

**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

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

- A. **March 7, 2018 Committee of the Whole Minutes**

IV. AGENDA TOPICS

- A. **Mining Ordinance Review**

- B. **Centennial Hall Management**

Packet items are those that were included in the February 26, 2018 Assembly Committee of the Whole packet.

- C. **Hurlock Property**

- D. **Recycleworks Program - Verbal Update**

V. EXECUTIVE SESSION

- A. **Labor Negotiations**

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
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THE CITY AND BOROUGH OF JUNEAU, ALASKA**

March 7, 2018, 5:30 PM.
Municipal Building - Assembly Chambers

Joint Meeting with the Airport Board

I. ROLL CALL

Mayor Koelsch called the meeting to order at 5:30 p.m. in the Assembly Chambers.

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

Assemblymembers Absent: Mary Becker

Airport Board Members Present: David Epstein (Chair), Joe Heueisen; Dennis Harris, Dennis Bedford

Airport Board Members Absent: Angela Rodell, Jerry Godkin, Martin Myers

Staff present: Mila Cosgrove, Deputy City Manager; Beth McEwen, Acting Clerk; Patty Wahto, Airport Manager; Bob Bartholomew, Finance Director; Ken Nichols, Airport Engineer/Architect II (telephonic)

Consultants on the Airport Sustainability Master Plan participating telephonically: Steven Horton of Leibowitz & Horton and John Yarnish of AECOM.

II. APPROVAL OF AGENDA

Hearing no changes, the agenda was approved as presented.

III. APPROVAL OF MINUTES

None.

IV. AGENDA TOPICS

A. Joint Meeting with Airport Board

Airport Manager Patty Wahto gave a presentation of overall Airport operations.

Finances and Projects: Ms. Wahto explained how the number of enplanements correspond to the amount of funding received from the FAA and they are hoping to increase how the enplanements are calculated as right now, one grouping of helicopters that go up with 4 helicopters at once is considered one enplanement.

Ms. Wahto gave an overview of the finances of the projects currently under construction. She noted that there is a large Capital Improvement Projects (CIP) list that is used to help identify how all the FAA funding as well as CBJ funds get allocated. She also explained the differences between discretionary funds and other funds how priorities are determined. She noted that the CIPs are crafted very carefully as the FAA prioritizes anything not related to the runway much lower than any of the projects used in relation to the runway areas.

Ms. Wahto said another key document to the CIP list is the Airport Sustainability Master Plan which

they have been working on extensively with consultants. The draft plan will be going out for public review on March 23. She explained that it is more than just a planning document for the CIP projects but rather, it is an overall planning document for the future of the airport. Discussion took place regarding this plan being an FAA required document to be able to move forward with funding and making it eligible to help fund the various CIP projects. Mr. Yarnish, a consultant with AECOM, noted that the Sustainability Master Plan will be out for public comment for 45 days before it goes on to the FAA.

Assembly and Airport members discussed some of the recent projects including the Snow Removal Equipment Facility (SREF) as well as a new passenger boarding bridge and an FAA energy grant that will be funding new energy efficient lighting on the tarmac. Other projects coming up in the near future include apron work between Tempsco and Wings coming up for paving, the float pond valve replacement and terminal reconstruction which is currently in the design phase.

Ms. Wahto explained that the terminal reconstruction project received funds through the 2010 GO bond but it was getting held up because it was not eligible for federal funds as most of that portion of the terminal is leased commercial space. She said they have come up with an innovative solution to design the terminal such that they would demolish part of it, they would lease out land for tenants to build and lease the land, the airport would then build a concourse that connects that and rebuild the remaining portion of the north end terminal and the knuckle. She said the tenants have been excited to work with them on this and it is promising to get this done with the funding sources identified. She said the plan has the tower as a separate piece from the rest of the project and that would be done and funded by the FAA.

Ms. Wahto answered a variety of questions from Assemblymembers about the design elements in the presentation. She noted other current and future projects, including the design for the Taxiway Rehabilitation and the Runway Incursion Mitigation projects. She said there are three intersections in which there have been runway incursions in areas that don't meet the FAA geometry. Those will also be brought up in the Sustainability Master Plan. It is anticipated that the Taxiway project and two of the intersections will be done in 2019 and 2020. Other future projects include additional phases of the SREF building including the sand, chemical and fuel storage portions and more maintenance bays that were not FAA funding eligible. Another near term project is that of the main ramp where the major airlines park which will be coming up for re-pavement in the next few years at a cost of \$9.5 million.

She noted that Alex Holden Way had a band aide fix approximately 4-5 years ago and while they repaved it and raised some of the surface up to get rid of the lumps/bumps and bring it up higher, that was truly a band aide and it did not bring it up to a street standard and it does not drain properly.

Ms. Wahto said another thing to address is the parking area and parking lots. They need to figure out if there is ever going to be a parking garage where they can bring rental cars in. If they are looking at expanding the terminal in one direction, they can bring rental cars in. She said they can also look at the possibility of doing some sort of a multi-mobile facility as it would be great to have a central park and ride opportunity.

Discussion with Assemblymembers took place on how they could move forward with a parking garage option. There was note that in the past, a parking garage had been one piece of a larger project that was forwarded to the voters for approval and voted down. It will take non-FAA funds to make a parking garage a reality and while one way to fund it would be a bond, there could be combination of other revenue sources to come up with a solution. Garages are expensive but they could look at doing something that was multi-modal and passenger friendly.

Ms. Wahto noted the Runway 26 MALSR(Medium Intensity Approach Lighting System with Runway Alignment Indicator Lights) system which they bring up every chance they can. The MALSR system, if extended out to the full distance of 2400 feet, would give better minimums for both Alaska Airlines and Delta. She just spoke with some FAA folks that came through from the Washington regional office and they seemed excited about it but it is on a wait and see status at this time.

Funds for the MALSR currently come from a facilities and equipment fund rather than the AIP funds but the crux of the matter has to do with who maintains it and who owns it. She said that right now, the first 800 feet are owned and maintained by the FAA so when you start mixing funds and ownership, it is not a good thing. She said that quite frankly, the MALSR system really should be an FAA system so she is trying to get them to take it out of facilities and equipment funding source. She said she has also spoke with our Washington D.C. Lobbyist Katie Katchel. Ms. Wahto and Mr. Epstein explained to the Assemblymembers the intricacies of the funding for the MALSR system. Mr. Epstein said he previously worked with the FAA on those programs and this is the equivalent to the CBJ CIP program. He said it is to our advantage to have the FAA put in the MALSR because then they maintain it. He said it falls within the same category as the tower and the VOR on Sisters Island which is the FAA's to maintain. Additional discussion with the Assembly, Airport members, and staff took place regarding this issue.

Mr. Gregory asked if it helps to be a city owned airport or if it is a detriment to be city owned. Ms. Wahto explained that overall, CBJ benefits more from being a city owned airport over those owned by the state.

Ms. Wahto touched on the many duties carried out by the Airport, and she said that while this is by no means a fully inclusive list, this is what it takes to keep the airport running 24 hours/day, 7 days/week, 365 days/year:

- Administration
- Airfield
- Terminal
- Airport Police
- Aircraft Rescue and Firefighting

There are a lot of things that go on at the airport with very few staff. She said that Scott Rinkenberger couldn't be in attendance at this meeting because it was currently snowing and they are short staffed so he was filling in doing snow removal work.

Additional major projects they are working on at this time included the following:

Front Curb Enforcement: This is something the Airport has been taking very seriously, especially in the last year as they are trying to uphold the federal law. There was a 300 foot parking restriction in front of the terminal imposed after 9-11-2001. They had to close down the short term lot for awhile and the cars were getting screened. She said they were able to do a blast analysis and some work with the TSA/FAA of the terminal and were able to obtain a waiver down to 135 feet but that was with the condition that people were not parking their cars at the curb. They cannot have people getting out, leaving their cars and going into the building. That is not considered active loading. She said there are quite a few TSA and joint vulnerability threat assessment teams that come through and they are always looking at things like that. She said it happened to be when they came through, that they saw enforcement going on and they were happy with that.

The airport is trying to move the vehicles through for public safety and they have been actively working on getting the word out through a variety of methods to keep cars moving through. They have held a lot of meetings including a had a joint meeting with TSA, JPD, Airport and they held it for the public but the public did not come. She said that Mr. Jones and his wife came to that meeting. She said it was a well advertised meeting through social media as well as the usual media outlets. She said that there have been other meetings, operational meetings, as well as Airport members being featured on radio shows to try to get the word out. She said she can't say that it is any better except for possibly certain times of the day. She believes more people are aware of and using the cell phone waiting lot and they have been promoting the 15 minute short-term parking lot more heavily.

Ms. Wahto noted that one of the solutions that the board came up with was to look at increasing the ticket fee above the current \$25. One of the responses to that suggestion was to get more information, discuss it here and provide additional information as to how other airports provide enforcement. She said they did collect additional information in looking at other similar sized airports. Of that, one other

airport had a \$35 fee, a smattering of others had fees ranging \$50-100, and the rest of them were scratching their heads asking why they weren't just towing the violators. All had fees and/or some of them just towed vehicles.

Mr. Gregory asked Ms. Wahto to remind them of the repercussions for our airport if people continue to park there. Ms. Wahto said we have to maintain security and safety at an airport so it reflects on our certificate; we are a certificated airport and that certificate could be at jeopardy. The other thing is they could withdraw the waiver and put the parameters at 300 feet which would either require the scanning of every car or they would be closed down and everybody would have to go way out to the parking lot. She said she doesn't know how much more they would do but outside of penalizing an airport, there are sanctions and she hopes nothing seriously ever happens but there is always that chance.

Ms. Weldon said she had two complaints just that morning from two different groups saying they were being chased out by the enforcers while they were actively loading/unloading car seats.

Mr. Harris said that from the perspective of an individual who has sat in the taxi zone for the past 10 years and observed the patterns, there are three types of violators: 1) those that sit and wait for someone, 2) those who think the law does not apply to them and are going in to drop something off inside and leave the car. and 3) those who don't realize that when they have a disabled person that they can call ahead and get permission to pick someone up or have AK Airlines come out with a wheelchair. Additional discussion took place about the messaging that is getting out there and what additional messaging might be helpful. Ms. Wahto said they will continue to work on this issue and providing more information and education to the public, including a possible flyer when a ticket is given and/or when an airline ticket is purchased.

Ms. Wahto said she can reach out to the airlines to see if they would be willing/able to include messaging in their materials. She will also pursue other opportunities to provide education to the public.

TSA Pre-Check: Ms. Wahto said another exciting thing come up soon is a trial period for TSA pre-check. It is expedited screening and they are encouraging people to sign up for it. There is an \$85 fee to sign up but it is good for 5 years. The website for anyone wanting to sign up is <https://universalenroll.dhs.gov/programs/precheck>.

Ms. Wahto explained that going online, there is an expedited pre-check application and then you take your documents into a local office to finalize the process. Additional discussion took place regarding the role of the airline staff in helping to launch this trial program and it is their hope that as many of the traveling public will sign up as possible as the response to this trial period will factor into TSA's determination of whether or not this will be a regular option in Juneau. TSA hasn't said how long they will be running this trial program but Ms. Wahto said she hopes they will continue it through tourist season to get a true picture of how it would look for Juneau.

JNU Snow/Ice Removal: Ms. Wahto then gave some of the Winter Snow/Ice statistics including the fact that they have a little more than 8 million square feet of area to take care of which is the equivalent of 47.6 miles of a 2 lane highway. Scott Rinkenberger had prepared a video that wasn't working on the main projector screen but members were encouraged to watch the video on the Clerk's computer at the conclusion of the meeting.

Airport Sustainability Master Plan: John Yarnish, a consultant with AECOM, was on the telephone and gave a presentation on the Airport Sustainability Master Plan.

