light Commercial).

MOTION: *by Mr. Miller, to reconsider AME2017 0013 for purposes of discussion.*

Mr. Miller said the Ad Hoc Auke Bay Area Plan Committee held a meeting several weeks ago during which the implementation of various actions for the Auke Bay Area Plan were discussed. Another meeting for this committee is scheduled for January 30, (2018), said Mr. Miller, to discuss the creation of a new zone for a Traditional Town Center for Auke Bay, he said. The committee also requested that Mr. Steedle communicate with the CBJ mapping department to discuss the potential for development of a grid-like road system on what is primarily private property.

Chairman Haight noted that Mr. Frisby and Ms. Shelton were absent at the last meeting when this item was discussed. Only Commission members present at the last meeting can vote on this issue at this meeting, he noted.

Roll Call Vote:

Yeas: Miller, Dye, Greene, Haight

Nays: Hickok, Voelckers, LeVine

The motion failed.

VI. CONSENT AGENDA

Mr. Dye said he has a potential conflict which he leaves up to the discretion of the Commission. He said he manages property adjacent to one of the lots being sold under CSP2017 0017.

The Commission voiced no objection to Mr. Dye voting on this item.

Mr. Miller said he has a conflict pertaining to items USE2017 0028 and USE 2017 0029. He owns those properties.

Chairman Haight said in the past he was involved with items USE2017 0028 and USE 2017 0029. His involvement was only with the properties, not the tenants, he clarified.

The Commission voiced no objection to Chairman Haight's participation with those items.

USE2017 0028: A Conditional Use Permit for a marijuana retail store.
Applicant: The Mason Jar
Location: 2771 Sherwood Lane

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use Permit. The permit would allow the development of a 1,500 square foot marijuana retail facility in the Industrial zoning district.

The approval is subject to the following conditions:

1. Prior to Certificate of Occupancy for development on Lots 5, 7, 8, and 9 of ANDSOH Subdivision, a bioswale shall be installed between the access and utility easement for Lots 5, 7, 8, and 9 of ANDSOH Subdivision and Pederson Hill/ Casa del Sol Creek; and the applicant shall implement storm water best management practices.
2. All waste containing marijuana product shall be stored in a locked enclosure until transported to the CBJ landfill.
3. Prior to the issuance of a Certificate of Occupancy, the applicant must submit a parking plan showing the required number of parking, loading, and accessible

spaces, and circulation aisles (as applicable). The plan must show how the ADA space will be clearly marked as required by CBJ 49.40.210(e).

4. Prior to issuance of a Certificate of Occupancy a minimum of 777 square feet of live vegetative cover shall be provided, and shown on a site plan reviewed and approved by CDD.
5. Exterior lighting shall not be used in a manner that produces glare on adjacent roads or neighboring property. All exterior lighting fixtures shall be a full cut-off design.

USE2017 0029: A Conditional Use Permit for a marijuana cultivation facility

Applicant: Herb'n Legends

Location: 2771 Sherwood Lane

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the development of 1,200 square foot marijuana cultivation facility in the Industrial zoning district.

The approval is subject to the following conditions:

1. Prior to Certificate of Occupancy for development on Lots 5, 7, 8, and 9 of ANDSOH Subdivision, a bioswale shall be installed between the access and utility easement for Lots 5, 7, 8, and 9 of ANDSOH Subdivision and Pederson Hill/ Casa del Sol Creek; and the applicant shall implement storm water best management practices.
2. All waste containing marijuana product shall be stored in a locked enclosure until transported to the CBJ landfill.
3. Prior to the issuance of a Certificate of Occupancy, the applicant must submit a parking plan showing the required number of parking, loading, and accessible spaces, and circulation aisles (as applicable). The plan must show how the ADA space will be clearly marked as required by CBJ 49.40.210(e).
4. Prior to issuance of a Certificate of Occupancy a minimum of 777 square feet of live vegetative cover shall be provided, and shown on a site plan reviewed and approved by CDD.
5. Exterior lighting shall not be used in a manner that produces glare on adjacent roads or neighboring property. All exterior lighting fixtures shall be a full cut-off design.

CSP2017 0017: A consistency review for purchase of one lot, and the sale of four CBJ owned lots in an Industrial (I) zone.

Applicant: City & Borough of Juneau, Division of Lands & Resources, and Department of Engineering and Public Works (RecycleWorks Program)

Location: 1721 Anka Street (lot purchase), 5436 Commercial Boulevard and 5233 Shaune Drive (lot sale)

Staff Recommendation

Staff recommends that the Planning Commission forward the subject proposal to the Assembly with a recommendation of approval.

CSP2017 0018: Renewal of a lease for an existing communications tower on CBJ land at the West Juneau reservoir site at the end of Jackson Road

Applicant: City & Borough of Juneau

Location: 3000 Jackson Road

Staff Recommendation

Staff recommends that the Planning Commission find CSP2017 0018 consistent with the 2013 Comprehensive Plan and Title 49 and forward a recommendation of approval to the Assembly.

MOTION: *by Mr. LeVine, to accept staff's findings, analysis and recommendations and approve USE2017 0028 and USE2017 0029 with any minor alterations by staff or Commission member, noting Mr. Miller's recusal from those items.*

The motion passed with no objection.

MOTION: *by Mr. LeVine, to accept staff's findings, analysis and recommendations and approve CSP2017 0017 and CSP2017 0018 with any minor alterations by staff or Commission member.*

The motion passed with no objection.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. REGULAR AGENDA

USE2017 0027: A Conditional Use Permit to amend USE2016 0018 to include three additional units.

Applicant: Constellation Development LLC

Location: 4401 Riverside Drive

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use Permit. The permit would allow a modification to the USE2016 0018 by allowing one additional building with 3 units.

The approval of USE2017 0027 includes the conditions below, some of which modify conditions of USE2016 0018:

1. Prior to issuance of a building permit, the applicant shall install a silt fence on the 50-foot streamside setback line along the Mendenhall River. The silt fence shall be removed when construction is complete. (COMPLETE)
2. Prior to issuance of a building permit, the applicant shall submit to Community Development Department (CDD) a plan involving how vegetation will be replanted and maintained to ensure the project meets the minimum vegetative area requirement. (COMPLETE)
3. Prior to issuance of a building permit, the applicant shall submit an approved on-site drainage management plan using Best Management Practices (BMP) to ensure drainage is directed to an approved drainage infrastructure and does not directly enter the Mendenhall River without filtration. (COMPLETE)
4. Prior to issuance of a building permit, the applicant shall submit a design for the parking lot buffers (and if needed, buffering snow storage/ garbage containers) meeting one of the following features:
 - a. Sight-obscuring fence or vegetation from grade (0 feet) up to 6 feet; or
 - b. Sight-obscuring fence or vegetation from grade (0 feet) up to 4 feet and non-sight-obscuring (porous) fence or vegetation up to 6 feet in height.
 (COMPLETE)
5. Parking lot buffers shall be installed according to approved plans prior to issuance of a certificate of occupancy for the final unit. (PENDING COMPLETION)
6. Prior to issuance of a building permit, the applicant shall show any exterior lighting, which must be downward-directed to minimize horizontal glare. (PENDING COMPLETION)
7. Prior to issuance of the final Certificate of Occupancy (CO), all required parking lot striping shall be in place (or wheel stops) which complies with dimensions as per 49.40, Parking and Traffic. (PENDING COMPLETION)

8. Prior to issuance of CO of last dwelling unit, the parking lot buffers meeting Condition No. 4 shall be in place. (PENDING COMPLETION)
9. Prior to issuance of CO of the first dwelling unit, the applicant shall submit the Homeowners Association documents to the CDD that indicate the maintenance of all required vegetation and on-site buffers. (COMPLETE)
10. Prior to issuance of CO of the last dwelling unit, the applicant shall coordinate with CDD staff for a site inspection to verify that the vegetative cover was installed accordingly. If CO is requested during poor planting conditions, the applicant shall submit a bond covering the costs of the remaining vegetation to be planted according to provisions of 49.55.010. (BOND POSTED, PENDING COMPLETION)

Density Bonus Conditions

11. Prior to issuance of a building permit, the applicant shall submit drawings and construction plans showing how the 3 density bonus features will be constructed in compliance with CBJ Land Use and Street standards. (COMPLETE)
12. Prior to issuance of a building permit for all 51 units, the applicant shall submit plans and narrative indicating how all conditions will continue to be met. (NARRATIVE COMPLETE, PLANS COMPLETE FOR UNITS 1-36)
13. Prior to final CO of last dwelling unit, the applicant shall coordinate with CDD staff to ensure the density bonus features as shown on Attachment H are complete. This shall include:
 - a. The applicant to submit to CDD a recorded no-development easement that preserves the land between Mendenhall River and the buildings, matching Attachment H. (PENDING COMPLETION)
 - b. All required public improvements must be completed prior to issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy for the final structure. The required public improvements include: the installation of sidewalk as previously described and the installation of the crosswalk across Riverside Drive to the existing sidewalk along Pinedale Street. (PENDING COMPLETION)

Ms. Liu told the Commission that this Conditional Use Permit request would modify the previously approved Conditional Use Permit which allowed for the development of 48 dwelling units along the north end of Riverside Drive in the Mendenhall Valley. That approval included a density bonus. The applicant is now seeking to add three more units for a total of 51 units by using the previously recommended and approved bonus.

Public comments regarding this Conditional Use Permit request focused primarily on concerns about parking, traffic and snow storage, said Ms. Liu. The proposed building will be very similar in look to the previously constructed buildings, said Ms. Liu. The building will satisfy the D-15 setback requirements of 20 feet for the front, 50 feet for the rear, and five feet to the side yard setback. Bonus points were also earned by providing additional green space between the buildings and the required 50-foot rear setback, said Ms. Liu. The site meets the minimum 30 percent vegetative cover requirement and it maintains 45 percent of the lot for vegetative cover, said Ms. Liu.

The building also meets the 35-foot height standard, said Ms. Liu. A lighting plan has not yet been submitted, but the narrative states that lighting would be recessed under carport roof's and cast down at door entries and stairs, said Ms. Liu. The applicant must show the exterior lighting plans prior to issuance of a building permit, she said.

The parking requirement for the total project is 90 spaces, and the applicant plans and providing 95 parking spaces, said Ms. Liu. The applicant also plans on providing more than the required number of van accessible parking spaces, she said.

The staff finds there will be no noticeable escalation of noise resulting from the 51-unit complex instead of the 48-unit complex, said Ms. Liu. Snow storage will take place between each building, she said. Six-foot-tall wooden fences will be used as site buffers and will also help with noise suppression, said Ms. Liu.