Mr. Yarnish noted that much of the programs/projects Ms. Wahto mentioned previously come about as a result of this master planning process. They are at the end of their master planning process and are at the stage of taking the plan out to the public for comment and review.

He said one of the recommendations of the plan is for the FAA to relocate the Air Traffic Control

Tower outside the terminal building. The Airport Layout Plan is the official document that comes out of the master plan that shows the big picture to the FAA and others as to what the airport will look like in the future if all the projects are developed. The FAA refers to this document every time the Airport puts in for funding to do some improvements. He said the plan is plotting a good future for airport improvements to keep pace with the demand and although demand changes from year to year, this is a good solid document. The next step to look at is how to pay for those improvements.

Master Plan Financial Interpretation Analysis: Steve Horton, a consultant with Leibowitz & Horton, provided an overview of the financial documents found in the COW packet. Mr. Horton explained that some of their main objectives were to map the available funding sources and match those with the CIP projects. For the short term, they were identifying the funding sources for specific projects. In the mid-term, the second five years of the plan, there is a lot more uncertainty as to which projects could be done in what time and a lot of uncertainty related to how the funding is to be done. In the end, they do several iterations of a financial plan to the point that they can fund as much as they can and achieve a positive cash flow at the end of every year.

Mr. Kiehl asked about the \$39.427 million shown on slide 13 of the presentation under the CBJ Capital/Debt. column. He said he didn't recall any substantial conversations about city bonding or capital contributions on that scale. He asked for additional background/info on that item. Mr. Horton and Ms. Wahto addressed a series of questions relating to that slide and that funding column labeled CBJ Capital/Debt. Ms. Wahto explained that column was more of a catch all cell to note those projects which didn't have other funding sources identified, mainly the terminal and land side operations that would not qualify for FAA funds. Assemblymembers expressed their concern with the large amounts identified in that area and that those had not discussed by the Assembly and/or approved by the voters.

Ms. Wahto answered questions on how discretionary funds are prioritized and determined by the FAA. Ms. Wahto explained that this plan reflect a snapshot in time and that while numbers can change, the projects are still out there such as the need for doing the terminal and some of the land side improvements but which category they go in and how they get diced up can change over time and some have already been changed.

Mr. Koelsch said when he looks at this document, he agrees with the Finance Chair that if this is a future obligation, or something that they would consider in the future, it would be good to go with realistic numbers and to plug in the known numbers and sources. Ms. Wahto agreed with that and said that this was a huge change from where they were two months ago and those adjustments can be made now that they have a better idea of the approach they will be taking with the north end terminal and knuckle projects.

Ms. Wahto then asked Mr. Horton to review the statistical information and noted that they have not changed since the last presentation to the COW or the Airport Board.

Additional discussion took place regarding the passenger facility charges as well as other revenue options. The passenger facilities charges hasn't been raised in about 15 years and they hope that will be revisited by Congress.

Mayor Koelsch recessed the meeting at 7:18 and resumed after the break at 7:25 p.m.

Economic Impact Study 2017: Following the break, Ms. Wahto distributed copies of a document relating to the Economic Impact Study that was completed in 2017. She mentioned that the document was also available on the Airport's website. She pointed out the bottom line which shows the economic impact of the Airport to this community annually is now at \$174 million. In doing a quick comparison between the 2000 and 2017 Economic Impact Studies, the 2000 study showed an economic impact of \$41 million, whereas the 2017 study shows the airport having an economic impact of \$174 million. When asked why the significant change, Ms. Wahto explained that there had been a hiatus time during which the Environmental Impact Statement (EIS) was being worked on and once that was completed, there were significant construction projects able to get underway. in addition to the

construction projects there are more enplanements, there is more business, more travel, more freight and fish business and there is just a lot more going on in total.

Ms. Wahto set out the next steps in the Airport Sustainability Master Plan process as follows:

- They will present this same information to the full Airport Board the following week.
- They will then follow through with any updates to the plan and present those to the board and the Assembly COW.
- It will then go out for public review and FAA review on March 23.
- There will then be 45 days of comment and they hope to bring up for finalization to the board in June for approval.
- Lastly it will come back to the Assembly for final approval in July.

Mayor Koelsch thanked the Airport for their presentation. He asked Assemblymembers if they had any additional comments/questions.

Mr. Gregory thanked the Airport Board and the staff for putting Juneau's best foot forward and making it a very welcoming experience for the traveling public to come through the airport.

Mr. Jones said he had a lot more questions regarding the north terminal renovation would like a more in depth briefing on that in the future. He expressed concern with them holding a public informational meeting on a Friday night at the airport where parking is often a concern. Ms. Wahto explained that this is was a kickoff meeting and they will continue to do more outreach to the public, Assembly and Airport board and continue to offer validated parking tickets when holding meetings at the airport.

Mr. Kiehl said he was interested in seeing more information on the leasing revenues approach they are taking on the north terminal project and would like to see additional information on that proposal as it develops.

B. Ordinance 2018-01 An Ordinance Amending the Airport Operations Code Relating to Parking, Standing, and Stopping for the Active Loading and Unloading of Passengers and Providing for a Penalty.

Clerk's Note: this ordinance was not taken up for consideration directly, however please see the comments above for discussion about the parking enforcement issue.

V. ADJOURNMENT

There being no further business to come before the body, Mayor Koelsch adjourned the meeting at 7:33p.m.

*Respectfully Submitted,
Beth McEwen, Acting Clerk*



**Law Department
City & Borough of Juneau**

MEMORANDUM

TO: CBJ Assembly

FROM: Amy Gurton Mead, Municipal Attorney

DATE: April 11, 2018

SUBJECT: Amendments to 49.65, Article I, the Exploration and Mining Code.

The CBJ Mining Committee directed me to reorganize the current mining code for clarity, without removing any substantive provisions. That draft was used by the Committee as a starting point for its discussion. The Committee's final draft is included in your packet.

Given the extensive reorganization, it wasn't possible to provide you with a "strikethrough and underline" ordinance that was readable. Instead, the draft is annotated, explaining the changes made. A few additional small changes (all approved by the Committee and in the final draft) are explained in the two memos, dated February 9, 2018, and March 12, 2018, included in your packet.

The Committee also approved my request that I be authorized to review the reclamation and financial warranty sections for the purpose of bringing forward proposed changes designed to better mesh our code with state and federal law. That review is underway; this draft does not include those proposed amendments. I will bring those recommended changes to the Planning Commission if this ordinance proceeds.

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

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-28

An Ordinance Amending the Land Use Code Related to Mining.

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 49.65 Article I Exploration and Mining, is repealed in its entirety and reenacted to read:

ARTICLE I EXPLORATION AND MINING

49.65.110 Purpose.

No changes to the original purpose section (49.65.110) except reorganizing for clarity, and adding the language at subsection (d) as requested by the committee.

(a) It is the purpose of this article to foster the development of a safe, healthy, and environmentally sound mining industry while protecting the overall interests of public health, safety, and the general welfare and minimizing the environmental and surface effects of mining projects for which an exploration notice or mining permit is required. This article:

(1) Establishes the review and permit procedures necessary to conduct exploration, to gain approval to open a mine, to conduct mining operations, and to provide for final

reclamation and financial warranty release at the conclusion of exploration and mining operations and reclamation of affected surface;

(2) Reasonably regulates areas of local concern, reserving to the City and Borough all regulatory powers not preempted by state or federal law;

(3) Authorizes the commission to condition a mining permit to the extent necessary to mitigate external adverse impacts and for the protection of the environment and public health, safety, and general welfare.

(b) This article does not regulate surface or subsurface water, geothermal resources, sand or gravel, common varieties of construction aggregate, or natural oil, gas, coal and peat or associated byproducts recovered therewith, except to the extent that such substances are developed or extracted as a mining byproduct in a mining operation of a large or small mine.

(c) The director may require a permit to be obtained or notice given for federally approved activities on federal lands, including unpatented mining claims, to allow for the director's review, so long as the purpose of the review process is not to deny use or expressly prohibit mining.

(d) To minimize the burden on the applicant to provide duplicative information required by this article, at the applicant's request, the director may rely on information provided in permit applications submitted to state or federal agencies for the proposed mining operation.

49.65.115 General applicability.

Edited for clarity; nothing substantively removed from original 49.65.115. At the request of the committee, a definition section was added at subsection (e) for convenience. All four definitions are currently found in CBJ 49.80.120 Definitions.

(a) For the purpose of identifying those areas within the City and Borough within which surface disturbance or subsidence in support of exploration or mining activities is prohibited, there is adopted the Mining and Exploration Surface Activities Exclusion District Maps A—F, dated June 5, 2006, as the same may be amended from time to time by the assembly by ordinance. Except as otherwise provided, mining and related activities may be conducted elsewhere within the City and Borough subject to the provisions of this article.

(b) This article does not regulate subsurface mining within or without the district except that subsidence within the district is prohibited. It is not the intent of this article to unreasonably limit or nullify private property rights.

(c) For the purpose of regulating exploration and mining activities within the City and Borough, there is adopted the Urban/Rural Mining District Map, dated June 5, 2006, as such may be amended from time to time by the assembly by ordinance.

(d) Mines located in the Rural Mining District that will undergo environmental review by state agencies, federal agencies, or both, as determined by the director, shall not be subject to Article 49.65, and shall be permitted as allowable uses pursuant to CBJ 49.15.320. In permitting such mines in the Rural Mining District, the commission may impose conditions under CBJ 49.15.320(f)(1)—(8) and any additional conditions relating to traffic, lighting, safety, noise, dust, visual screening, surface subsidence, avalanches, landslides, and erosion deemed necessary by the commission.

(e) For the purposes of this article:

(1) *Exploration* means the process of advanced mineral commodity investigation subsequent to prospecting and prior to development.

(2) *Large mine* means a mining operation involving more than 20 acres of affected surface disturbance; or having 75 or more personnel employed at the mining operation in the City and Borough, whether direct employees or employees of independent contractors, in any consecutive three-month period; or a mining operation which a federal agency has determined would involve a major federal action significantly affecting the quality of the human environment so that the preparation of an environmental impact statement in accordance with NEPA is required;

(3) *Mining operation* means the development, construction or reclamation of a mine, including associated infrastructure, or the exploitation or extraction of a mineral commodity from its occurrence on or in the earth, or the operation of a mine. The term "mining operation" includes open pit mining, placer mining and underground mining, and the disposal of refuse, tailings or waste rock from any such operation. The term "mining operation" also includes transporting, concentrating, milling, evaporating and other on-site processing. The term "mining operation" does not include off-site smelting, refining, cleaning, preparing, transportation or other surface operations not conducted on the affected surface.

(4) *Small mine* means a mining operation other than a large mine.

49.65.120 Exploration notices and procedures.

Clarified original 49.65.120 in the following ways:

- 1. Reorganized section.*
- 2. Added statement in subsection (a) making clear that compliance with this section is required in order to conduct exploration.*
- 3. Added requirement that form specified by director be used, which is consistent with current CDD practice (form is already posted on CDD website).*

4. Added language to this section requiring operator to supplement information as necessary (this is a condition in existing code; added here for clarity purposes).

- (a) In order to ensure that mining exploration is conducted in accordance with the environmental, health, safety, and general welfare concerns of the City and Borough, mining exploration activities are prohibited except as provided in this section.
- (b) Any applicant intending to conduct exploration operations must submit to the director a notice of mining exploration application, on a form specified by the director, and the processing fee specified in section 49.85.100.
- (c) A notice of mining exploration application must include the following information:
 - (1) A map identifying the area of the intended exploration activities on a scale of at least 1:63,360;
 - (2) The proposed exploration schedule;
 - (3) The plan for reclamation of the area to be disturbed by the exploration activities, including information as to the methodology and cost of such reclamation sufficient to enable the director to determine an appropriate financial warranty; and
 - (4) Copies of any prospecting permits, notice of intent to conduct exploration, or operating plans filed with any federal or state agency. An applicant shall supplement this information as needed with all modifications, revisions, and amendments to any permit application or plan submitted to any federal or state agency by the applicant, or with copies of any amended permits or plan approvals received by the applicant from any state or federal agency.

1
2 (d) Upon determining the exploration application is complete and that the required
3 processing fee has been paid, the director shall determine whether a financial warranty will be
4 required, in accordance with section 49.65.140. The director shall notify the applicant within
5 20 days after receiving the applicant's notice of intent whether a financial warranty will be
6 required or if it is waived. The requirement of a financial warranty may be waived if the
7 director determines that a financial warranty is not necessary to ensure compliance with the
8 requirements of this article. The waiver shall be in writing and shall set for the reasons for the
9 waiver.
10

11 (e) When the applicant has either submitted the required financial warrant or the director
12 has notified the applicant that the financial warranty requirement is waived, the applicant
13 shall be authorized to conduct exploration activities in accordance with the notice. In
14 conducting exploration operations, the applicant shall comply with all applicable federal, state
15 and City and Borough laws, rules and regulations.
16

17 (f) Upon completion of exploration activities and all necessary reclamation, the applicant
18 shall notify the director that exploration and reclamation are complete and shall submit a map
19 on a scale of at least 1:63,360, showing the location of the exploration and reclamation
20 activities.
21

22 (g) *Procedure for release of financial warranty.* The director may inspect the area of
23 exploration to determine whether reclamation has been completed in accordance with section
24 49.65.145 within 60 days of receiving notification of completion, or as soon as weather
25 conditions permit. If the director finds that the reclamation satisfies the standards of
subsection 49.65.145(b), either by the director's own review or in reliance upon a state or

1
2 federal reclamation inspection or both, the financial warranty shall be promptly released. If the
3 director finds that the standards have not been satisfied, the director shall notify the applicant
4 within 30 days of the additional steps necessary to achieve compliance with section 49.65.145.

5 The director shall give the applicant a reasonable time to complete reclamation and request
6 another inspection. If the director, after re-inspection or review, is not satisfied that the
7 standards of subsection 49.65.145(b) have been met, the director may declare so much of the
8 financial warranty as necessary forfeited and, after notice and an opportunity for the applicant
9 to appeal pursuant to section 49.65.165, apply the financial warranty to complete reclamation.
10

11 *While no substantive changes were made to the following sections, I did do some*
12 *major reorganization of current code. Current code has one ordinance addressing the*
13 *process (application, review, commission procedure) for small mines, and a separate*
14 *code section addressing the process for large mines that, in large part, repeats the*
15 *same information (application, review, commission procedure). I revised these*
16 *sections using the same organizational structure used in the article addressing cell*
17 *towers. First, I organized the current requirements into three new code sections that*
18 *apply to both large and small mines: a general application section; a general review*
19 *section; and a general section on commission process. I then added new code sections*
20 *to cover those specific additional requirements imposed under current code for large*
21 *mines.*

17 *Other changes:*

- 18 *1. I specified that the application should be on a CBJ form – which already exists*
19 *and is consistent with CDD practice for all other permits.*
- 20 *2. I adding language specifying how the CBJ uses permit or application*
21 *information from other agencies (see 49.65.125(d)).*
- 22 *3. The following paragraph is from current code – 49.65.130(b), middle of*
23 *paragraph – and requires large mine applicants to provide information normally*
24 *provided as part of a mining plan or “feasibility” study. My notations in red explain*
25 *where these requirements are now found:*

The application shall also contain additional information normally prepared by the operator for its feasibility studies and mining plans, including information establishing the right to use the affected surface (*this was information that was actually required of both small and large mines so is now in the general application subsection (b)*), labor force characteristics and timing, payroll projections (*see subsection (c) identifying additional information required of large mines*), anticipated duration of the mining operation,

construction schedules, infrastructure description, and other information reasonably requested by the department in the preapplication conference held pursuant to subsection 49.15.330(b). *(This was information that was actually required of both small and large mines so is now in the general application subsection (b).)*

49.65.125 Permit application requirements for all mines.

(a) Except as provided in CBJ 49.65.115(c), no new mine shall commence mining operations unless the applicant has obtained a conditional use permit pursuant to Chapter 49.15, Article III, as modified by this article.

(b) Applications, on a form specified by the director, shall be submitted to the director along with the fee required by 49.85.100, unless modified as provided in this section, and the following information:

- (1) Information establishing the right to use the affected surface;
- (2) A map showing the location of the mine site and the affected surface for that mine on a scale of at least 1:63,360;
- (3) A description and timetable of the proposed mining operation, including:
 - (i) The anticipated duration of the mining operation;
 - (ii) A description of all roads, buildings, processing and related facilities or proposed infrastructure;
 - (iii) The mining plan;
 - (iv) The plan for reclamation;
 - (v) The potential environmental, health, safety and general welfare impacts of the proposed operation, including neighboring property impacts, and a

description of the measures to be taken to mitigate the adverse effects of such impacts; and

(vi) A description of the methods to be used to control, treat, transport and dispose of any hazardous substances, sewage and solid waste;

(4) Certification that there will be no affected surface or significant subsidence within the boundary of the Mining and Exploration Surface Activities Exclusion;

(5) Any additional information determined by the director to be necessary to allow the director, after reviewing the application, to evaluate the proposed mining operation's compliance with sections 49.15.330 and 49.65.145;

(6) Any other information requested by the director in relation to the preapplication conference held under section 49.15.330(b); and

(7) Copies of any state or federal permits issued in relation to the proposed mining operation, including the mine reclamation plan approved by the state under AS 27.19.030.

Current code recognizes reclamation plans from the state; this citation to the state code section was added for clarity.

(c) In addition to the materials required by subsection (b), permit applications for large mines must include the following additional information:

(1) A description of the proposal for the sealing of open shafts, adits, and tunnels upon the completion or temporary cessation of mining operations;

(2) The mining operations labor force characteristics and timing;

(3) Payroll projections; and

(4) Unless waived by the director, the socioeconomic impact assessment required by section 49.65.130, and any additional information determined by the director to be necessary to complete the assessment.

(d) To the extent that the information required by this section has been provided by the applicant as part of any application submitted by the applicant to a state or federal agency, the applicant may rely on that application. The applicant shall provide the director with a copy of each state or federal application being relied upon, a cross reference to the relevant portions of those applications, and a report on the current status of the applications. *Clarifies that operators can rely on permits or applications submitted to other agencies.*

(e) The requirement to provide information under this section is continuing, and supplemental information regarding any changes in the information reasonably requested must be provided to the director throughout the duration of the application process.

(f) *Processing fee.* The fee for processing the application shall be as specified in section 49.85.100, and is in addition to any fee required by 49.65.130 for the socioeconomic impact assessment or any fee for a professional consultant as provided by 49.65.135. While this fee is intended to cover the City and Borough's reasonable costs of review, it may be after receipt of the application, that the director determines that the cost of review is likely to substantially exceed the fee specified in 49.85.100. In that case, the director may, after consultation and discussion with the applicant, recommend an additional fee to the assembly. Such additional fee shall be approved by the assembly by motion and shall be set in an amount that will, as far as can be determined, cover the cost of reviewing the application, including reasonable administrative and overhead expenses. In recommending the additional fee, the director may

consider, among other factors: the amount of staff effort required to adequately review the application; the involvement in the review process of other governmental agencies, either through a federal environmental review process or other procedure; the necessity for extraordinary travel and transportation costs that may be incurred by the director during review; the potential benefit of information generated by the application review to other mining operations or to the City and Borough; and the necessity for extraordinary communication, duplication or publication costs arising from the review.

This next section is from the current code section on large mines (49.65.130(c)). No substantive deletions made, primarily just amended for readability and reorganized. Although the proposed code already specifies that documents provided to another federal or state agency can be resubmitted in lieu of duplication, a new subsection (c) specifies that if information contained in an EIS would cover any of the material needed for a socioeconomic impact statement, the CDD director will rely on the EIS.

49.65.130 Socioeconomic impact assessment for large mines.

(a) A socioeconomic impact assessment evaluating the reasonable and foreseeable beneficial and adverse impacts, both direct and indirect, of the proposed mining operation on existing and future local conditions, facilities, and services shall be prepared by the director, or a consultant retained by the director for that purpose, unless waived. The director may waive all or part of the socioeconomic impact assessment when the director determines either that the information is not essential to evaluate what impact the mining operation will have on the City and Borough, or that the proposed mining operation will present no meaningful or significant impacts. The waiver shall be in writing and shall set forth the reasons for the waiver.

(b) The impact assessment should include an evaluation of all reasonable, foreseeable, and demonstrable impacts of the proposed mining operation on transportation and traffic; sewer

and water; solid waste; public safety and fire protection; education, native history and culture; health; recreation; housing; employment; local businesses; the rate, distribution, and demographic characteristics of any population changes induced by the mining operation; and the fiscal impacts of the mining operation on public facilities and services, including general government functions. Highly speculative impacts need not be studied.

(c) If information necessary to conduct the assessment is contained in a final Environmental Impact Statement (EIS) prepared pursuant to the National Environmental Policy Act, the director shall rely on the EIS, but may require the applicant to provide such supplemental information deemed necessary by the director to complete the assessment.

(d) All reasonable costs and expenses required to prepare the assessment shall be paid to the director by the applicant prior to the initiation of the assessment.

(e) The purpose of the impact assessment is to provide information to the director concerning possible beneficial and adverse impacts of the proposed mining operation for use in the preparation of the mitigation agreement required by section 49.65.155.

49.65.135 Director's review procedures.

Current code uses "director" and "department" interchangeably. I use director exclusively in this rewrite. Current code defines "director" at 49.80.100 to mean either the director or the director's designee, which includes staff or the "department."

(a) The director shall review the application in accordance with 49.15.330(d), as modified by this article.

(b) The director's recommendation for approval or denial, with or with or without conditions, as required by 49.15.330(d)(3) or 49.65.145, shall be forwarded to the commission

within the timelines specified below:

(1) *Small mines.* In the case of small mine applications, within thirty-five days after the application has been accepted as complete by the director.

(2) *Large mines.*

(A) The director shall conduct a preliminary review of an application for a large mine within 20 days of its submission to determine whether the application is complete. The director shall then promptly schedule a meeting with the applicant for the following purposes:

(i) To notify the applicant if the application is complete, and if not, to notify the applicant what additional information is needed to make the application complete.

(ii) The director and the operator shall establish the procedures for coordinating the review of the application with any review being undertaken by other agencies as part of a state or federal permit process.

(B) Unless an Environmental Impact Statement (EIS) is required by the National Environmental Policy Act (NEPA), or unless the operator agrees to an extension, the director shall complete the review of the application within 90 days after the director has determined that the application is complete. If an EIS is required, then the timing of the review of the application shall be in accordance with the provisions of subsection (C), below.

(C) If an EIS of the proposed mining operation is required under NEPA, then the application will not be considered complete until the draft environment impact

statement (DEIS), the final environment impact statement (EIS) and all comments and testimony have been submitted to the director. The director may begin review of the application at any time after the filing of the DEIS with the director, however, the recommendation shall not be presented to the commission until the department has considered the final environment impact statement. The applicant shall advise the department immediately at any time during the application process or thereafter if NEPA is involved so that the City and Borough may participate in the NEPA process.

(c) The director's recommendation must consider whether the proposed mining operation will mitigate adverse environmental, health, safety and general welfare impacts. The director's recommendation must include consideration of the following:

- (1) Whether air and water quality standards will be maintained in accordance with federal, state, and city borough laws, rules and regulations;
- (2) Whether sewage, solid waste, hazardous and toxic materials will be properly contained and disposed of in accordance with federal, state, and City and Borough laws, rules and regulations;
- (3) Whether the mining operation will be conducted in such a way as to minimize safety hazards to the extent reasonably practicable and to mitigate adverse impacts on the public and on neighboring properties such as those from traffic, noise, dust, unsightly visual aspects, surface subsidence, avalanches, landslides, and erosion; and
- (4) Whether historic sites designated by the City and Borough as significant will be protected; and

(5) The sufficiency of the proposed reclamation plan.