The project preserves habitat by complying with the 50-foot streamside buffer along the Mendenhall River, and provides additional green space adjacent to the 50 foot buffer, said Ms. Liu. The applicant has already posted a \$12,500 bond with CBJ to guarantee that landscaping and required vegetative cover will be completed, she noted.

The proposed total of 51 units is consistent with the medium density residential land use designation outlined in the Comprehensive Plan, said Ms. Liu. Medium Density Residential (MDR) is defined as urban lands for multi-family dwellings with a density of five to 20 units per acre, she said. The planned sidewalk along the west edge of Riverside Drive and the crosswalk at Pinedale Street meet the goals of the Juneau Non-Motorized Transportation Plan which recommends improvements to pedestrian and bicycle rider infrastructure in order for those commuters to have a safe and connected means of travel, said Ms. Liu.

This project does not materially endanger the public health or safety nor does it substantially decrease the value of or be out of harmony with property in the neighboring area, nor is it out of conformity with the Comprehensive Plan or other officially adopted plans, said Ms. Liu. The project meets all the necessary requirements for this development, said Ms. Liu.

The applicant must meet the 10 conditions listed above, with the three additional density bonus conditions, said Ms. Liu.

Commission Comments and Questions

Mr. LeVine asked if the scope of the Commission review is to be limited to the request for the three additional bonus units or if the Commission is to go back to the initial Conditional Use Permit request at the beginning of the process.

Ms. Liu said the scope of the review is to be limited to just the additional building.

Mr. LeVine said if the review is to be limited to just the request for the additional building of three units, why the conditions for the entire project have changed. He said it appears a lot of language has been changed and not just limited to the three additional units.

Ms. Liu said some of the modifications to the conditions include cleaning up the language. She said one notable revision was addressing the crosswalk and sidewalk. The previous conditions stipulated that the sidewalk was to be built to the church driveway, she said. It was reworded to state that the sidewalk was to be built to Pinedale Street, she said, as she felt that was a more objective description. They also removed the condition to construct the pedestrian connection to private property since the applicant and the church decided the connection was not needed.

Mr. Dye asked what changes were made regarding the sidewalk and Riverside Drive.

The only change they recommended was to clarify the language from the church to Pinedale Street, she said. That was a more descriptive location, she said.

Mr. LeVine said he did not understand why there was an extra condition number five.

This condition regarding parking lot buffers was added to ensure an appropriate timeline of completion, said Ms. Liu. It does not add anything except for a deadline for completion, said Ms. Liu.

Mr. LeVine said this did not alleviate his concern that this language is not strictly limited to the three units for which the Conditional Use Permit is sought. It goes to the entirety of the CUP, he stated.

Ms. McKibben said the language was changed in an effort to clean up the language. She said that Mr. LeVine did express a valid concern. A step was missing in the original staff report, said Ms. McKibben. She said the staff should be more mindful in the future but that in this instance the previous buildings have already been constructed.

Mr. LeVine said generally they do not go back and fix Conditional Use Permits once they have already been awarded. He said he is troubled by the notion that this can actually be done.

Mr. Palmer said he felt that Mr. LeVine raised a good point. He said the easy answer is that it is definitely within the jurisdiction of the Commission to evaluate the impacts for the additional three units requested with this Conditional Use Permit. Mr. Palmer said he believed the Commission could modify existing conditions if that modification relates to the proposed new development.

Mr. Dye said the current staff report references the old staff report's recommendation of 51 units. The Commission had recommended 48 units, said Mr. Dye.

Ms. McKibben explained that the motion the Planning Commission made was to approve 48 units, not the 51 units that were evaluated in the original staff report.

Mr. Voelckers said there was some reference in the public testimony that addressed concerns such as site drainage. He asked if it was correct that those concerns should not be addressed if they do not pertain to the current Conditional Use Permit request before the Commission this evening.

Ms. Liu said that is correct.

Mr. Voelckers said it appears that in some of the narrative a continuous fence is referenced, but that the graphic illustrates a gap in the fence exists equal to the width of the building. He said he assumed that the property owners would rather have a continuous fence rather than less privacy offered by a large gap in the fence.

Ms. Liu said that would be a good question for the applicant to answer. She said from the standpoint of the staff, the fence as well as the structure would serve the same purpose of obstructing any noise caused by the circulation of the traffic throughout the site.

Mr. Voelckers clarified that from the staff point of view the two discontinuous pieces of fence met the intent of the visual buffer.

Ms. Liu agreed with the statement of Mr. Voelckers.

Applicant

Mr. Travis Arndt said the previous staff report intended that the approval for the other three units went back to the community development director. He said he was here this evening because the evaluation was now up to the Commission instead of the CDD director. The purpose of the fence is primarily to subdue the noise from the vehicles and from the vehicle headlights, he explained.

Mr. Voelckers asked for an explanation of what the greenbelt along the river would look like.

It will predominantly be seeded with grass, said Mr. Arndt, with the addition of plantings designed and implemented by Glacier Gardens.

Mr. Voelckers asked Mr. Arndt if he had any comments to make on drainage issues.

Mr. Arndt said they are taking several measures to help with drainage on the property. There will be one to two feet of shot rock placed below a six-inch-thick pervious concrete pavement. Water will actually soak through the pavement and into the ground below, he said, instead of running off. Along the church property there is a 16-foot-wide drainage easement, said Mr. Arndt, running down the property line between the condominium property and the church property.

Mr. LeVine asked Mr. Arndt if he had reviewed the conditions on the CUP, and if so, if he had any concerns.

Mr. Arndt said he had no concerns.

Mr. Dye asked where the access easement was located.

Mr. Arndt responded that it is along the fence line.

MOTION: by Mr. Voelckers, to approve USE2017 0027 accepting the staff's findings, analysis, and recommendations with the minor modification that the fence buffer would include a closed fence segment returning to the building as indicated by the applicant.

Mr. LeVine said he is still troubled by the notion that the Commission is changing the language of the conditions. He said he would like to add a finding for the record that the changes to the conditions are either in the nature of ministerial wording and numbering changes that do not affect the substance and that they are intended for clarity or directly affect additional construction which will be undertaken. He said this did not need to be part of the motion but that he wanted it to be a part of the record as a basis for the Commission's decision.

The motion passed with no objection.

AME2017 0017: An ordinance amending the Land Use Code to provide for an additional setback encroachment exception for certain structural energy efficiency improvements to CBJ code 49.25 (Ord. No. 2018-06).

Applicant: City and Borough of Juneau

Location: Borough-wide

Staff Recommendation

Staff recommends that the Planning Commission forward a recommendation for approval to the Assembly.

This is an ordinance amending the land use code to provide for an additional setback encroachment exception for certain structural energy efficiency improvements, said Ms. Boyce. The proposed ordinance would allow exterior insulation to encroach up to six inches into the setbacks without the need for a variance, said Ms. Boyce.

Commission Comments and Questions

Mr. Miller said this is the system that performs the best in Juneau's climate. He said he would like to increase the projection from six inches to eight inches. The reason for this is because it takes four inches of foam on the outside so that the dew point will never be on the inside of the wall, he said. If there is only three inches of foam, said Mr. Miller, the dew point would go inside of the wall somewhere. It will turn into water inside of that wall, he said. And that is the point of insulating an extension, he said. Mr. Miller said about 50 percent of the homes will remain within the six-inch limit. However, said Mr. Miller, metal clad siding would make for a thicker wall. That would limit people to three inches of foam, when in fact four inches would be better.

Mr. Dye asked if this was intended for all structures or just for existing structures.

Ms. Boyce said this ordinance amendment is intended for existing structures.

Mr. LeVine suggested several word changes to the slide Ms. Boyce had upon the wall, and said he agreed with Mr. Miller that the projection should be greater than six inches to help more home owners with no discernable negative effects.

MOTION: *by Mr. LeVine, to accept staff's findings, analysis and recommendations, and approve AME2017 0017 subject to the wording changes proposed by Mr. Voelckers, the correction made to remove the word "except", and the projection maximum from six to eight inches.*

The motion passed with no objection.

Discussing the amendment after the vote, Mr. Dye asked why this amendment applied only to

existing construction and not new construction.

Ms. Boyce said this request comes up commonly with existing home improvements that are already built to the setbacks. For new home construction, those setbacks would already be configured, she said, as part of the design.

Mr. Dye said he felt that during this time of infill development and small lots, that he felt this tool should be available to all construction, not just remodels.

Mr. LeVine said he felt this amendment is for existing construction, and that it addresses a specific problem. If setbacks with new construction were to be addressed, he said it should be dealt with under its own merit for new construction.

Ms. McKibben said the intent of this amendment is for existing homes that are built to their setbacks that want to make energy efficiency improvements. New construction that is being built to a certain standard can plan for that as they plan their building to fit within the existing setbacks, she said. Ms. McKibben said she felt that was a separate topic which has not been addressed by the Commission, whereas this is to help existing homes that are built to their setbacks to add insulation.

Since it would be in the same section of code, Mr. Dye said he did not understand why new construction would not be dealt with at the same time.

Mr. Miller said he agreed that this should be a topic that should be revisited by the Commission.

Mr. Voelckers said he is persuaded that Mr. Dye has raised a critical point.

Mr. LeVine said it makes a lot of sense to encourage "outsulation". He said he was reluctant to make changes to the entire setback regime without a more thorough analysis. He said he felt they should do with what is before them and revisit this issue for new construction as soon as it is feasible.

Mr. Dye said he wanted to propose an amendment to the ordinance just approved by the Commission.

Mr. Palmer suggested that the ordinance state at the end that it applies to new and existing development.

Mr. LeVine said he felt before the Commission made any decisions about new construction that an analysis was required concerning existing and proposed setbacks for new construction. He said he felt this was a good idea, but that he was not comfortable taking action on this issue

with the current lack of analysis.

Mr. Dye said he did not see how further analysis would be any more helpful in indicating that additional insulation would be beneficial for new home construction.

Mr. LeVine said they currently have five-foot side yard setbacks and that if they are going to allow new construction to be built a foot into those setbacks, then they may vote to change the five-foot side yard setbacks to a larger number.

Mr. Steedle reminded the Commission that they had already voted on this issue. If they wish to rescind that vote, it would take six votes to rescind that vote before taking the issue up again. He said he thinks that Mr. LeVine is on the right path, and that the topic they are really discussing is setbacks. That could be addressed in the setback code, said Mr. Steedle. Mr. Dye said he did not disagree with Mr. Steedle. He said it seemed to him that setbacks as a whole should be considered and not just with remodel construction.

Mr. LeVine said he had this very problem with his own home and that the action taken by the Commission tonight if approved by the Assembly would have exactly addressed that problem.

Mr. Voelckers said they have already voted on this issue and that perhaps within the next few meetings the staff could come back with analysis of this nature for new construction.

Mr. Miller said the Commission has voted on the current amendment and they should let that stand. He said this ordinance amendment addresses most of the problems that people come up with when trying to remodel their homes. This especially pertains to the Juneau town and Douglas town areas, he said. He suggested that the remaining part of this issue be hashed out at a Title 49 meeting, brought back before the Commission, and then add the sentence suggested by Mr. Palmer.

IX. Unfinished Business

AME2016 0002: A text amendment to CBJ code 49.20 regarding variances

This ordinance has been updated resulting from the last time it was before the Commission on December 12, (2017), said Ms. Boyce. It was also subsequently discussed at a Title 49 meeting, on December 20, (2017), said Ms. Boyce. The purpose of this ordinance is to:

- ✓ Provide clarity regarding what is and what is not variable
- ✓ Remove the preliminary threshold requirement
- ✓ Require the posting of a public notice sign for those variances requiring a public hearing
- ✓ Amend the variance criteria to reduce subjectivity
- ✓ Amend the De Minimis/Administrative variance

Mr. LeVine wanted to clarify that this amendment changes nothing about the substance but the process regarding variances. A hardship is still required, but it is wrapped into another condition, he said.

Ms. Boyce said the way the code currently reads the lead up to the variance criteria talks about there being a hardship. However, there is no criterion that actually does that analysis, she said. They have removed the hardship requirement and instead included it in the criteria so there is actually a hardship analysis, she said.

Mr. Miller said at the last meeting Mr. LeVine and himself voiced concerns that they are ratcheting down the places where variances can be used so that property owners can have a means to receive justice. The intent is to avoid the usage of variances for all the zoning issues or other ordinances that need to be fixed, said Mr. Miller. There are likely to be property owners who have issues that are not addressed by current ordinances, said Mr. Miller. For them to receive justice within the system of tightened variances, they thought of adding a sixth item to be addressed, he said. This would aide someone in an unusual situation who was not covered by the five items mentioned.

Mr. Dye said he requested at the last meeting a graphic of what has not been fixed yet in the code, and what is in the process of being fixed, and how that related to the percentage of past variances. He asked if that information is now available.

Ms. Boyce said she has a list of the code amendments currently in process, as well as another graphic which breaks up all of the variances into type. Since 1987, 50 percent of all variances deal with setbacks, said Ms. Boyce.

They have made amendments to the code with the 2015 subdivision related amendments, said Ms. Boyce. They have made a number of access-related changes, and part of it was privately maintained access roads and public rights-of-way, said Ms. Boyce. They have also approved the shared access amendment which also provides another small subdivision option that has access and frontage related aspects to it, she said. They have also just amended the panhandle ordinance, she said, which improves access to two-lot subdivisions, she said. Those were the majority of the access-related variances they have seen, she said.

Mr. Miller said the old ordinances were for all zoning districts. The new ordinances are just residential areas, he said. There still remain big holes within the ordinances, said Mr. Miller.

Ms. Boyce said the panhandle ordinance applies to all two-lot subdivisions. She said it is not just restricted to residential zones. Shared access was restricted to residential zones, she said.

Mr. LeVine said he shares Mr. Miller's concern. He said the question is how to implement these

new variance standards to ensure there is equity for all parties. He asked if the procedure would be to allow people to apply for variances using the old criteria if the underlying code has not been updated.

Mr. Voelckers said he agreed with Mr. LeVine's strategic suggestion because he felt they all have a gut feeling that every possible situation has not been covered regarding variances.

Mr. Palmer said the criteria that are listed in Attachment A are probably where the bulk of the discussion can be focused. He offered a revision to the language of the ordinance in Attachment A. Defining what a design and what a dimensional standard is has been very difficult, said Mr. Palmer. The intent for the current draft in Attachment A was to flip that around and state that only building setbacks, lot width, lot depth and building height can be varied, he said. They could use language that stated that in effect anything within Title 49 can be varied. Then the focus would be on the criteria; specifically, the last criterion which is criterion five, identifying what elements can and cannot be varied, aid Mr. Palmer. It could be amended to say that, "A variance is required to vary a requirement of this title." It would then enable the Commission to focus on the specific conditions, said Mr. Palmer.

Mr. LeVine asked the staff why they did not proceed with this direction outlined by Mr. Palmer in the first place.

The variance as it has been used has become a waiver tool and a design modification tool, said Ms. Boyce. They are trying to rein it in so that it can be used as it has meant to be used, she added. They will come up with something else to be used for waivers and design modifications, she said. They are also trying to make the line more distinct between someone needing a variance and someone wanting a variance, said Ms. Boyce.

There are a few items which were varied which should not have been varied, said Ms. Boyce, such as density and lot coverage.

Ms. McKibben said the code already stipulates that variances are not to be used for use or density. If that were to be allowed then there would need to be a significant amount of analysis to back that up, she said.

Mr. Voelckers said he thought this move to clean up the variance process was not so much that it would be more lenient but that the City Attorney's office was worried that the Commission could move into an area which would not be defensible at the Supreme Court level because it violates the basic premise of a variance, which was a unique physical hardship due to the property, said Mr. Voelckers.

Chairman Haight said if they left the introductory language as it currently stands, how much reduction in the number of variances would they see just due to the fact that they have

changed the other standards.

Mr. Steedle said he thought that was a very difficult question to answer. It becomes incumbent upon the staff and the Board of Adjustment to apply the criteria rigorously, he said. Mr. Steedle said he thinks that is where they have failed over the years, because it is very difficult to say “no” to an applicant. The thrust of this was to make it easy to say “no”, said Mr. Steedle. It becomes a question of how much discipline they think the Board of Adjustment needs, he said.

Mr. Voelckers said he would like to see definitive language that was strongly directed but at the same time left some leeway for the decision-makers for addressing dimensional standards, lot size, etc.

Mr. Palmer said he would definitely like to work to figure out some way to satisfy the intent. He said to him this seemed like an issue which could be better addressed through a Committee of the Whole or Title 49 meeting. He said he was a little hesitant at this time to propose specific language to try to address this issue.

Chairman Haight asked the Commission if it had any issue with the criteria.

Mr. LeVine said the way the criteria were explained in the staff report is confusing to him. He said he felt it would be better to simply use the language cited in the Supreme Court opinion. He said he felt just restating the rule would create confusion.

Mr. Voelckers said he had a similar issue with language on page 7 of the proposed ordinance; “The grant of the variance is reasonably tailored to relieve the hardship.” And yet the first sentence in the staff analysis of this criterion uses the language, “... is the minimum needed to provide relief”. He said he is wary of using the term “minimum needed” as it is not definitive.

Mr. LeVine agreed, stating he would also change the phrase “reasonably tailored” to “narrowly tailored.” He also noted that criteria and criterion do not analyze things. That sentence should have a different noun in it, he said.

Under 49.20.240 - *Board of Adjustment Action*, Mr. Voelckers said he felt the statement “The board of adjustment shall hear all variance requests except administrative variances” should have “and appeals of denied” be inserted before “administrative variances”.

Mr. Dye suggested that it should state who the director’s decision would be appealed to, under 49.20.240 (2). (“An administrative variance decision of the director may be appealed if a notice of appeal is filed within 20 days of the director filing a notice of decision with the municipal clerk.”)

Mr. Palmer said he felt both of those concerns with the code were addressed in the portion of

the code which states that the decision of the director may be appealed to the Planning Commission.

Criterion five states: "The grant of the variance does not result in a smaller lot size, a greater density, or greater lot coverage than allowed for the zone district." What about, for example, a small, legally nonconforming lot, said Mr. Voelckers.

Ms. Boyce said for substandard lots that already exist there are a number of setback reductions that can apply. There is a formula that can be applied to address those smaller, nonconforming lots, she said.

Ms. McKibben added that there can be a reduced front yard setback when the setbacks of the three adjacent properties are averaged. The only question that is not answered pertains to density, she said. If there was an existing building with nonconforming density it would probably be able to continue. The nonconforming code draft separates the nonconforming situations so that lots, setbacks, density and use are addressed separately, said Ms. McKibben.

Mr. LeVine said he concurred with the idea that more time should be spent thinking about the ordinance. There are several ideas that might at least be worth thinking about, said Mr. LeVine. One idea is to address the time in which the code has been updated, he said. There are provisions of the code which have not been updated, he said. He asked if there would be a way to connect the applicability of the variance requirement to the time in which the code has been updated. For example, said Mr. LeVine, variances would be inapplicable to code which has been updated within a specified period of time. The variances would be applicable until a waiver is developed within a certain period of time. That would not be to hardship, he said.

Mr. Dye said the process is so fluid that he would be concerned about cementing a time frame to it.

On page 219 of the staff report, said Mr. Miller, it is already outlined what the desired outcome is going to be. What they don't have is what to implement in terms of flexibility until the desired outcome is reached, he said. It would be helpful to have a paragraph or two in the staff report which would assist future commissions.

Chairman Haight said this item can come back to the Planning Commission for another review at its February 13, (2018) meeting.

IX. BOARD OF ADJUSTMENT - None

X. OTHER BUSINESS

Adoption of Revised Planning Commission Rules of Order

Mr. LeVine said he appreciates all the work which has gone into the rules of order before them. He asked if it needs to be clarified anywhere that this applies to the Board of Adjustment as well as the Planning Commission. He asked why there is a separate provision addressing reconsideration. He stated that it would most probably be dealt with according to *Robert's Rules of Order*.

Mr. Palmer said the reconsideration provisions that are included are different than the default rules under *Robert's Rules of Order*.

Mr. Miller asked what a privileged motion was.

Mr. Palmer said a privileged motion allowed whoever makes that motion to interrupt the speaker and to interrupt the process that is going on.

Mr. Dye asked why reconsideration did not require a supermajority vote.

Mr. Palmer said that is a discretionary question which the Commission can decide upon.

The section under "Late Written Material" may place the Chair of the Planning Commission in an awkward spot, said Mr. Voelckers, since it would be up to the chair to decide if it was accepted or not.

Chairman Haight said he liked the fact that this section did not absolutely limit the submission of the material to two pages, but that there was discretion to allow additional material.

Mr. Steedle said he concurred with the remarks of Chairman Haight. They do not want to tie the Chair's hands, said Mr. Steedle.