The following subsection was added to clarify that if a state or federal permit has been granted to the applicant, the CBJ will accept the permit as a statement of the state/federal law requirements the mining operator must comply with for purposes of state/federal law. I read current code language to say the same thing, but this says it more directly. (See for example, current code section 49.65.130(b), specifically the last third of paragraph.)

(d) In making the determinations under subsection (c), the director shall find that the proposed mining operation will comply with state and federal law as to any standard or subject addressed by an applicable state or federal permit issued to the applicant for the proposed mining operation. The issuance of a state or federal permit, however, shall not prohibit the director from recommending more stringent conditions on the proposed operation to the extent the City and Borough is not preempted by state or federal law, or from making a recommendation for denial if the director deems warranted in accordance with this article.

(e) If the director makes a recommendation for approval, the director shall also make a recommendation on the amount of the financial warranty under section 49.65.150. The director's recommendation for approval may include any conditions or stipulations the director deems to be reasonably necessary to mitigate any adverse environmental, health, safety or general welfare impacts which may result from the proposed mining operation.

(f) If the director determines that the proposed mining operation does not meet the standards required by sections 49.65.145 and 49.15.330, the director shall notify the applicant. The applicant may then withdraw the application; amend and resubmit the application; or allow the director's recommendation to be forwarded to the commission as written. If the application is resubmitted within 180 days of the initial submission, no new application fee will

1
2 be required, but the applicant shall pay any additional processing fee determined by the
3 director to be reasonably necessary to defray the cost of reviewing the revised application to the
4 extent that it is different from the original submittal.

5 *The following concept is already in current code but with one change. Because the*
6 *group proposing changes to the code have stated they agree that obtaining outside*
7 *consultants at the cost of the applicant should be available to the CBJ, I removed the*
8 *requirement that approval for that process go through a code process. (See current*
9 *code section 49.65.130(e).)*

10 (g) If the director determines that proper review of the application will require the
11 department to retain outside professional assistance, the director may, in the director's
12 discretion, obtain an outside professional consultant. The fee for the consultant shall be borne
13 by the applicant.

14 **49.65.140 Commission review.**

15 (a) Once complete, the director's recommendations shall be provided to the applicant and
16 placed on the agenda for the next regularly scheduled meeting after public notice has been
17 given as required by section 49.15.230.

18 (b) The commission shall hear the application as a conditional use permit application as
19 provided in chapter 49.15, article III, as modified by this article.

20 (c) If the commission determines that the application, with stipulations or conditions as
21 appropriate, satisfies the standards of sections 49.65.145 and 49.15.330, it shall approve the
22 application and set the amount of the financial warranty under 49.65.150. When the applicant
23 has submitted a financial warranty in the amount set by the commission and in a form
24
25

satisfactory to the municipal attorney and executed any mitigation agreement required by CBJ 49.65.155, the permit shall be promptly issued by the director.

The next section addresses permit requirements. Current code section addressing permit requirements is at 49.65.135. I amended the language to clarify that these are required permit conditions, and then in the sections above on director and commission review, clarified that in evaluating applications, these concepts have to be considered.

49.65.145 Required conditions for all conditional use mining permits.

(a) The commission shall impose as a condition of any permit issued by the commission under this title the following requirements:

- (1) The mining operations must be conducted in accordance with this article, section 49.15.330, and any other applicable provisions of the City and Borough Code in such a way as to mitigate adverse environmental, health, safety and general welfare impacts;
- (2) Air and water quality must be maintained in accordance with any applicable federal, state, and City and Borough laws, rules and regulations, or permits;
- (3) Hazardous and toxic materials, sewage, and solid waste shall be properly contained and disposed of in accordance with applicable federal, state, and City and Borough laws, rules and regulations;
- (4) All mining operations shall be conducted according to the standards of the City and Borough as contained in this article, section 49.15.330, the conditional use mining permit, and any other applicable provisions of the City and Borough Code, so as to minimize to the extent reasonably practicable safety hazards and to control and mitigate adverse impacts on the public and neighboring properties, such as from traffic overloading,

noise, dust, unsightly visual aspects, surface subsidence, avalanches, landslides and erosion;

(5) Appropriate historic sites designated as significant by the City and Borough shall be protected;

(6) Reclamation of all affected surfaces, imposed as part of a conditional use permit in accordance with section 49.65.149 or as set by the state under AS 27.19.030, be completed as soon as is reasonable after affected surface areas are no longer being used in exploration and mining operations; and

(7) In the case of large mines, that the applicant comply with the mitigation agreement required by CBJ 49.65.155;

(8) The applicant will maintain the financial warranty in the amount approved by the director or the commission, including any amendments to the required financial warranty amount under section 49.65.145(f) and (g); and

(9) That the loss of any applicable state or federal permit result in the revocation of the conditional use permit.

The following language is now clearly incorporated as a condition to be specified in the permit. It currently resides in 49.65.135(c).

(10) That in the event mining operations violate or threaten to violate this article, section 49.15.330, or a permit issued under this article, the applicant shall notify the director of such fact and of the steps to be taken to return to compliance, or resolve the potential noncompliance.

Reclamation is now its own code section. It's currently found in 49.65.135, which combines permit requirements and staff review requirements. I've separated those issues for clarity in this draft.

49.65.149 Reclamation. *This section is undergoing review for better integration with state, and if warranted, federal, requirements.*

(a) As required by 49.65.145, it shall be a condition of all permits issued under this article that reclamation of all affected surfaces, imposed as part of a conditional use permit issued under this article or as set by the state under AS 27.19.030, be completed as soon as is reasonable after affected surface areas are no long being used in exploration and mining operations.

(b) If not addressed in a reclamation plan approved by the state under AS 27.19.030, or to the extent not preempted by state or federal law, reclamation required under this article shall include:

- (1) Cleanup and disposal of dangerous, hazardous or toxic materials;
- (2) Regrading of steep slopes of unconsolidated material to create a stable slope;
- (3) Backfilling underground shafts and tunnels to the extent appropriate;
- (4) Adequate pillaring or other support to prevent subsidence or sloughing;
- (5) Plugging or sealing of abandoned shafts, tunnels, adits or other openings;
- (6) Adequate steps to control or avoid soil erosion or wind erosion;
- (7) Control of water runoff;
- (8) Revegetation of tailings and affected surface areas with plant materials that are capable of self-regeneration without continued dependence of irrigation and equipment where appropriate;
- (9) Rehabilitation of fisheries and wildlife habitat; and

(10) Any other conditions imposed by the commission.

(c) Subsequent to the issuance of a permit or the grant of authority under an exploration notice, the applicant's compliance shall be measured against the requirements contained in that permit or the conditions of the exploration notice and the applicant's plans submitted with the permit application or the notice.

49.65.150 Financial warranty. *This section is undergoing review for better integration with state, and if warranted, federal, requirements.*

(a) No permit shall be issued or exploration authorized pursuant to this article until any required financial warranty has been submitted by the applicant, approved by the city attorney, and accepted by the director.

(b) The purpose of the financial warranty is to ensure that if the applicant fails to comply with any obligation, requirement, or condition imposed by the permit or exploration notice there will be sufficient funds available to the City and Borough to enable it to complete the necessary work, taking into account the financial warranties which the applicant must submit to other agencies. The director reserves the right to seek forfeiture of the financial warranty, in whole or in part, in the interest of protecting the environmental, health, safety and general welfare requirements of the City and Borough if the director determines that the applicant has violated the obligations, requirements, or conditions imposed by the permit or exploration notice. The forfeiture shall be limited to the extent necessary to satisfy the obligations, requirements, or conditions that the applicant has violated.

(c) The amount of the financial warranty for an exploration notice shall be set by the director. The amount of the financial warranty for small mines and large mines shall be determined by the commission. The financial warranty shall be set in the amount necessary to enable the work required by any obligation, requirement, or condition of any permit or exploration notice issued under this article be completed. In recommending and setting the amount of the financial warranty, the director and the commission, respectively, shall take into consideration the amount and scope of any financial warranties which have been submitted to other agencies. When the performance of such obligations is guaranteed by financial warranties that have been submitted to other agencies, the applicant may be required to post a separate financial warranty with the City and Borough if the city attorney determines that the financial warranty submitted to another agency does not create a lien or interest sufficient to protect the interests of the City and Borough. Examples of obligations to be covered by the financial warranty required under this section include but are not limited to:

- (1) Construction of berms, dikes, spillways, channels or other facilities to control, detain, retain or reduce runoff, soil erosion and siltation, or to divert water around waste, tailings, stockpiles or other facilities or disturbed areas;
- (2) Installation and maintenance of landscaping, including berming, tree planting and other required grading or planting to provide visual and sound barriers and to eliminate or reduce the appearance of scarring;
- (3) Installation and maintenance of road or highway improvements to mitigate the impact of increased traffic or heavy trucking that is measurable and directly attributable to the mining operation; such facilities may include speed access ramps or lanes, turn

lanes, intersection improvements, traffic-control devices or private haulage ways where necessary to avoid the use of public roads or highways. The cost of installation or maintenance described in this subsection shall be shared by the applicant and the City and Borough in relation to the proportion of the directly attributable and measurable impact on traffic of the applicant's activities or the facilities being maintained, installed or improved;

(4) Reclamation of affected surfaces during and following exploration and mining operations;

(5) Regrading of steep slopes of unconsolidated materials to create a stable slope;

(6) Installation of facilities required to prevent or reduce degradation of air or water quality or to contain or control toxic or hazardous wastes;

(7) Removal of buildings, structures or equipment where appropriate;

(8) Any other obligations as necessary to conform with the commission's determinations under subsection 49.15.330 and subsection 49.65.145.

(d) The financial warranty required under this article for a large or small mine permit or an exploration notice may be in any one or a combination of the following forms at the option of the applicant; provided, that the cumulative amount is equal to the amount provided in subsection (b) of this section:

(1) Cash;

(2) Certificate of deposit;

(3) An irrevocable standby letter of credit from a United States bank; or

(4) A surety bond from a bonding company licensed to do business in the state which is satisfactory to the director for credit worthiness. Interest on cash deposits or certificates of deposit will accrue to the credit of the applicant.

(e) In addition to the forms of financial warranty set forth in this section, with respect to a small mine permit or an exploration notice, the applicant may elect to use a property bond as a form of financial warranty; provided, that at least ten percent of the total amount of the financial warrant shall be cash or a certificate of deposit; and provided further, that the commission determines that the value of the property is equivalent to the amount required to be generated for satisfaction of the obligation and the city attorney determines that the bond creates a lien with sufficient priority to permit its collection should such become necessary.

(f) The form of financial warranty shall provide that the funds may be used by the City and Borough to satisfy the obligations described in this section when there has been a determination by the director that the applicant has not completed its obligations in a timely manner or has otherwise violated the terms of its permit or conditions of its exploration notice, and after notice and opportunity to perform the obligation has been given to the applicant.

(g) The amount of the financial warranty shall be reviewed annually by the director, and a determination shall be made whether the amount should be increased or decreased, taking into account changes in the obligations of the applicant to be undertaken during the ensuing year, cost of current obligations of final reclamation, and changes due to inflation or deflation.

(h) If the amount of financial warranty is to be increased or decreased by the determination made in subsection (g) of this section, then the actual increase or decrease shall be made according to the procedure in subsection (c) of this section.

This next section is currently found at 49.65.130, the section on large mines.

49.65.155 Mitigation agreements for large mines.

(a) With respect to a large mine permit application, the applicant shall negotiate and enter into a mitigation agreement with the City and Borough.

(b) The mitigation agreement shall establish responsibility for the mitigation of reasonably foreseeable and demonstrable adverse impacts of the mining operation, including direct impacts and indirect impacts. The applicant shall be responsible for mitigating the direct impacts. The City and Borough shall be responsible for mitigating indirect impacts except where the costs of mitigating specific indirect impacts are found by the manager to:

(1) Exceed the amount of any City and Borough nonproprietary revenue increase attributable to the mining operation; and

(2) Require a direct and significant increase in local taxes or fees to adequately mitigate the impact.

(c) Highly speculative impacts shall not be included in the mitigation agreement. Taxes and nonproprietary revenues generated as a result of the proposed mining operation shall be a factor considered in negotiating the mitigation agreement. This agreement shall be incorporated as part of the permit, as required by section 49.65.145.

(d) This subsection does not limit or otherwise affect the authority of the director or the commission to condition or place stipulations on a permit pursuant to this article or the conditional use process as provided in chapter 49.15, article III.

No substantive changes.

49.65.160 Term of notices and permits; temporary cessation.

(a) Exploration notices and permits for mining operations shall remain in effect for the duration of the operation, as stated in the notice or in the application, subject to the conditions of this section and providing that the following conditions are met:

- (1) The financial warranty must remain in full force and effect;
- (2) The operator must not be found to be in substantial violation of this article; and
- (3) With respect to a large or small mine permit, mining operations must be continued in accordance with the plan contained in the application for at least 90 days in each year as to a large mine, and for at least 30 days in each year as to a small mine.

(b) During the term of any exploration notice or permit, the director may, pursuant to subsection 49.65.150(f), revise the amount of the financial warranty. If the amount of financial warrant is increased, the operator shall submit the appropriate amount of additional financial warranty within 60 days of the director's determination.

(c) The operator shall advise the director within ten days of the date upon which the applicant receives notice that a financial warranty which has been submitted to any other agency is reduced or released.

(d) If at any time during the term of a permit the operator determines that it will not conduct mining operations for the applicable time minimums established in subsection 49.65.160(a)(3), the operator shall notify the director and request that the mining operation be placed in an inactive status. In conjunction with this notification, and as a condition to granting a request for inactive status, the operator shall advise the director of the measures it

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2 will employ to prevent hazardous or dangerous conditions, erosion, or other environmental
3 damage which may result from the operator's activities, and the security measures it will
4 employ at the mining operation during the inactive period. An applicant may continue in
5 inactive status for a five-year period and may, with the permission of the director, obtain
6 successive five-year extensions of that status. At the conclusion of inactive status, the operator
7 shall either resume operations or commence final reclamation in accordance with the approved
8 reclamation plans. If an operator ceases operations for more than one year but does not request
9 inactive status, the director may require the operator to commence final reclamation in
10 accordance with its plans.
11

12 (e) Throughout the duration of a large mine permit, the operator of a large mine shall also
13 notify the director not less than 60 days prior to requesting placement on inactive status. The
14 operator and the City and Borough shall maintain a process to exchange information regarding
15 the impact on the City and Borough that may result from a change in mining operations. In
16 addition, the operator shall provide the director with copies of any notification it may be
17 required to provide to federal agencies under federal law concerning proposed personnel layoffs
18 at its mining operation. The director may waive any of these notification requirements in the
19 event of an unforeseen act of God or disaster.
20
21

22 *No substantive changes.*

23 **49.65.165 Annual reports; monitoring; monitoring fee.**

24 (a) During the term of each exploration notice, the operator shall submit annual progress
25 reports to the director on or before March 31 of each year. The progress report must describe

the areas in which exploration was conducted during the preceding year, the amount of acreage which was disturbed by such exploration, and the nature and extent of associated reclamation activities.

(b) During the term of each small mine permit or large mine permit, including any inactive period, the operator shall submit an annual progress report to the director on or before March 31 of each year describing the status of the mining operation in relation to the approved mining plan and timetable, and describing reclamation activities during the year.

(c) The director shall have ongoing authority to monitor any mining operation for which a permit has been issued in order to ascertain whether the mining operation is in compliance with the requirements, terms, conditions and mitigation measures in the permit. The operator shall, upon reasonable notice, provide the director with access, at reasonable times, to the premises and to the records of the mining operation to the extent such access is necessary to ascertain whether the mining operation is in compliance.

(d) Throughout the duration of the term of a small mine permit or a large mine permit, the operator shall pay to the director an annual monitoring fee to defray the costs of inspecting and reviewing the affected surface and compliance with the permit. The annual monitoring fee shall be such amount as may be established by the commission as necessary to cover the reasonable costs of inspection and review.

No substantive changes.

49.65.170 Technical revisions, summary approval, and amendments.

(a) During the term of a permit, the operator shall notify the director of all technical

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2 revisions to its operations. As used in this section a "technical revision" is a change in
3 operations which does not, in the judgment of the director, have more than a minor effect on
4 reclamation and which does not change the total amount of disturbance or the overall
5 environmental or socioeconomic impact of the mining operation. After the technical revision is
6 submitted to the director, the director shall within 30 days determine and notify the operator
7 whether a permit amendment or summary approval of the change is necessary or whether the
8 technical revisions may be accomplished under the operator's existing permit.
9

10 (b) If the operator or the director determines that the change to the mining operations will
11 require preparation of a new or supplemental environmental impact statement, or will increase
12 the acreage of affected surface or otherwise have a significant effect on reclamation or the
13 environmental or socioeconomic impact of the mining operation, the permit shall be amended,
14 unless summary approval of the change is granted pursuant to (b)(2) of this section.

15 (1) Except as provided in subsection (2) of this section, the operator shall file with
16 the director an application for amendment to its original permit, together with an
17 application with the same content as required for an original application, except that no
18 operator will be required to resubmit any information which duplicates applicable previous
19 submittals. The permit amendment application shall be processed in accordance with the
20 same procedure as established for processing permits under sections 49.65.125, 49.65.135
21 and 49.65.140. The operator shall not commence changes requested in its amendment
22 application until the permit amendment has been approved and, if appropriate, additional
23 financial warranties submitted.
24

25 (2) Summary approval.

(A) Upon request of the operator, the director may summarily approve a proposed change in mining operations not constituting a new land use or separate development upon a written determination that:

- (i) The mine is located entirely outside the roaded service area established in CBJ 01.30.320;
- (ii) The application is complete, providing all of the information necessary for the director to make the summary approval determinations set forth in subsections (i)—(iv);
- (iii) The proposed change in mining operations will have no significant impact within the roaded service area on habitat, sound, screening, drainage, traffic, lighting, safety, dust, surface subsidence, avalanches, landslides, or erosion; and
- (iv) The proposed change in mining operations has undergone or is undergoing environmental review and approval by one or more federal agencies, state agencies, or both.

(B) The director shall make the determination required by this subsection (2) within 45 days unless additional information is required. If the director requires additional information to make the determination, upon written notification to the operator, the time for determination may be extended for up to 20 additional days after submittal by the operator of the additional information. If an environmental impact statement is required by one or more federal agencies, completion of the draft environmental impact statement is necessary for summary approval.

(C) Planning commission review.

(i) The director shall promptly forward the proposed summary approval to the planning commission after the determination is completed. The planning commission may ratify or reject the proposed summary approval.

(ii) If the commission rejects the proposed summary approval, it may:

(a) Return the matter to the director for further consideration of whether the director, in consultation with the operator, can address issues identified by the commission through imposition of conditions or changes in the proposed mining operation; or

(b) Direct that the proposed change be processed by the director as an application for an allowable use permit for which the commission may impose conditions under CBJ 49.15.320(f)(1)—(8) and such additional conditions as are necessary to reduce to non-significant any impacts in the roaded service area on habitat, sound, screening, drainage, traffic, lighting, safety, dust, surface subsidence, avalanches, landslides, or erosion.

No substantive changes.

49.65.175 Enforcement.

This article shall be enforced in accordance with chapter 49.10, article VI and section 49.65.195.

No substantive changes.

49.65.176 Appeal.

Any person who is aggrieved by a decision of the director or the commission with respect to this article, other than one under section 49.65.175, may appeal that decision to the commission or the assembly, as applicable, as provided in chapter 49.20, article I.

No substantive changes.

49.65.180 Release of warranties for mining operations.

(a) Upon completion of mining operations, the applicant shall file a written notice of completion with the director when it believes it has completed any or all requirements of this article, section 49.15.330 and its permit with respect to any or all of its affect surfaces. The director shall, within 90 days after receiving the notice, or as soon thereafter as weather conditions permit, inspect the lands and reclamation described in the notice to determine whether the applicant has complied with all applicable requirements.

(b) If the director determines that the applicant has successfully complied with all the requirements of this article, section 49.15.330 and the permit, it shall release all financial warranties applicable to said requirements. Release shall be in writing and shall be delivered to the applicant promptly after the date of such filing.

(c) If the director finds that the applicant has not complied with the requirements of this article, section 49.15.330 or the permit, it shall so advise the applicant not more than 90 days after the date of the inspection. The applicant shall be given a reasonable time to comply with requirements before a second inspection. If the applicant does not complete the requirements,

1
2 or if after reinspection the director is not satisfied that the applicant has complied with all the
3 requirements of this article, section 49.15.330 or the permit, the financial warranty shall be
4 subject to forfeiture to the extent necessary to satisfy any outstanding requirements.
5

6 ***No substantive changes.***

7 **49.65.185 Successor applicants.**

8 Any applicant desiring to transfer its rights under an exploration notice or a conditional use
9 mining permit shall submit a request for transfer to the director. This request shall identify the
10 name and address of the proposed new applicant. The director may approve the request for
11 transfer if it finds that: the proposed applicant will conduct the operations covered by the notice
12 or permit in accordance with the requirements of this article and any additional requirements
13 set by the director; the proposed applicant has submitted a financial warranty at least
14 equivalent to the financial warranty of the original applicant such other amount as may be
15 determined using the procedures in section 49.65.140; the proposed applicant will continue to
16 conduct the operations involved in full compliance with the terms and conditions of the original
17 notice or permit; and all obligations and responsibilities undertaken by the original applicant
18 shall be accepted and assumed by the proposed applicant. The director may deny approval of
19 the request for transfer if the original applicant has any existing notice or permit violations at
20 the time of the request until such time as the violations have been remedied. If the director
21 approves the transfer the financial warranty submitted by the original applicant shall be
22 released. Director decisions on transfer requests must be in writing.
23
24
25

No substantive changes.

49.65.190 Confidentiality.

Upon request of any applicant, information in any application or report relating to the location, size, grade, geology or geochemistry of any ore deposit, proprietary process information, or information as to cost of mine construction or operation shall be kept confidential by the director to the extent permitted by law. Information to be maintained as confidential must be separately presented to the director and must be marked "Confidential."

No substantive changes.

49.65.195 Suspension or revocation of notices and permits.

(a) Subject to the procedures of this section, the commission may suspend or revoke a permit issued under this article, or the authority to operate under an exploration notice pursuant to section 49.65.120, upon a determination by the commission that:

- (1) The exploration of mining operations are not in material and substantial compliance with the requirements of the exploration notice or permit issued under this chapter or by any state or federal agency, and such material and substantial noncompliance remains unremedied after issuance of a compliance order issued pursuant to section 49.10.620; or (2) The exploration of mining operations under the notice or permit have a history or pattern of intentional or grossly negligent noncompliance and compliance orders have previously been issued for such past events of noncompliance. Good faith efforts to remedy events of noncompliance shall create an inference that such noncompliance is not a cause for suspension or revocation.