Mr. LeVine asked if the Commission can by vote overrule any decision the Chair makes. He said he did not see that outlined in the rules.

Mr. Voelckers said the rule is very carefully laid out about the amount of material which may be received, and when, and then at the same time an easy "out" is provided. He said he felt that could potentially put the Chair in an awkward position.

Mr. LeVine suggested they strike the sentence and let the Commission vote to suspend the rules if that is what it wanted to accomplish. If they strike the sentence "The Chair may reject..." they have the ability to accept that material if the Commission determines it is appropriate to submit, he stated.

The Commission concurred that the initial sentence regarding the chair rejecting the submission of material be struck.

These rules do also apply to the Board of Adjustment, said Mr. Palmer, in answer to Mr. LeVine's question.

Once approved by the Commission these rules will go to the Clerk, said Mr. Steedle, in answer to a question by Mr. Voelckers.

Mr. Palmer said that Rule 10 F. is a motion to rescind. If the Commission passes a motion and then immediately moves to rescind it, six votes would be necessary. The Commission could also make a notice of reconsideration if it takes place at the same meeting. Then a vote of six is required, he said. If the body wanted to require a rule of six votes at a subsequent meeting then that would need to be added to Rule 10, said Mr. Palmer.

Mr. LeVine clarified that the reason that 10 G exists right now is to prevent the Planning Commission from using a procedural mechanism to get around the requirement for a vote of six for rescission.

A policy reason for this is to give the Commission time to think about the item some more and another policy reason is to make sure that members of the community that were there to testify would have the opportunity to come back and attend a subsequent meeting, he said.

Mr. Miller said he would like to speak in favor of only requiring five votes. He said personally after having time to consider an issue his decision-making capabilities were much better. A notice of reconsideration may just be someone needing extra time to consider an issue. He said he felt the Commission should respect each other and honor another Commission member's need to reconsider an issue.

Mr. Voelckers agreed with Mr. Miller, saying he liked the slightly softer burden to at least provide the potential to reconsider an issue.

Mr. Dye said he liked the higher number required for reconsideration because it put more emphasis on the Commission getting information right the first time. Mr. Dye said he did not want it made too easy for Commission members to reconsider an item.

The permit process is a long, drawn-out process as it is. People are waiting for decisions to be made, and they should be made in the most time effective way possible, said Mr. Hickok.

Chairman Haight said he has noted that often a motion for reconsideration comes after a motion has been denied. The fact that they have probably denied an application and that someone has subsequently made a motion for reconsideration gives that applicant one more chance to have their issue voted upon by the Commission. He said he really does favor the softer approach on reconsideration.

Mr. LeVine said he would like the public to be given as much opportunity as possible and therefore would like to stick with the five votes being required for reconsideration.

Chairman Haight said when the motion of reconsideration comes up there is the opportunity to either allow or not allow additional public testimony.

Mr. Palmer said the rule is currently clear that on the motion of reconsideration there is no public testimony.

Chairman Haight said periodically a member of the public will want to testify again. This has never been allowed, he said. However, he noted, he is not finding that in the rules. He asked if there is actually a rule limiting public testimony to one opportunity per individual.

Mr. Steedle said he does not find that in these rules.

Mr. Voelckers said he felt it would be a good idea to stipulate that in the rules.

Mr. Palmer suggested that under Public Participation that it state that a person wishing to testify be given "one" opportunity instead of "an" opportunity.

The Commission concurred on the change from "an" to "one" opportunity.

Mr. Miller pointed out that under reconsideration it stipulates that the motion for reconsideration is debatable to the same extent as the underlying motion.

Mr. Palmer said that sentence had been placed under Reconsideration to clarify that it may be discussed under that circumstance.

MOTION: *by Mr. LeVine, that the Planning Commission adopt the revised Rules and Guidelines subject to two small edits which is to change the word under Section E1 from "an" opportunity to "one" opportunity under Public Participation, and to strike the sentence in 3c beginning with "may" and ending with "written material".*

The motion passed with no objection.

Answering a question by Mr. Voelckers, Mr. Palmer said that these rules do not need to go to the Assembly for approval.

X. DIRECTOR'S REPORT

Mr. Steedle said the Assembly will be meeting at a special meeting on January 30, (2018) to select three commissioners. Two of the sitting commissioners have reapplied, said Mr. Steedle. The February 13, (2018) Planning Commission meeting will be the first time the new Commission meets, he said. Mr. Steedle said he would like to have a Committee of the Whole meeting directly before the February 13, (2018) meeting for the yearly Commission training. The Commission will be able to consider the variance amendment on February 27, said Mr.

Steedle. There is a joint meeting scheduled with the Assembly for February 5, (2018), said Mr. Steedle. That meeting is currently scheduled for noon, he said. Mr. Steedle said he has tendered his resignation, and that sometime within the next few months he will be departing.

XI. REPORT OF REGULAR AND SPECIAL COMMITTEES

Mining Subcommittee

At the last meeting they defined the direction of the agenda over the next several meetings, said Chairman Haight. They will get a report from Jim Clark regarding his proposed changes to the mining ordinance at this Thursday's meeting, he said. These meetings occur every Thursday at 5:30 p.m., said Chairman Haight.

XII. PLANNING COMMISSION COMMENTS AND QUESTIONS

XIII. ADJOURNMENT

The meeting was adjourned at 10:00 p.m.



**Law Department
City & Borough of Juneau**

MEMORANDUM

DATE: February 7, 2018
 TO: Planning Commission
 FROM: Robert H. Palmer III, Assistant Municipal Attorney
 SUBJECT: Draft Ordinance 2018-04, Variances

This memorandum provides context and language options to resolve the Planning Commission's concerns regarding the scope of variances in draft ordinance 2018-04.

What is a variance?

A variance gives permission for a person to violate the law (Title 49).

Unlike a conditional use permit that allows a use that is expressly permitted, a variance allows a development that is expressly prohibited. Because a variance is permission to violate Title 49 and because the provisions of Title 49 are the "minimum required in the interest of public health, safety and general welfare," the variance requirements are rigorous and only warranted in very limited circumstances. The touchstone concept requires some regulatory hardship that arises from the physical conditions of the land that distinguishes it from other land in the general area. Such a hardship is required to ensure the variance is not arbitrarily granted and the grant of the variance does not erode the rational basis for the Title 49 regulation in dispute. As the Alaska Supreme Court said, "where the ordinance equally affects all property in the same zoning classification, relief from the general conditions of the governing law properly must come from the assembly through an amendment to the zoning code." *City and Borough of Juneau v. Thibodeau*, 595 P.2d 626, 636 (Alaska 1979). Thus, the variance is a pressure relief valve to preserve the constitutionality of Title 49.

What is the purpose for this variance amendment?

I understand the purpose of this variance amendment (Ord. 2018-04) is (1) to clarify the scope of variances, (2) to clarify and simplify the standards for evaluating variances, and (3) to sever the Board of Adjustment from its past variance decisions. Ordinance 2018-04 accomplishes those purposes.

Amending 49.20.200, scope of regular variances.

The Planning Commission reviewed Ord. 2018-04 version PC4 on January 23, 2018. That version clarifies the scope and criteria for administrative and regular variances. Commissioners appeared satisfied with the administrative variance amendments and the criteria for the regular

variance amendments. However, many Commissioners expressed hesitation with the scope of the regular variance in 49.20.200 (Option #1, below), which had been narrowed to just building setbacks, lot width, lot depth, building height, habitat and canopies. The intent was always to allow variances to the first four criteria, but habitat and canopies were added to the scope at the prior meeting to address concerns that those code provisions could also present an unreasonable regulatory hardship until they are amended.

The thrust of Commissioner's hesitation was discomfort with limiting 49.20.200 to just six items, which may inadvertently omit other Title 49 provisions that could present other unreasonable regulatory hardships. That concern warrants substantial merit and would require steadfast discipline when applying the variance criteria in every case to avoid transforming the variance from a tool that preserves the constitutionality of Title 49 to a tool that provides for flexible development. If the Planning Commission believes other Title 49 provisions need to be more flexible (i.e. waivers, mitigations, exceptions), then those strict provisions need to be amended instead of the variance provision. Staff has prepared a detailed memorandum explaining the flexibility that the CBJ recently provided in Title 49 to minimize reliance on the use of variances. However, if the Planning Commission still believes that 49.20.200 should be amended to accommodate inadvertent omissions, then Option #2 may relieve the current hesitation:

49.20.200 Option 1: Variances limited to six items.

A variance is required to and can only vary the following (a) dimensional standards of this title: building setbacks, lot width, lot depth, and building height dimensions or designs standards of this title; and (b) standards directly related to habitat and canopies. Applications for prohibited variances shall not be accepted for filing or shall be rejected by the director.

49.20.200 Option 2: Variance allowed except to five items.

Pursuant to this article, a variance may be granted to provide an applicant relief from the requirements of this title. A variance is prohibited from varying any requirement or regulation of this title concerning the use of land or structures, housing density, lot area, requirements in chapter 49.65, or requirements in chapter 49.35. Applications for prohibited variances shall not be accepted for filing or shall be rejected by the director. A variance is require to vary dimensions or designs standards of this title.



City and Borough of Juneau
City & Borough Manager's Office
155 South Seward Street
Juneau, Alaska 99801
Telephone: 586-5240 | Facsimile: 586-5385

DATE: April 30, 2018
TO: Jerry Nankervis, Chair, Assembly Committee of the Whole
FROM: Mila Cosgrove, Deputy City Manager
RE: JPD Recruitment and Retention Presentation

Background:

As a result of a Public Safety Taskforce recommendation, the Juneau Police Department and the Human Resource and Risk Management Department took an in-depth look at Sworn Officer recruitment and retention issues. The attached PowerPoint presentation and back up materials summarize this research and provide a brief overview of department challenges.

Sworn Officer recruitment and retention challenges are not unique to our community. Most police departments in the country are struggling with similar issues. Root causes of this national problem include: an aging workforce (retirements), an increase in the number of safety and security types of positions post 911 (more competition), and the trend of increased mobility of the millennial generation (less "traditional" workforce).

Ed Mercer, Chief of Police, David Campbell, Deputy Police Chief and Dallas Hargrave, Human Resource & Risk Management Director, will walk the Assembly through the PowerPoint presentation at the Committee of the Whole meeting. The slides are detailed, but the presentation should move quickly. The final slide represents the departments' recommendations which are listed in priority order.

JUNEAU POLICE DEPARTMENT RECRUITMENT AND RETENTION



Report to the
City and Borough Assembly
Committee of the Whole
April 30, 2018



Why are we here?

Staffing

- ❑ JPD has 55 police officer positions allocated
- ❑ 8 of those positions are currently vacant
 - ▣ Vacancy Factor of 14.5%
- ❑ 4 positions are filled with officers in training
 - ▣ Operational Vacancy Factor 21.8%



Why are we here?

Crime

- ❑ Part I UCR crimes have increased
 - ▣ 39.6% in 2015
 - ▣ 24.5% in 2016
 - ▣ 6.1% in 2017
- ❑ Opioid Crisis
- ❑ Alaska Justice Reform
- ❑ Increased workload for officers



Why are we here?

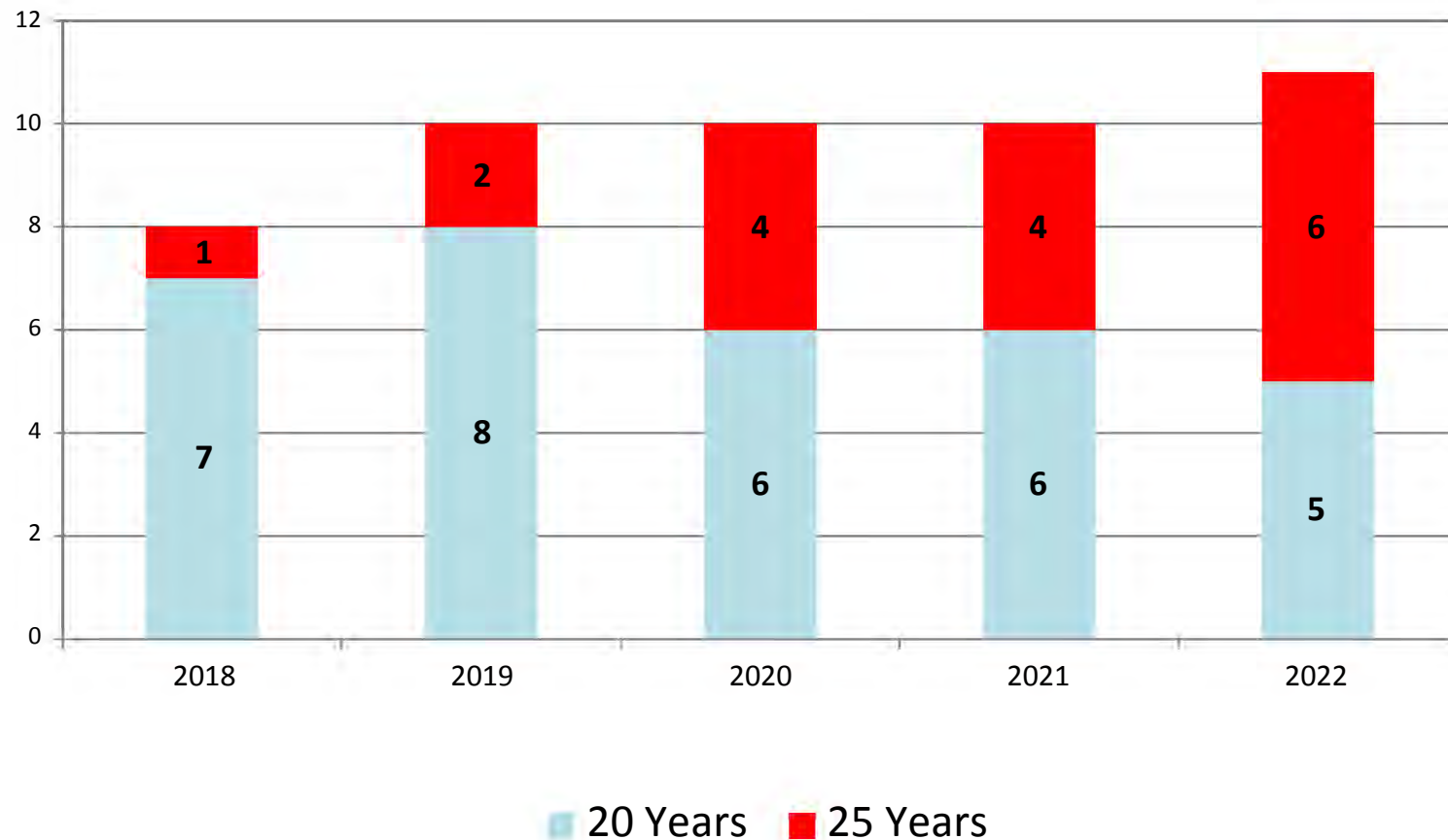
Workforce Demographics

- ❑ **Millennials**—Born between 1982 and 2000
- ❑ Largest generation in the workforce
- ❑ More likely to not only change jobs, but also more likely to change careers
- ❑ Value purpose and continuous feedback
- ❑ More open to technology



Why are we here?

Officer Retirement Eligibility





The Problem



RETENTION RECRUITMENT





Recruitment Background Information

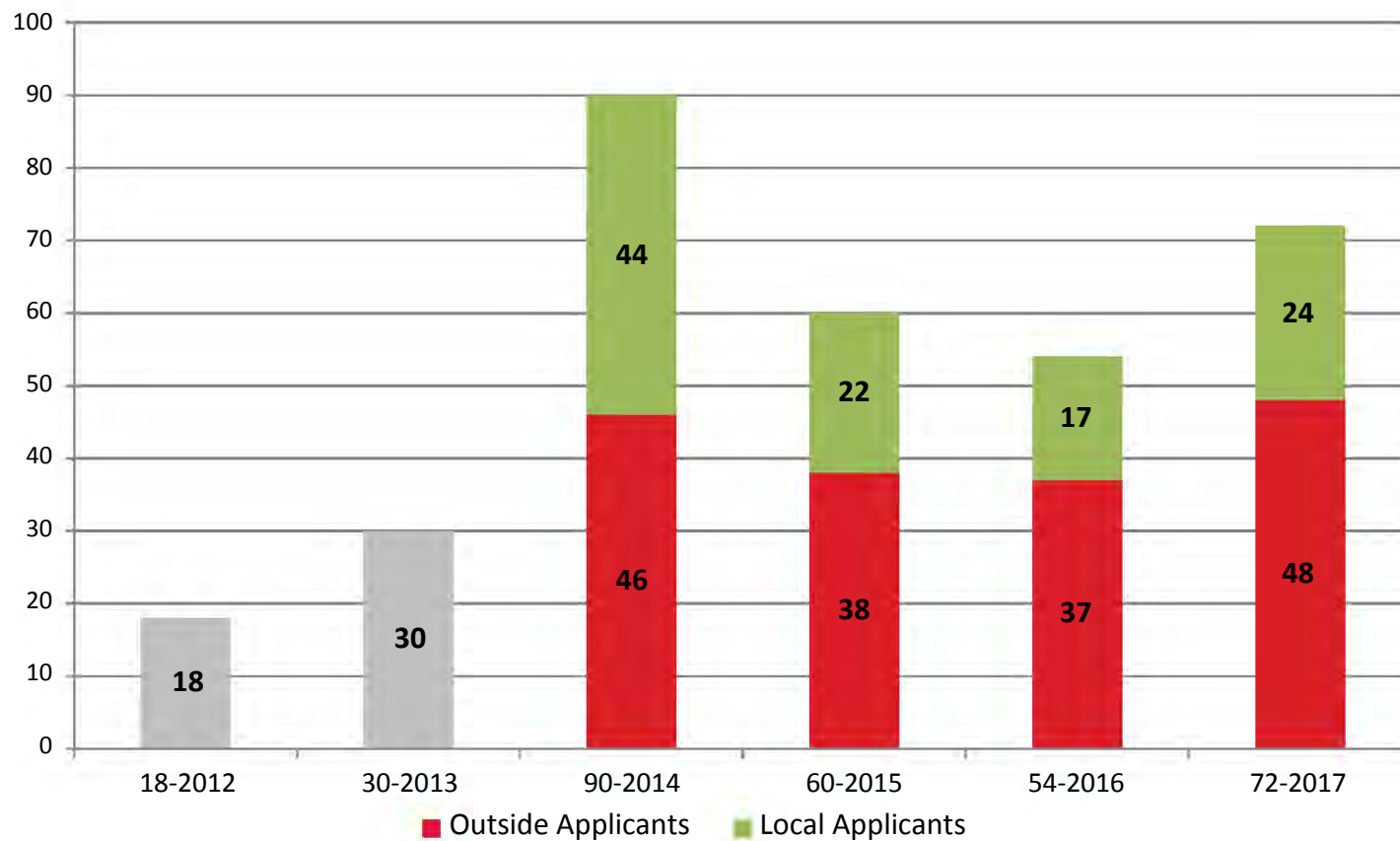
2013-2014

- ❑ 13 Police Officer Vacancies
- ❑ Advertising Campaign
 - ▣ Police-related websites
 - ▣ National magazines
 - ▣ Local movie theater and radio
 - ▣ Started to promote JPD on Facebook in 2014
- ❑ By 2016, we were down to 3 vacancies