1
2 (b) The director shall provide the applicant with written notification that it is
3 recommending that the commission consider the entry of a suspension or revocation order
4 under subsection (a) of this section. The written notification shall set forth the reasons for the
5 director's recommendation and the applicant's right to a hearing before the commission. The
6 commission shall schedule a hearing within 30 days after the applicant has received the
7 written notification. At the hearing, the director shall have the burden of establishing that the
8 applicant is not in material and substantial compliance with the permit or authority to operate
9 under an exploration notice, or that there is a past history or pattern on noncompliance
10 sufficient to justify suspension or revocation.
11

12 (c) Upon written notification of the entry of a suspension or revocation order to the
13 applicant or to any person operating under the authority of the permit or exploration notice, all
14 exploration or mining operations shall cease except those specifically authorized by the
15 commission in the order or if the assembly stays the order pending appeal.
16

17 (d) A suspended notice or permit may be reinstated by the commission upon a
18 determination that the exploration or mining operations have been brought into compliance
19 with the conditions of the notice or permit. A notice or permit which has been revoked may not
20 be reissued by the commission until the commission determines that the exploration or mining
21 operation has been brought into compliance with the terms and conditions of the notice or
22 permit, and the applicant has clearly and convincingly demonstrated that preventative
23 measures have been taken to ensure that those conditions which gave rise to the revocation
24 will not reoccur.
25

(e) A suspension or revocation order may be appealed to the assembly in accordance with chapter 49.20, article I. Pending appeal, the assembly may in its discretion stay an order of suspension or revocation.

(f) The rights of suspension or revocation provided for in this section are in addition to any rights or powers vested in the City and Borough in section 49.65.175 or chapter 49.10, article VI.

No substantive changes.

49.65.196 Effect of article on operations in annexed territory.

Large mine, small mine and exploration operations occurring in territory annexed by the City and Borough which have been issued the federal and state permits or approvals necessary for the operation, including, if applicable, permits or approvals necessary to operate in accordance with the National Environmental Policy Act (NEPA) process, shall be deemed to have been issued a large mine permit, a small mine permit, or an exploration notice, as applicable, under this article and to otherwise be eligible to operate pursuant to this article upon the effective date of annexation; provided, that all such federal and state permits or approvals are currently valid. With the exception of the initial permit application and exploration notice filing requirements, the applicant shall be subject to all of the requirements, of this article in effect upon the effective date of annexation, including the technical revisions and permit amendment requirements, and the monitoring fee enforcement and revocation or suspension provisions, in the same manner as any other applicant. The terms of the City and Borough permit or notice shall be deemed to be the terms of the state and federal permits or approvals, unless and until

a permit amendment is required. The applicant shall be required to execute documentation acknowledging that the permit or notice deemed to be issued under this article shall have the same terms as the federal and state permits or approvals unless and until a permit amendment is required, and that the applicant, and the permit or notice deemed issued, shall be subject to all of the requirements of this article in effect upon the effective date of annexation with the exception of the initial permit application and exploration notice filing requirements.

No substantive changes.

49.65.197 Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this article is for any reason held unlawful or otherwise invalid, such holding shall not affect the remaining portions of the article. The City and Borough declares that it would have enacted this article and each and every part thereof, irrespective of the fact that any one or more parts might be held unlawful or otherwise invalid.

Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2018.

Attest:

Kendell D. Koelsch, Mayor

Laurie J. Sica, Municipal Clerk



**Law Department
City & Borough of Juneau**

MEMORANDUM

TO: Mining Committee
FROM: Amy Gurton Mead, Municipal Attorney
DATE: February 9, 2018
SUBJECT: Committee requests for possible mining code revisions

At your meeting on February 8, 2018, committee members discussed three possible revisions to the proposed draft ordinance:

- Adding the definition of small and large mine to 49.65.
- Adding language to the section on socioeconomic impact report making clear that the director can waive the requirement if it is determined there will be no meaningful impacts; and
- Adding a reference clarifying that the director can rely on the final EIS in analyzing the socioeconomic impact assessment.

1. The definition of large and small mine could be added to the general applicability section.

Given the frequency of their use in the article, I added two more definitions for your consideration: exploration and mining operations. The new language being added is underlined in the code section below. All four definitions are currently found in CBJ 49.80.120 Definitions.

49.65.115 General applicability.

(a) For the purpose of identifying those areas within the City and Borough within which surface disturbance or subsidence in support of exploration or mining activities is prohibited, there is adopted the Mining and Exploration Surface Activities Exclusion District Maps A—F, dated June 5, 2006, as the same may be amended from time to time by the assembly by ordinance. Except as otherwise provided, mining and related activities may be conducted elsewhere within the City and Borough subject to the provisions of this article.

...

(e) For the purposes of this article:

(1) Exploration means the process of advanced mineral commodity investigation subsequent to prospecting and prior to development.

(2) Large mine means a mining operation involving more than 20 acres of affected surface disturbance; or having 75 or more personnel employed at the mining operation in the City and Borough, whether direct employees or employees of independent contractors, in any consecutive three-month period; or a mining operation which a federal agency has determined would involve a major federal action significantly affecting the quality of the human environment so that the preparation of an environmental impact statement in accordance with NEPA is required;

(3) Mining operation means the development, construction or reclamation of a mine, including associated infrastructure, or the exploitation or extraction of a mineral commodity from its occurrence on or in the earth, or the operation of a mine. The term "mining operation" includes open pit mining, placer mining and underground mining, and the disposal of refuse, tailings or waste rock from any such operation. The term "mining operation" also includes transporting, concentrating, milling, evaporating and other on-site processing. The term "mining operation" does not include off-site smelting, refining, cleaning, preparing, transportation or other surface operations not conducted on the affected surface.

(4) Small mine means a mining operation other than a large mine.

2. Requested revisions to CBJ 49.65.130 Socioeconomic impact assessment for large mines.

New language is underlined:

49.65.130 Socioeconomic impact assessment for large mines.

(a) A socioeconomic impact assessment evaluating the reasonable and foreseeable beneficial and adverse impacts, both direct and indirect, of the proposed mining operation

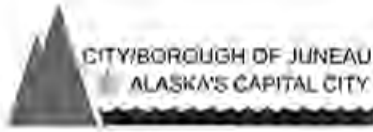
on existing and future local conditions, facilities, and services shall be prepared by the director, or a consultant retained by the director for that purpose, unless waived. The director may waive all or part of the socioeconomic impact assessment when the director determines either that the information is not essential to evaluate what impact the mining operation will have on the City and Borough, or that the proposed mining operation will present no meaningful or significant impacts. The waiver shall be in writing and shall set forth the reasons for the waiver.

(b) The impact assessment should include an evaluation of all reasonable, foreseeable, and demonstrable impacts of the proposed mining operation on transportation and traffic; sewer and water; solid waste; public safety and fire protection; education, native history and culture; health; recreation; housing; employment; local businesses; the rate, distribution, and demographic characteristics of any population changes induced by the mining operation; and the fiscal impacts of the mining operation on public facilities and services, including general government functions. Highly speculative impacts need not be studied.

(c) If information necessary to conduct the assessment is contained in a final Environmental Impact Statement (EIS) prepared pursuant to the National Environmental Policy Act, the director shall rely on the EIS, but may require the applicant to provide such supplemental information deemed necessary by the director to complete the assessment.

(d) All reasonable costs and expenses required to prepare the assessment shall be paid to the director by the applicant prior to the initiation of the assessment.

(e) The purpose of the impact assessment is to provide information to the director concerning possible beneficial and adverse impacts of the proposed mining operation for use in the preparation of the mitigation agreement required by section 49.65.155.



**Law Department
City & Borough of Juneau**

MEMORANDUM

TO: Mining Committee

FROM: Amy Gurton Mead, Municipal Attorney

DATE: March 12, 2018

SUBJECT: Comments to Mining Ordinance

At the last committee meeting, I was asked to review substantive public comments forwarded to me by any of the committee members.

There were a few proposed revisions I was asked to provide to the committee in writing for its consideration:

1. 49.65.125(b), page 7, line 24:

(v) The potential environmental, health, safety and general welfare impacts of the proposed operation, including neighboring property impacts, and a description of the measures to be taken to mitigate the adverse effects of such impacts; and

2. 49.65.125(d), page 9, line 5:

(d) To the extent that the information required by this section has been provided by the applicant as part of any application submitted by the applicant to a state or federal agency, the applicant may rely on that application. The applicant shall provide the director with a copy of each state or federal application being relied upon, a cross reference to the relevant portions of those applications, and a report on the current status of the applications.

3. 49.65.135(b)(2)(B), page 12, line 12: to clarify that the 90-day clock starts when the application is complete:

Unless an Environmental Impact Statement (EIS) is required by the National Environmental Policy Act (NEPA), or unless the operator agrees to an extension, the director shall complete the review of the application within 90 days after the director has determined that the application is complete ~~the initial meeting described in subsection (A) above.~~

4. 49.65.135(d), page 14, line 3:

The issuance of a state or federal permit, however, shall not prohibit the director from recommending proposing more stringent conditions on the proposed operation to the extent the City and Borough is not preempted by state or federal law, or from making a recommendation for denial if the director deems warranted in accordance with this article.

5. 49.65.140(c), page 15, line 14:

When the applicant has submitted a financial warranty in the amount set by the commission and in a form satisfactory to the municipal attorney, and executed any mitigation agreement required by CBJ 49.65.155, the permit shall be promptly issued by the director.



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

DATE: February 26, 2018

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

FROM: Rorie Watt, PE, City Manager 
Mila Cosgrove, Deputy City Manager 

RE: Centennial Hall Management Update

Background:

At the 12/4/17 Committee of the Whole meeting, staff advised the Assembly that discussions were underway regarding the potential of entering into an agreement with the Juneau Arts and Humanities Council for operational management of Centennial Hall. We asked the Assembly for permission to evolve that issue with the understanding that prior to entering into such an agreement, details would be brought back to the full Assembly.

Conversations have been ongoing with the Juneau Arts and Humanities Council and Travel Juneau regarding what a management agreement might look like, and staff have been working internally to determine the best path forward to assure that the underlying interests of CBJ are met. The following issues were identified and are explained in greater detail below: expected results of a collaborative agreement, type of operational agreement and conceptual components, procurement path, personnel services impact, and physical plant impact.

Expected Results:

In order to determine if proceeding with an operational agreement is in the best interest of the CBJ and to determine what type of agreement is appropriate, it was necessary to identify what the expected results were of such an arrangement:

Fiscal: The facility could be run on at cost neutral to cost savings basis.

Operational: That joint management of Centennial Hall and the Juneau Arts and Culture Center would result in running Centennial Hall in a more efficient and effective manner, measured by the overall satisfaction of the user groups.

Economic Development: That joint management of Centennial Hall and the Juneau Arts and Culture Center would result in the ability to further the Assembly's Economic Development goals related to arts & culture as well as a travel destination for larger conventions and meetings.

Community Purpose: Centennial Hall should remain available to the community for emergency management purposes on the same basis as it is currently available and to the Governor and Legislature as needed to be responsive to our role as Alaska's Capital City.

Operational Agreement Options:

Two options exist for entering into an agreement for the JAHC to manage daily operations of Centennial Hall. CBJ could enter into a lease arrangement or a management agreement. The differences between the two are largely a balance between how much control over operations and how much liability CBJ wants to retain in regard to operations.

With a lease, CBJ has less management control and less liability for operations. With a management agreement, CBJ has more control over operations and retains greater liability. Currently the JAHC leases the building that has become the JACC.

Because the concept of contracting the management of Centennial Hall is new, the Manager's Office believes it is in the best interest of the CBJ to enter into a management agreement rather than a lease. Doing so will allow the Manager's Office greater input in assuring that the expected results are met and assure the community that Centennial Hall continues to operate in way that assures the best interest of the community are being met.

The conceptual components of the management agreement are attached as an appendix to this memo. The details of a management agreement are largely operational and would be negotiated by the Manager's Office. This is similar to how other management agreement/contracts for services are handled, as an example, our contract with Care a Van services and Gastineau Humane Society.

Procurement Path:

The Manager's Office has met with the CBJ Purchasing Officer to determine how best to comply with the Purchasing Code. A determination has been reached that, given the unique nature and requirements of the agreement qualify for an MR which is an exemption to the competitive procurement process.

That finding is based on the concept that only the JAHC can provide unified management of both facilities and therefore a competitive process would be useless.