Recruitment Background Information

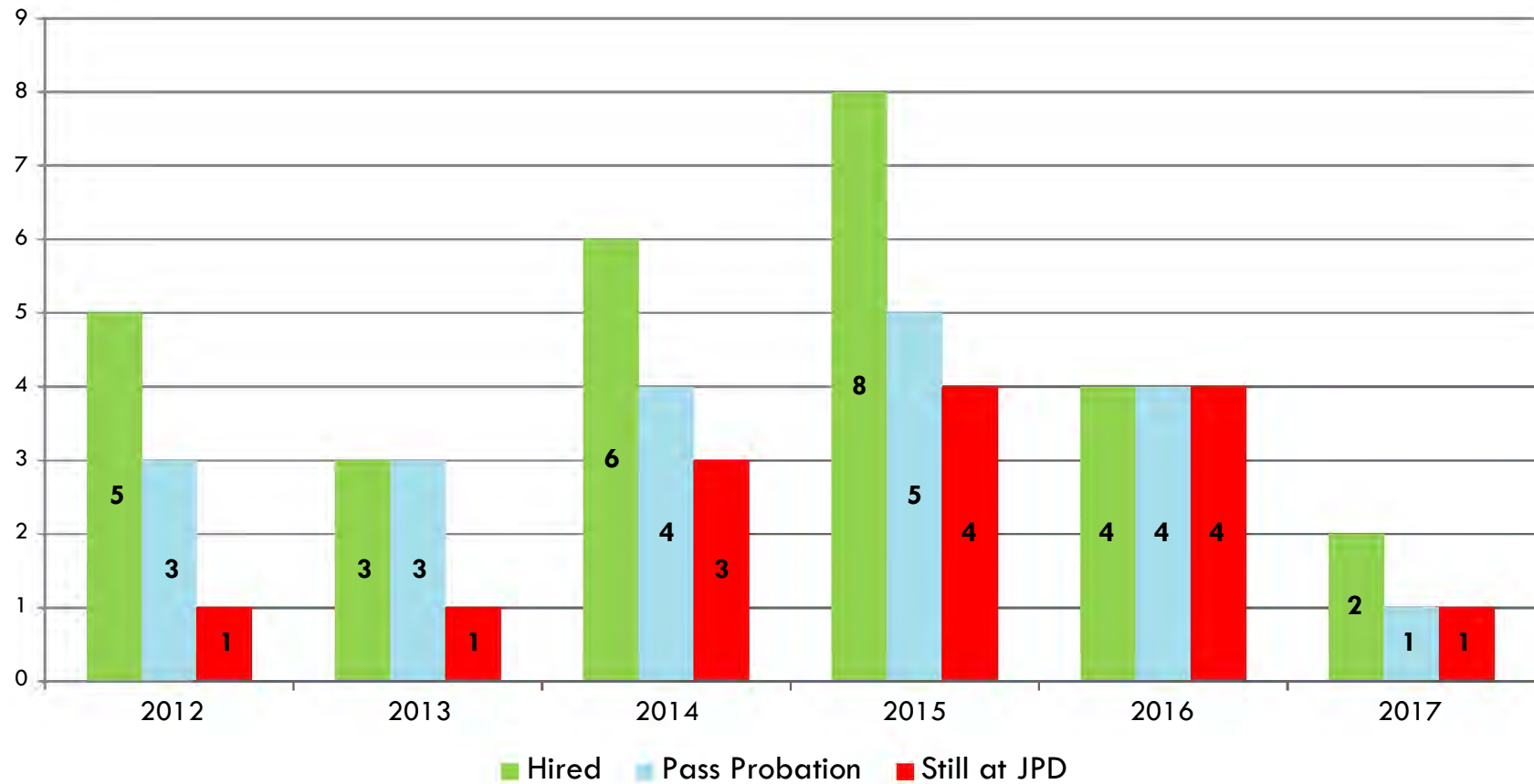
Advertising Campaign Successfully Increases Applicants





Recruitment Background Information

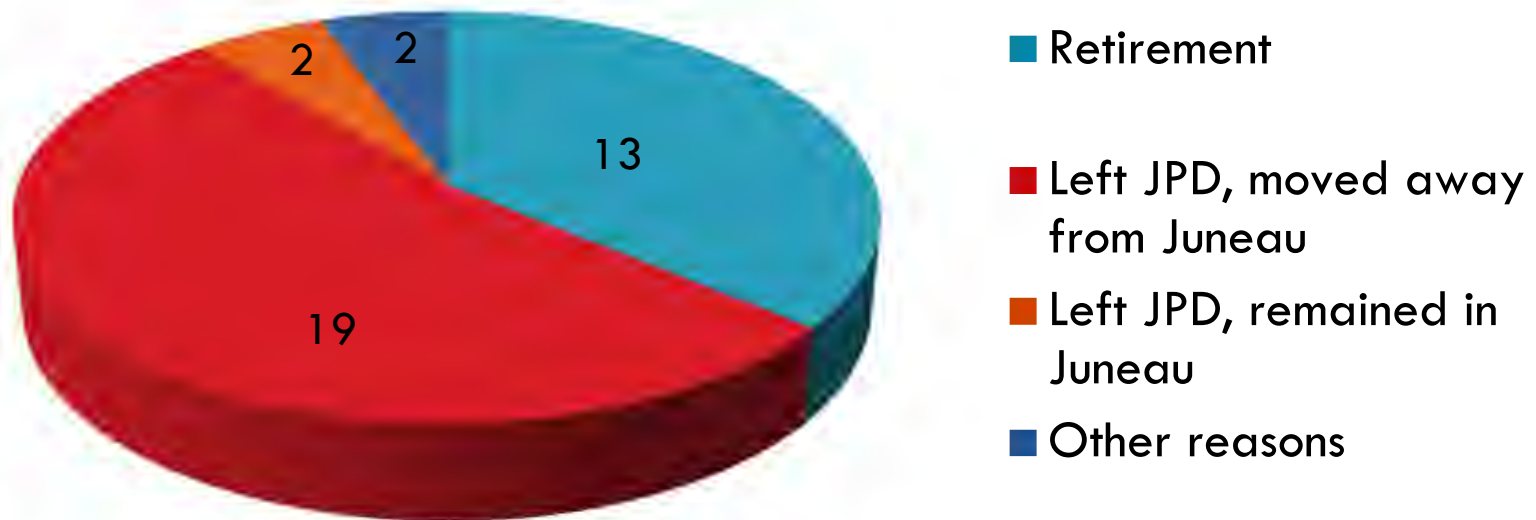
Hired Officers Completing Training and Remaining at JPD





Retention Background Information

Over the last 10 years, why are Officers leaving?





Retention Background Information

- ❑ Of the 19 Officers who left JPD and moved away from Juneau:
 - ▣ Average of 4 years of service
 - ▣ 17 of the 19 received all police training from JPD
- ❑ In the last 10 years, 4 Officers have returned to JPD
- ❑ Exit interviews indicate primary reason for leaving was to live closer to family down south
- ❑ Financial considerations such as wages or cost of living may also have been a factor for some



Retention Background Information

**Total Estimated Cost of Recruiting and
Training One New Police Officer
\$130,000**





Recruitment and Retention Goals

1. **Recruit Locally:** Focus recruitment efforts on recruiting those with a connection to Juneau or Southeast Alaska
2. **Recruit Experienced Officers:** Increase opportunities for lateral transfers
3. **Improve Retention Factors:** Motivate workforce to remain employed at JPD



Goal 1. Recruit Locally

- ❑ Officers with a connection, such as family or a previous or current domicile, to Juneau or Southeast Alaska are less likely to move away
- ❑ Understanding of community demographics
- ❑ Connection to the community outside of work already exists
- ❑ Police force that is more likely to be a reflection of the community
- ❑ This focus on recruiting is likely to impact retention



Goal 2. Recruit Experienced Officers

- ❑ Lateral transfers come in with experience and require less time training, resulting in
 - ▣ Significant reduction in onboarding costs and time savings
- ❑ Our wages compare well with most communities in Alaska, which may provide incentive for someone who wants to move or continue to live in Alaska to move to Juneau



Goal 3. Improve Retention Factors

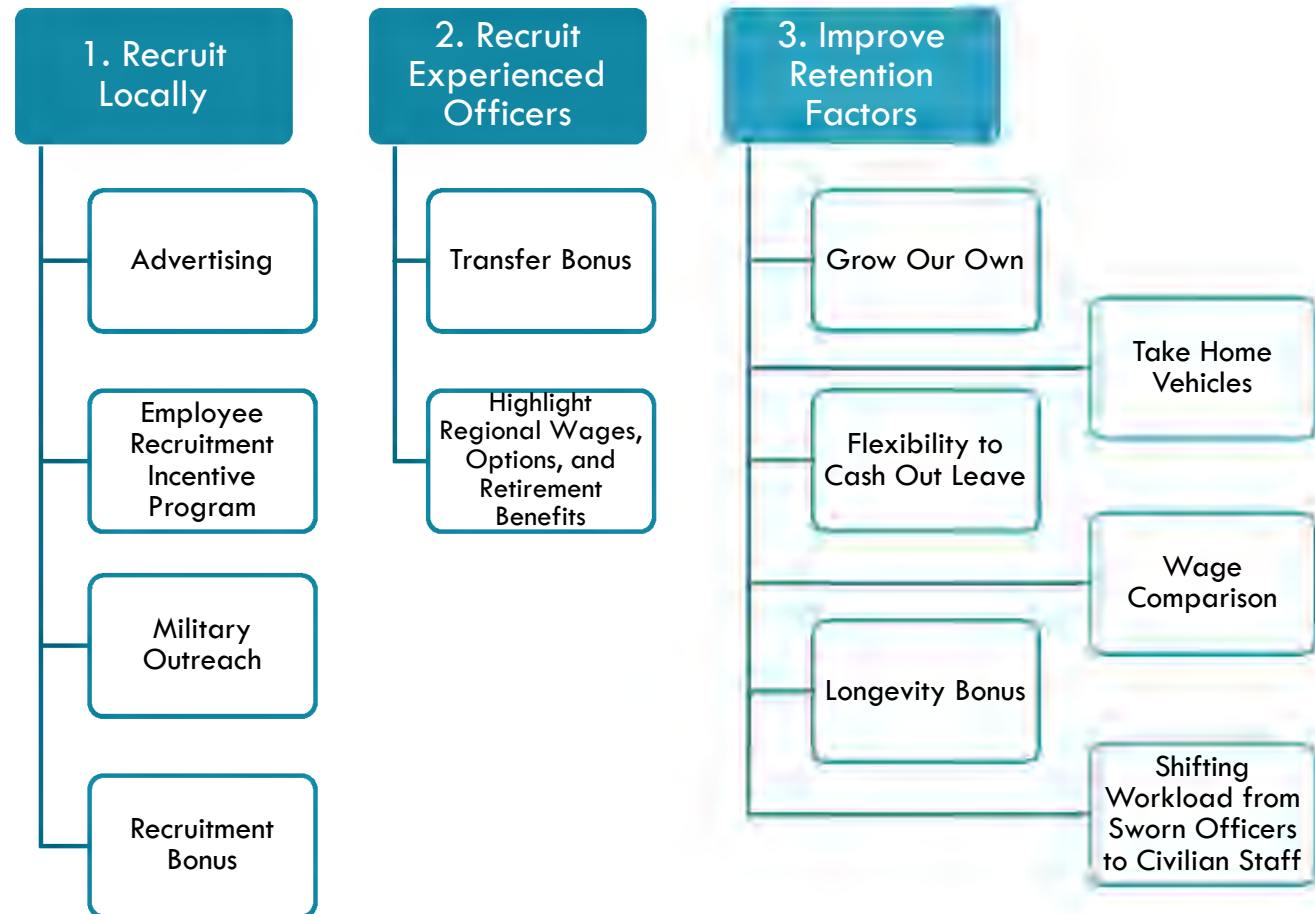
- ❑ With the current rate of crime, existing vacancies, and changing criminal justice system in Alaska, employees have expressed frustration
- ❑ Employee-friendly workplace policies and incentives will help combat a “grass is always greener” at another police department perception
- ❑ JPD may not be able to compete with the wages of larger police forces, but morale, a sense of belonging and *esprit de corps* are all factors that can affect an employee’s decision to remain with the organization



Issues Not Addressed

- ❑ The following recommendations include actionable items that are aimed at initiatives that are within our control
- ❑ Items outside of our control that will not be addressed, include:
 - ❑ Juneau's cost of living
 - ❑ PERS Tier 4
 - ❑ Weather
 - ❑ Etc.