Personnel Services Impact:

Centennial Hall is currently staffed by 6 benefited employees (5.83 FTE), and 9 non benefited employees (.15 FTE) who serve on an on-call basis. In considering a decision to move forward with a management agreement there are two issues: the potential impact regarding PERS and the impact to the actual employees.

PERS: In considering PERS implications there are two potential impacts, a termination study and the potential of ongoing indebtedness payments. In determining if there is financial impact to employers, PERS considers whether a job class is being eliminated, the retirement tier of the employees in the positions to be eliminated, and the employer's reported salary floor for Calendar Year 2008.

Centennial Hall Management Update
Assembly Committee of the Whole
February 26, 2018

A termination study is triggered when there is a reduction in force that may impact the projected future contributions of the positions to the defined benefit system (Tiers I – III) in a way that adversely impacts actuarial projections. The cost of such a study would be borne by CBJ and the anticipated cost is approximately \$5,000. There are 5 positions in classifications unique to Centennial Hall. As all 5 incumbents are in the Tier IV retirement system a termination study will likely not be triggered. If a termination study was triggered, the actuary would identify a sum of money that would need to be paid to keep the retirement system whole for the loss of the positions. Again, given that the positions are Tier IV, the impact should be minimal.

The remaining benefited position is allocated to a job class with multiple incumbents across the city. Elimination of the Centennial Hall position will not trigger PERS implications.

The CBJ must also be aware that Alaska statute provides that staff reductions must not fall below the overall salary floor from 2008. The salary floor in 2008 was approximately \$29.9 million and the 2016 PERS reported salary was \$36.2 million. The salary reduction impact for this group is not close to the \$6.3 million current gap, so going below the salary floor does not appear to be an issue.

Staff Impact: Every attempt will be made to absorb benefited staff into other positions within the organization. In the event that is not possible, staff will be laid off from their positions and have recall rights for a period of two years. It is also possible that displaced staff could be reemployed by JAHG to fulfill similar functions in the new organization.

Physical Plant Impact:

The terms of the management agreement would outline the specifics of routine maintenance, preventative maintenance and capital improvements. There is also the possibility of mutual benefit to the CBJ and JAHG as the JAHG pursues the construction of the new JACC. At that time, there may be additional efficiencies gained through the sharing of physical plant systems and other relevant connections.

Budget Impact:

The intent is a cost neutral to cost savings agreement. The Assembly should be aware that like many Departments, Centennial Hall's budget contributes "full cost allocation" (FCA) to compensate other Departments for services incurred. The costs funded by the FCA would be partially avoided, shifted or still incurred. Thus, the ultimate price negotiation will entail management of the appropriate allocation of these costs. A copy of the current budget for Centennial Hall is attached for reference.

Action requested:

After studying this issue and discussing the practical implications, we believe it is in the best interest of CBJ to pursue a management agreement with the JAHG that meets the conceptual guidance outlined in the attached agreement. As this represents a major shift in operational policy, we are seeking the approval of the Assembly to proceed in this direction. We believe that the community will be best served by this management concept.

Conceptual Management Agreement
CBJ/JAHC for operational Management of Centennial Hall
Assembly Committee of the Whole
February 26, 2018

Purpose

Throughout its history, Centennial Hall has been operated in the public interest to create positive economic impacts, to stimulate growth for Southeast Alaska, and to provide for the cultural enrichment of Juneau.

The purpose of entering into a management agreement is to:

- Increase use and facilitate greater coordination of event scheduling between Centennial Hall and the JAHC, and;
- Make it easier for users to book the facilities; and;
- To maximize operational efficiencies between the two facilities, and;
- In accordance with the Juneau Economic Development plan, operate the facility to foster enhanced economic development opportunities including conventions, meetings, trainings, and arts and culture events.

These goals are intended to lead to greater utilization of and a stabilization or reduction in public subsidies to Centennial Hall.

Scope of Services

CBJ shall contract for the management of all day to day operational decisions to the Juneau Arts and Humanities Council (JAHC) while retaining high level oversight of operational plans, budget, the facility and governance. As an example, JAHC will recommend a fee structure that must be approved by the Manager's Office.

Governance

JAHC will form a governance group comprised of representatives from CBJ, Travel Juneau, JEDC, Chamber of Commerce and commercial uses for the Hall. The purpose of this group will be to advise the JAHC on policy and operational issues associated with Centennial Hall and to forge a closer connection between these groups.

Physical Plant

Routine and reoccurring maintenance shall be the responsibility of the JAHC. Major projects and systems upgrades to Centennial Hall will be the responsibility of CBJ. CBJ will continue to provide basic outdoor maintenance and snow plowing services.

Conceptual Management Agreement between
CBJ/JAHC for Operational Management of Centennial Hall
Assembly Committee of the Whole
February 26, 2018

Revenues/Management Fees

JAHC shall be paid a management fee. The details are to be negotiated but the intent is that the cost to the CBJ be no more than the current cost with the goal of reducing general fund support.

Priorities of Use

Priorities of use will be subject to contract negotiations, but the parties tentatively agree that at a minimum, the following order of use shall be observed:

1. Emergency Use
2. Legislature & Governor
3. Full day, multi day events
4. Full day, single day events

Employment relationships

All staff will be employees of the JAHC. JAHC retains the right to subcontract out specific services.

Applicability of law

JAHC will comply with all applicable Federal, State and Local laws.

Reporting

JAHC will provide an annual budget, operating plan, and facility plan to the CBJ. In addition, JAHC will provide quarterly reports on revenues and expenses.

Term of Contract

We are considering a 5 year agreement with possibility of renewals thereafter. There will be options to terminate the contract for cause as well as for convenience.

PARKS AND RECREATION

COMPARATIVES FOR CENTENNIAL HALL (VISITOR SERVICES)

	FY16 Actuals	FY17		FY18	
		Amended Budget	Projected Actuals	Approved Budget	Adopted Budget
EXPENDITURES:					
Personnel Services	\$ 542,900	587,400	545,000	593,900	597,200
Commodities and Services	558,400	602,600	544,200	601,700	501,800
Travel Juneau					
Hotel Tax Funding	815,500	-	-	-	-
Marine Passenger Fee Funding	310,000	-	-	-	-
Total Expenditures	2,226,800	1,190,000	1,089,200	1,195,600	1,099,000
FUNDING SOURCES:					
Charges for Services	3,800	2,000	4,700	2,000	2,000
Rental and Lease	356,500	335,300	355,400	335,300	335,300
Licenses, Permits and Fees	74,200	51,500	67,300	51,500	52,500
Fines and Forfeitures	2,700	1,000	2,500	1,000	1,000
Other Revenue	2,600	-	-	-	-
Support From:					
General Fund for Centennial Hall	27,000	178,700	37,800	171,500	73,900
Hotel Tax for Centennial Hall	568,700 *	621,500	621,500	634,300	634,300
Hotel Tax for Travel Juneau	815,500	-	-	-	-
Marine Passenger Fee for Travel Juneau	310,000	-	-	-	-
Total Funding Sources	2,161,000	1,190,000	1,089,200	1,195,600	1,099,000
FUND BALANCE:					
Beginning Available Fund Balance	389,000	N/A	N/A	N/A	N/A
Increase (decrease) in Fund Balance	(65,800)	N/A	N/A	N/A	N/A
End of Period Fund Balance	323,200	N/A	N/A	N/A	N/A

STAFFING 7.73 7.73 7.73 7.73 7.73

The Centennial Hall Division is a component of the General Fund. See the General Fund fund balance in the "Changes in Fund Balances" schedule.

(1) In 2002, the Assembly Finance Committee directed staff to transfer unexpended marine passenger fee funds, designated for specific projects and activities, to Waterfront Open Space Land Acquisition. Unexpended proceeds are returned to the Marine Passenger Fee Fund and appropriated to Waterfront Open Space Land Acquisition as part of the subsequent year budget process.

(2) Effective FY17, the Hotel Tax support to Travel Juneau will be presented as a Mayor and Assembly grant which is presented in the General Fund.

(3) Effective FY17, Visitor Services was moved from a Special Revenue fund to the General Fund and renamed Centennial Hall. Therefore, there is no longer a Fund Balance.

PARKS AND RECREATION

BUDGET HIGHLIGHT

The Parks & Recreation Department's FY18 Adopted Budget is a decrease of \$152,800 (1.3%) from the FY18 Approved Budget.

The significant budgetary changes are:

FY18 Adopted Budget

- Personnel Services decreased \$297,000 (4.3%) which is primarily composed of long-term staff turnover and the elimination of funding for positions at Treadwell Ice Arena and Aquatics. Personnel services for Treadwell were reduced by \$19,100, Augustus Brown Pool was reduced by \$30,000 and the Community Outreach Manager position funding of \$82,000 in Areawide Recreation was not funded in FY18.
- Commodities and Services increased \$144,200 (3.3%) due to an increase in contracted services and minimal increases across the Department in parking fees, telephone charges and bank card fees.



April 10, 2018

Mr. Greg Chaney
CBJ Lands and Resources Division
155 Seward Street
Juneau, AK

RE: Hurlock Property – Response to Questions

Please find our response to your list of questions sent to Alaska Legacy Partners on April 2, 2018. Feel free to contact either one of us with additional questions. We look forward to your response.

Regards,



Garrett Schoenberger
Managing Member
Alaska Legacy Partners LLC
(602) 790-6144



Paul Simpson
Managing Member
Alaska Legacy Partners LLC
(949) 244-2924

Supplemental Questions Regarding the City Property Located at 9290 Hurlock Ave.

1. Are you still planning on a 16-18 bed memory care facility as stated in your initial application? If anything has changed please explain.

Yes. However, it is important to note that based on demand it could be a combination of memory care, assisted living, and/or hospice end of life. Commonly referred to as the continuum of care.

2. The original application states you are interested in a less than fair market value lease or sale. How has this changed in light of new information?

We understand CBJ is not legally permitted to lease or sell a city owned property below market value to a for-profit entity. In light of this we are requesting CBJ to seller finance the property with deferred loan payments.

3. The fair market value of the Hurlock Ave. facility has been appraised at \$350,000. Could you afford a 10% down-payment in the amount of \$35,000 by the date of closing if required?

☒ Yes ☐ No

If "No", please explain:

4. How will you be financing a potential acquisition and/or construction costs associated with the Hurlock Avenue facility? Will there be a private lender involved? Will you elect to use City Financing to purchase the property? Please explain.

Alaska Legacy Partners will use private funds for the acquisition (down payment) and development (renovation and initial operational costs) of the senior facility. We will utilize seller financing from CBJ and would look to refinance the property with AHFC (Alaska Housing Finance Corporation) upon stabilization (estimated at 24-36 months).

5. If a sale of the property is approved, how soon could you close on the property? Please provide a specific date. **Note:** At closing, a 10% down-payment and title insurance are some of the conditions the CBJ typically requires if utilizing City Financing to purchase the property.

Date: June 1, 2018

6. Are you prepared to pay property taxes?

☒ Yes ☐ No If you answered "No" please explain.

7. The project summary submitted with the application has permitting beginning on February 1, 2018. How has the project schedule changed in light of new information? Based on the above mentioned closing date, provide a timeline that demonstrates all necessary steps indicating when the facility will be operational. Please attach additional pages if necessary.

Our updated timeline would mirror the original submitted but would commence on June 1, 2018. As follows:

Design/Permitting:	June 1, 2018
Duration:	90 days
Construction:	September 1, 2018
Duration:	150 days
Opening:	February 1, 2019

****ALP will work immediately after closing to obtain all required city, state, and federal licensing to operate a senior living facility****

8. Please provide a breakdown of needed building improvements as well as a budget for construction of building modifications. Please include the updated land expense in the project cost summary.