Recruitment and Retention Initiatives to Support Goals





Advertising

- ❑ A local advertising campaign has demonstrated to be effective in the past
- ❑ Recruitment brochures
- ❑ Recruitment videos
- ❑ Increased use of social media
- ❑ Increased use of non-traditional advertising
- ❑ Website updates



Employee Recruitment Incentive

- ❑ Incentive program for all CBJ employees to be involved in recruiting individuals into critical positions at JPD
- ❑ When a current eligible employee is identified by an applicant and the applicant is successfully hired, an employee referral incentive of \$2000 will be paid to the referring employee in the following manner:
 - ▣ 50% (\$1000) in the pay period following the recruited employee completing his or her probationary period
 - ▣ 50% (\$1000) in the pay period following the recruited employee completing his or her second anniversary date



Military Outreach

- ❑ The Partnership for Youth Success (PaYS) Program is a partnership between the U.S. Army and a cross section of private companies and public sector agencies
- ❑ Facilitates placing veterans with employers and helps with initial entry level training and education
- ❑ JPD is currently working towards becoming a PaYS partner agency
- ❑ With military presence in Alaska, this is an opportunity to focus on recruiting those who want to remain in Alaska



Recruitment Sign-on Bonus

- ❑ Lump Sum Bonus of \$2000 that would be paid to entry level officers who begin JPD in the following manner:
 - ▣ 50% (\$1000) when the officer begins in his or her position
 - ▣ 50% (\$1000) when the officer completes probation
- ❑ An agreement would be signed so that the employee would repay the lump sum bonus at a prorated amount if they leave employment within 4 years.



Lateral Transfer Bonus

- ❑ Lump Sum Bonus of \$5000 that would be paid to those willing to transfer to JPD in the following manner:
 - ▣ 50% (\$2500) when the transfer officer begins in his or her position
 - ▣ 50% (\$2500) when the transfer officer completes probation
- ❑ An agreement would be signed so that the employee would repay the lump sum bonus at a prorated amount if they leave employment within 4 years.



Highlight Wages, Career Options, and Retirement for Lateral Officers

- ❑ In Southeast Alaska, JPD offers the highest police officer wage
- ❑ JPD has more career options than other Southeast Alaska agencies, that include a wide range of ancillary duties, lateral work assignments, and promotions
- ❑ JPD officer's retirement include both PERS and Social Security, as well as a voluntary deferred compensation (457) plan
 - ▣ Anchorage Police and Fairbanks Police do not receive either Social Security or SBS.



Grow Your Own

❑ Individual Development Plans

- ▣ JPD is working to establish a mentoring program where officers can be more involved in their career development

❑ Leadership Training

- ▣ JPD is increasing Leadership Training to help staff acquire skills to be more effective leaders

❑ Other Training Options

- ▣ Overall training is increasing to keep JPD current on best practices and provide officer development



Take Home Vehicles

- ❑ Patrol fleet operations are currently handled by either a system where officers share cars or are assigned cars
- ❑ Fleet cars tend to accumulate miles quickly resulting in a faster turnover, and are often less cared for
- ❑ Assigned take home cars last longer and have the added benefit of being more visible throughout the CBJ
- ❑ JPD officers have asked repeatedly for take home cars and view it as a perk that would help retain officers while concurrently impacting safety in the community
- ❑ The initial cost could be mitigated by establishing a program where patrol officers are issued take home cars based on rank, specialty assignment, and longevity
- ❑ This is an expensive program, so we recommend implementation over a period of years



Increased Flexibility to Cash Out Leave

- ❑ One recommendation from staff included more flexibility in cashing out annual leave
- ❑ This initiative would not increase leave accrual rates, but would allow staff the flexibility to cash out more leave more frequently
- ❑ Changing Annual Leave cash out are subject to union contract negotiations

Wage Comparisons



- ❑ Wages for Sworn Officers are comparable to similar communities in Alaska
- ❑ Juneau has a high cost of living
- ❑ Anchorage Police Department Officers and Alaska State Troopers earn higher wages
- ❑ Employee feedback indicates that comparable wages have a neutral impact and do not incentivizes officers to stay with JPD
- ❑ Potential wage increases are subject to union contract negotiations



Longevity Bonus

- ❑ The current CBJ pay step structure already recognizes longevity because employees' pay increases with service time as they progress through pay steps
- ❑ A longevity bonus further recognizes service by giving JPD employees who reach certain years of service a longevity bonus in the form of an annual lump sum payment
- ❑ This retention "carrot" is subject to union contract negotiations



Shifting Workload from Sworn Officers to Civilian Staff

- ❑ An increase in the crime rate and higher vacancy factor can lead to increased hours of overtime and burn out of current staff
- ❑ To help alleviate some of the workload on patrol officers, JPD is in the process of evaluating the use of civilian investigators
- ❑ If approved, a civilian investigator could conduct follow-up work to include items like interviews with victims, process paperwork, handle evidence, and work with prosecutors at a cost lower than a Sworn Officer

Implementation Timeframe and Costs

Initiative	FY19	FY20	FY21	Ongoing
Shifting Workload from Sworn Officers to (2) Civilian Investigators	\$180,000	\$180,000	\$180,000	Yes
Longevity Bonus	CN	CN	CN	CN
Employee Recruitment Incentive	\$12,000	\$12,000	\$12,000	Yes
Competitive Wages in Alaska	CN	CN	CN	CN
Advertising	\$25,000	\$20,000	\$20,000	Yes
Lateral Transfer Bonus	\$20,000	\$20,000	\$20,000	Yes
Recruitment Signing Bonus	\$12,000	\$12,000	\$12,000	Yes
Military Outreach	\$0	\$0	\$0	Yes
Grow Your Own	\$0	\$0	\$0	Yes
Flexibility to Cash Out Leave	CN	CN	CN	Yes
Take Home Vehicles	\$573,500	\$116,000	\$116,000	Yes

CN=subject to union contract negotiations



Conclusion

Focus on initiatives that support the three primary goals to improve recruitment and retention at JPD

1. **Recruit Locally:** Focus recruitment efforts on recruiting those with a connection to Juneau or Southeast Alaska
2. **Recruit Experienced Officers:** Increase opportunities for lateral transfers
3. **Improve Retention Factors:** Motivate workforce to remain employed at JPD

Recruitment									
Item	Hard Costs				Soft Costs				
	Hourly Cost	Time (Hours)	Set Cost	Total	Hourly Cost	Time (Hours)	Set Cost	Total	
Advertising			50	50					-
PST Written			50	50	32	8		329	
PST Physical				-	42	4		221	
PHQ/SAR			125	125	32	6		246	
Oral Board				-	30	4		137	
Interview for Background				-	42	2		109	
Review PHQ/SAR				-	63	2		165	
Background				-	42	80		4,357	
Polygraph				-	63	8		660	
Psych			450	450				-	
*Job Offer				-				-	
Drug Test			75	75				-	
TOTAL	-	-	750	750	346	114	-	6,222	

Training									
Item	Hard Costs				Soft Costs				
	Hourly Cost	Time (Hours)	Set Cost	Total	Hourly Cost	Time (Hours)	Set Cost	Total	
Sworn In				-				-	
Uniform			5,500	5,500				-	
Initial in-house training	56	80		4,468	37	80		3,872	
Academy			10,800	10,800				-	
Flights			300	300				-	
Post academy training	56	20		1,117	37	20		968	
Field Training	2	560		840	41	560		29,622	
Released and assigned to team				-				-	
Salary Officer, sworn in to complete FTO	65,310	1		65,310				-	
Basic Certification			50	50				-	
TOTAL	65,423	661	16,600	88,385	115	660	-	34,462	

Assumptions: Total **\$129,819**

Officer is starting at a Step 1

It's not a lateral (academy would be less, but we would pay for relocation)

\$30.15 for new officer

4 weeks training, pre academy
 15 week Academy
 1 week off
 1 week training, post academy
 14 weeks to finish FTO

35 weeks total = per year
 0.673076923

JPD Officer's Leaving Pre-Retirement

Number	Hired	Separated	Yrs Service
1	07/28/03	01/06/14	10.5
2	08/02/04	01/31/13	8.5
3	08/14/00	01/02/09	8.4
4	07/23/07	09/01/14	7.1
5	02/06/06	02/15/13	7.0
6	10/27/06	05/03/13	6.5
7	01/07/08	07/05/12	4.5
8	06/03/13	07/28/17	4.2
9	02/19/08	02/20/12	4.0
10	07/25/11	03/20/15	3.7
11	04/14/08	10/14/11	3.5
12	04/09/12	06/25/15	3.2
13	07/23/08	10/04/11	3.2
14	02/14/11	03/24/14	3.1
15	12/01/14	01/08/18	3.1
16	07/30/12	06/25/15	2.9
17	02/26/06	09/26/08	2.6
18	07/06/15	10/12/17	2.3
19	01/07/08	01/04/10	2.0
20	06/11/07	12/23/08	1.5
21	07/17/06	01/07/08	1.5

4.4

Average

JPD Retirement Stats

Number	Hired	Separated	Yrs Service
1	10/10/88	5/30/14	25.7
2	7/29/86	7/29/11	25.0
3	4/8/87	6/9/11	24.2
4	6/9/86	4/30/09	22.9
5	6/23/86	4/25/08	21.9
6	9/3/94	4/26/16	21.7
7	11/1/91	2/28/13	21.3
8	8/4/97	11/30/17	20.3
9	8/4/97	9/1/17	20.1
10	8/4/97	12/31/15	18.4
11	7/1/99	5/31/17	17.9
12	3/13/00	5/31/13	13.2
13	1/29/07	5/31/12	5.3

19.8 Average

Pre-Retirement	21
Retirement	13
Other	2
	36

Alaska Police Wage Comparison

WAGE COMPARISON - POLICE ALASKA					
Police Officer	Employer	Base Min	Base Mid	Base Max	Known Future Increases
Patrol Officer/Senior Patrol Officer	Anchorage*	\$33.11	\$42.40	\$49.11	
Police Officer	Juneau	\$30.15	\$37.23	\$47.11	
Police Officer	Kenai	\$33.67	\$37.04	\$40.40	
Police Officer	Fairbanks*	\$30.40	\$35.89	\$37.99	
Police Officer	Sitka	\$27.11	\$32.06	\$36.82	FY19: 1%
Police Officer I/II	Wasilla	\$25.67	\$30.39	\$41.60	
Police Officer	Ketchikan	\$25.43	\$29.51	\$34.24	FY19: 1.6%; FY20: 2%; FY21: 2%
Alaska State Trooper in Juneau	State	\$34.18	\$45.87	\$55.14	FY19: 0%; FY20: 0%
Police Sergeant	Employer	Base Min	Base Mid	Base Max	
Police Sergeant	Anchorage*	\$40.27	\$47.77	\$58.09	
Police Sergeant	Juneau	\$34.39	\$42.50	\$53.78	
Police Sergeant	Wasilla	\$35.21	\$41.67	\$51.34	
Police Sergeant	Kenai	\$37.12	\$40.83	\$44.54	
Police Sergeant	Fairbanks*	\$35.57	\$40.15	\$41.88	
Police Sergeant	Ketchikan	\$30.99	\$35.94	\$41.72	FY19: 1.6%; FY20: 2%; FY21: 2%
Police Sergeant	Sitka	\$29.07	\$34.40	\$39.50	FY19: 1%
AST Sergeant in Juneau	State	\$39.59	\$53.15	\$63.88	FY19: 0%; FY20: 0%

*Anchorage and Fairbanks do not contribute to Social Security or SBS. However, Anchorage provides a 2% match to a 401K Plan

Average wages for current JPD employees (as of January 2018)	
Police Officer	\$38.59
Sergeant	\$46.38

Category	Item	Recruit	Retain	Costs Money
Pay	Ensure wages are competitive	X	X	Yes
Pay	Change the pay for PSEA Admin Assistants	X	X	
Staffing	Staffing Study	X	X	Yes
Advertising	Theater advertising	X		Yes
Hiring	Moving Expenses	X		Yes
Advertising	Add images and photos to website	X		
Advertising	Brochures	X		Yes
Advertising	Enhance Social Media recruitments	X		Yes
Advertising	New Advertisement Strategies (Pandora, etc.)	X		Yes
Advertising	Recruitment Videos	X		Yes
Advertising	Update Website to include more recruitment materials	X		No
Advertising	Website, step by step and timelines	X		
Hiring	Faster Hiring Process	X		No

Category	Item	Recruit	Retain	Costs Money
Advertising	Advertise department gym	X		
Advertising	Advertise in Police Beat magazine	X		Yes
Advertising	Advertise on PoliceOne	X		Yes
Advertising	APB Magazine advertising	X		
Advertising	Attend Southeast Alaska job fairs	X		Yes
Advertising	Criminal justice colleges and universities	X		
Advertising	Do nationwide advertising	X		Yes
Advertising	Emphasize JPD family in recruitment	X		No
Advertising	Help sign people up for the public safety testing	X		
Advertising	Hire a recruiter to work on recruitment/retention full time	X		Yes
Advertising	Hiring week (includes test, PHQ, psych, etc all within 5 straight days)	X		
Advertising	Host recruitment events	X		
Advertising	Make all JPD employees "recruiters"	X		No
Advertising	military service members	X		
Advertising	Online Juneau Empire ads	X		Yes
Advertising	Patches and brochures for officers attending training	X		
Advertising	Presentation for recruitment process at recruitment events	X		
Advertising	Promote ride-alongs	X		No
Advertising	Radio ads	X		
Advertising	Recruitment brochures for employees attending out of town trainings	X		Yes
Advertising	Recruitment Trips	X		Yes
Advertising	Supply recruitment brochures and patches at the substation during tourist season	X		Yes
Advertising	Target colleges with criminal justice programs and military services	X		No

Category		Item	Recruit	Retain	Costs Money
Advertising		Television ads	X		

Category	Item	Recruit	Retain	Costs Money
Advertising	Twitter	X		
Advertising	Use JBER for recruitment	X		
Advertising	Youtube	X		
Hiring	"Personal fit" for the job	X		No
Hiring	Applicant Bootcamp	X		
Hiring	Change physical agility requirements	X		No
Hiring	Faster Training Process	X		No
Hiring	Hiring Bonus	X		Yes
Hiring	HR ID potential candidates applying for other positions	X		No
Hiring	More selective hiring to get good people	X		No
Hiring	Move away from PST for local candidates	X		?
Hiring	Pay/reimburse fee for Public Safety testing	X		Yes
Hiring	Require bachelors degree	X		

Category	Item	Recruit	Retain	Costs Money
Hiring	Re-work "Conditional Job Offer"	X		No
Hiring	Re-work PHQ	X		?
Hiring	Testing kiosk in the lobby	X		Yes
Incentives	Loan Repayment	X		Yes
Pay	Pay new officers higher wage to attract new people (front load)	X		Yes
Pay	Referral Bonus for current employees	X		Yes
Pre-hiring	UAS cadet/intern program	X		? Yes
	Research Ketchikan PD's successes	X		
Advertising	Be responsive to facebook inquiries regarding recruitment	X		

Category	Item	Recruit	Retain	Costs Money
Advertising	Focus on hiring within Alaska	X		No
Advertising	Focus on hiring within Southeast Alaska	X		No
Hiring	Faster Lateral Process	X		No
Pre-hiring	PaYs Program	X		No
Staffing	Hire drug sergeant		X	No
	Establish Retail Theft Program		X	No
Benefits	CBJ funding 100% of health insurance		X	Yes
Benefits	Reduce health insurance costs		X	Yes
Cost of living	CBJ utility breaks		X	Yes
Cost of living	Child Care Benefit		X	Yes
Cost of living	Discounted fuel		X	
Cost of living	Establish ways to reduce the high cost of living		X	
Cost of living	Property Tax Breaks		X	Yes
Cost of living	Provide Childcare		X	Yes
Cost of living	Sales Tax Break		X	Yes
Efficiency	Job satisfaction through innovation/efficiency of tasks		X	
Incentives	Airline miles or airfare to visit out of town family		X	Yes
Incentives	Assigned vehicles		X	?
Incentives	Better discounts to CBJ facilities		X	Yes
Incentives	Family tram passes		X	Yes
Incentives	Federal Tax preparation assistance		X	Yes
Incentives	Make shift trades for dispatch "blind" just like patrol does		X	?
Incentives	Membership to pools and field house		X	Yes
Incentives	Provide free/reduced prices to CBJ facilities		X	Yes
Incentives	Retain spouses		X	
Incentives	Take Home Cars		X	Yes
Incentives	Take Home Cars - for officers here 5+ years		X	Yes
Leave	Allow for larger leave bank maximum		X	Yes
Leave	Flexible Time		X	
Leave	Floating holiday		X	Yes

Category	Item	Recruit	Retain	Costs Money
Leave	Hardship leave bonus - if staffing levels are below a certain point with mandatory OT, increase leave for current officers, so they can take leave when staffing gets back to normal		X	Yes
Leave	Holiday leave bonuses (4 hours on Christmas or New Years - add 4 hours to leave back for essential personnel who aren't able to take it.		X	Yes
Leave	Increase leave		X	Yes
Leave	Increase leave accrual rates for all levels		X	Yes
Leave	More flexibility for cashing out leave		X	Yes
Leave	Overtime Accounts		X	
Pay	.5% pay increase every year after employed		X	Yes
Pay	Add corporal rank to salary schedule		X	Yes
Pay	Change length between longevity steps to every year or 18 months		X	Yes
Pay	Incentive step increase for employees working special assignments		X	Yes
Pay	Increase percentage increase between pay steps		X	Yes
Pay	Increase shift differentials		X	Yes
Pay	Longevity Bonus		X	Yes
Pay	lump sum bonus for 5 years		X	Yes
Pay	Maintain "on call" patrol team, with on-call pay		X	Yes
Pay	Paid gym time before/after shift		X	Yes
Pay	Pay steps beyond Step 13		X	Yes
Retirement	Lobbying for new retirement system		X	Yes
Retirement	Matching 1 for 1 on retirement		X	Yes
Retirement	Matching 457 plan contributions—5 yrs., 1%; 10yrs,2%; 15yrs, 3%		X	Yes
Retirement	Opt out of social security and into SBS		X	Yes
Retirement	Supplemental 401K		X	Yes
Social	Dog Days		X	No
Social	Employee recognition		X	No
Social	Establish friendships with new staff		X	No

Category	Item	Recruit	Retain	Costs Money
Social	Make people feel respected and appreciated		X	No
Social	Morale services (Pool of money for renting cabins/ reserving excursions for local outdoor recreation. Season passes, tram, eaglecrest)		X	Yes
Social	More family friendly events (to include spouses)		X	Yes
Social	More individual team BBQs		X	Yes
Social	Publicly support JPD employees concerns		X	No
Social	Recognition for significant personal events		X	?
Social	Teaching spouses about CBJ benefits		X	No
Social	Travel Voucher—Merit Based			
Staffing	10-hour work schedule		X	?
Staffing	Allow more flexibility in assignments for 20-30 year officers		X	
Staffing	Don't make new hires work all OT		X	
Staffing	Have set work schedules		X	
Staffing	Hire additional officers		X	Yes
Staffing	Reduce services		X	
Staffing	Shifting Workload from Sworn to Civilian		X	Yes
Training/Education	Academy and in-house training for employees <5 years		X	
Training/Education	Annual out of state training for employees 5+ years		X	Yes
Training/Education	Education (college) incentive pay		X	Yes
Training/Education	Education Assistance			
Training/Education	Individual Training Account (FAI Example)		X	Yes
Training/Education	Individual training/development plans		X	No
Training/Education	More training opportunities for civilian staff		X	Yes
Training/Education	Paying for classes at UAS or online		X	Yes

Category	Item	Recruit	Retain	Costs Money
Training/Education	Remove training reimbursement agreement		X	
	All command staff visiting all JPD units		X	No
	Anonymous surveys		X	No
	CBJ lobby or support national retain and restaurants coming to Juneau		X	No
	More field command		X	No
Advertising	Advertise all that Juneau has to offer			
Advertising	Advertise recruitment events			
Advertising	AlaskaAirlines magazine			
Advertising	Ask candidates if they know of others who may be good officers			
Advertising	Crime stats on the website			
Advertising	Facebook - pinned post for recruitment			
Advertising	Make job announcement more visually appealing			