Please see Exhibits A (Improvement Plan) and B (Improvement Plan Budget)

9. Please provide an operating budget which includes expenses and income on an annual basis, including staff.

Please see Exhibit C (Consolidated Operating Budget)

10. Based on the information provided above, when will the facility be operational and ready to provide the proposed service? Please provide a specific date.

Date: **February 1, 2019**

Exhibit A – Improvement Plan Budget

Exterior Improvements

- New roof
- Secure garden/patio area
- Landscaping
- Parking lot
- Signage

Interior Improvements

- Resident rooms
- Dining area
- Kitchen area
- Living area/great room
- Sitting/relaxing area
- Beauty salon
- Medication office
- Laundry room
- Secure entry and exit areas
- Resident care manager's office

Furniture, Fixtures, & Equipment

- Nurse call system
- Telephone equipment
- Window coverings
- Therapy equipment

Deferred Maintenance

We will take care of any mechanical or structural deferred maintenance where needed. Examples of this could include:

- Electrical
- Boiler
- Hot water heaters
- Windows
- Property drainage

EXHIBIT B

Improvement	Cost	Notes
Land Cost	\$35,000	Down Payment (10% of \$350,000)
Exterior		
New Roof	\$50,000	new roof
Secure Garden/Patio Area	\$25,000	create secure garden and patio area for residents
Landscaping	\$25,000	update landscaping and drainage on site
Parking Lot	\$25,000	pave (asphalt) parking area
Signage	\$5,000	new monument sign at entry
Exterior Total	\$130,000	
Interior		
Resident Rooms	\$250,000	build out 9 semi-private rooms (equals 18 beds)
Dining Area	\$40,000	update dining area
Kitchen Area	\$25,000	update kitchen area to handle resident cooking load
Living Area/Great Room	\$20,000	build out defined living area with televisions and chairs
Sitting/Relaxing Area	\$15,000	build out defined relaxation area for knitting, puzzles, quiet time
Beauty Salon	\$15,000	hair salon dedicated to residents
Medication Office	\$15,000	built out secure medication management office
Laundry Room	\$15,000	update laundry area (floors and venting) and buy new equipment
Secure Entry & Exit Areas	\$15,000	create secure entry and exit points throughout the property
Manager's Office	\$10,000	dedicated office for resident care manager
Interior Total	\$420,000	
Furniture Fixtures & Equipment	\$100,000	Nurse call system, telephone equipment, window coverings, therapy equipment
DEFERRED MAINTENANCE	\$25,000	budget for unforeseen deferred maintenance (electrical, plumbing, heating)
RESERVES	\$25,000	reserve budget for operations
PROJECT TOTAL	\$735,000	

Exhibit C – Consolidated Operating Budget Estimation

INCOME

Annual

Income:	\$1,077,300	18 residents @ \$5,250 per month
Vacancy:	<u>(\$53,865)</u>	5% vacancy
Net Rental:	\$1,023,435	
Other Income:	<u>\$123,120</u>	\$600 per resident per month (5% vacancy)
Total Income:	\$1,146,555	

EXPENSES

Annual

Property Taxes:	\$3,731	\$350,000 @ current CBJ mill rate (1.066%)
Property Insurance:	\$10,000	market
Utilities/Maintenance:	\$72,000	estimate (based on historical data)
Payroll:	\$696,680	estimate
Contracted Services:	\$10,000	mkt
Property Management:	\$57,328	5% (based on total income)
Administration:	\$10,000	mkt
Reserve Allowance:	\$1,800	mkt (\$100 per bed)
Misc/Other:	<u>\$2,500</u>	mkt
Total Expenses:	\$864,039	

Income:	\$1,146,555
Expenses:	<u>(\$864,039))</u>

Net Operating Income: \$282,516

Per Resident Day Breakdown

18 rooms @ 5% vacancy = 6,242 resident days

Income:	\$184 PRD
Expenses:	\$138 PRD

To Whom It May Concern:

In the time since my last correspondence to the Assembly, the physical space at Gehring Nursery School is being inspected for insufficient child to physical space.

The original licenser approved us for 21 students ages 0 months to 12 years old capacity in our current facility. The current licenser has stated the State perspective has changed, and our facility is deemed 'too small' and have therefore notified us that we will need to be relicensed. The new license will limit our school to 17 students ages 19 months to 12 years old, which eliminates our Infant Program. Gehring Nursery School has already started making physical changes in the school to maximize space. Although we acknowledge our space is less than ideal, we will be challenging the State on this issue as the previous licenser licensed this facility 'as is' when we originally applied in 2016. It is our perspective that aside from a few pieces of furniture added to the facility since the original license, the main issue to incite this inspection is an upcoming change in State regulations that impacts all childcare facilities (in-home, Center based, and including the Juneau School District). If Gehring Nursery School is the chosen applicant for the Hurlock property, this current licensing issue would no longer be applicable as we would have more than sufficient physical space to be compliant with the current and the new proposed regulations.

This change in licensing further supports our need to find a larger facility for our school. As you may be aware, TLC Childcare facility has already closed and Juneau Christian Center will be closing this summer. Beyond these closures, the proposed regulations will also affect countless more childcare slots as in-home childcare providers will need to change their ratio from what is currently one teacher to six children to one teacher to five children. After an informal telephone poll with the administrators of other licensed childcare facilities in Juneau on how the proposed regulations will affect them, it is my understanding that collectively about 40 students will need to be cut from their current slots. The need for childcare in Juneau will be going from difficult to desperate. With the Hurlock property in our sights, Gehring Nursery School is in the best position to take a big swing towards solving this issue.

Excitedly, we anticipate only minor changes to operate out of the Hurlock facility. At this time we believe our largest expense would be fencing around the perimeter. The majority of the facility is "turn-key" for start-up, and any major changes inside the building can be done at later dates without affecting business operations. Although we have not yet obtained a fence building quote, we already have the wood supplies needed for the fencing and enjoy an extremely supportive and talented set of parent volunteers to assist with this project.

Answers to the Board's specific questions:

1. Yes, we are still planning on 50-75 children enrolled. Upon implementation of operating in the new facility we are prepared to begin permitting, licensing and student enrollment. We have 6 full-time staff plus one 'floater' ready to operate the school.
2. Yes
3. Requesting acquisition of property to be financed through the city.
4. As soon as May 1st, 2018
5. Yes, paying property tax is an assumed part of the purchase
6. Timeline:
 - a. April 17th, begin City State permitting process

- i. Estimate 60 days for City permitting process
 - ii. Estimate 45 days for State licensing process
 - b. May 1st, receive keys to Hurlock Property
 - c. June 1st, begin Outdoor Summer Program at Hurlock facility
 - d. September 1st, begin School Year at Hurlock facility fully operational
7. At this time there are not any building improvements needed in order to operate out of the facility. Any improvements made have already been incorporated into the budget under monthly maintenance costs and will not impact the operations of the facility.
8. See attached
9. June 1st for Summer Program (using partial facility space). September 1st for childcare facility using full facility

Ideally, we would like to have a School Program to start in September 2018, however, we acknowledge the permitting process may delay this anticipated start date. We anticipate scaling up from our current staff and student levels to be a smooth process: We already have returning staff from last year to assist in implementation of expanded program, as well as six full-time staff and one floater.

As always, we appreciate your consideration for this award and look forward to discussing this with you on April 16th.

Sincerely,



Israa Kako-Gehring

Gehring Nursery School

4/16/2018

Preschool Staff	<u>3</u>	
Preschool Students	30	
Preschool Students paying full enrollment (anticipate 4 students on scholarship or reduced payment)	26	
Enrollment Cost per month	\$950	
Estimated income from Preschool enrollment		\$24,700

Toddler Staff	<u>4</u>	
Toddler Students	24	
Toddler Students paying full enrollment (anticipate 5 students on scholarship or reduced payment)	19	
Enrollment Cost per month	\$1,050	
Estimated income from Toddler enrollment (anticipate 5 students on scholarship or reduced payment)		\$19,950

Infant Staff	<u>2</u>	
Infants	10	
Infants Students paying full enrollment (anticipate 2 students on scholarship or reduced payment)	8	
Enrollment Cost per month	\$1,250	
Estimated income from Infant enrollment (anticipate 2 students on scholarship or reduced payment)		\$10,000

Total Staff	9	
Total number of students/infants enrolled	64	
Estimated income from 53 children (anticipate 11 students on scholarship or reduced payment)	<u>\$ 54,650</u>	

Staff Costs

Staff members	9	
Cost per hour/staff	\$ 18.50	
Staff hours per week	50	
Staff cost per week	\$ (8,325)	
Staff cost per month (4.5 working weeks)		\$ (37,462.50)
Staff 'Floaters'/Office employee	2	
Cost per hour/floater staff	\$ 21.00	
Staff hours per week	50	
Staff cost per week	\$ (2,100)	
Staff cost per month (4.5 working weeks)		\$ (9,450.00)
Anticipated monthly maintenance cost (per CBJ estimate)		\$ (6,000)
Net income reinvested into school for operations		<u>\$ 1,737.50</u>

Estimated income from Summer Program		
Cost per child	\$	750
Anticipated number of children enrolled		40
	\$	<u>30,000</u>
Program in session for 2.5 months		\$ 75,000
Cost per hour/staff	\$19	
Staff	4	
Staff hours per week	45	
Staff cost per week	<u>(\$3,420)</u>	
Staff cost per month (4.5 working weeks)	<u>(\$15,390)</u>	
Staff cost for Summer session (2.5 months)		(\$38,475)
Anticipated monthly maintenance cost (per CBJ estimate)	\$ (6,000)	
Anticipated summer maintenance cost (per CBJ estimate)		\$ (15,000)
Estimated net income for Summer Program		<u>\$ 21,525</u>
Funds would be applied to anticipated renovations to be completed in Summer 2018		

Estimated net income for Summer Program	21,525.00
Funds would be applied to anticipated renovations to be completed in Summer 2018	
Net income reinvested into school for operations	1,737.50
10 months income for school year	17,375.00
State Of Alaska Grant funding for Licensed Facilities	
Estimated monthly award*	1,000.00
Estimated annual award for 12 months	12,000.00
Total Annual Income for 12 months	<u>50,900.00</u>

*This is considered a conservative estimate. Awards are based on the number of children enrolled. This estimate is based on enrollment of current program at Gehring Nursery School



CBJ Lands and Resources Division
155 S. Seward St.
Juneau, AK 99801

April 2nd, 2018

To Gehring Nursery School:

As directed by the CBJ Assembly at the March 19th, 2018 Committee of the Whole meeting, staff has compiled a list of additional questions to be answered by you before the Assembly reconvenes to discuss the 9290 Hurlock Ave. property on April 16th, 2018.

Please address the attached questions and submit your responses to me no later than 4:00 P.M. on April 10th, 2018.

Thank you,

A handwritten signature in blue ink that reads 'Greg Chaney'. The signature is fluid and cursive, with the first name 'Greg' and last name 'Chaney' clearly distinguishable.

Greg Chaney
CBJ Lands Manager
907-586-0205



1. Are you still planning on a 50-75 child facility, as stated at the February 12, 2018 Committee meeting? If anything has changed please explain.
2. The fair market value of the Hurlock Ave. facility has been appraised at \$350,000. Could you afford a 10% down-payment in the amount of \$35,000 by the date of closing if your application is chosen to proceed?

☐ Yes ☐ No

If "No", please explain:

3. How will you be financing a potential acquisition and/or construction costs associated with the Hurlock Avenue facility? Will there be a private lender involved? Will you elect to use City Financing to purchase the property? Please explain.
4. If a sale of the property is approved, how soon could you close on the property? Please provide a specific date. **Note:** At closing, a 10% down-payment and title insurance are some of the conditions the CBJ typically requires if City Financing to purchase the property is elected.

Date: _____

5. Are you prepared to pay property taxes?
☐ Yes ☐ No If you answered "No" please explain.

6. Based on the above mentioned closing date, provide a timeline that demonstrates all necessary steps indicating when the facility will be operational. Please attach additional pages if necessary.
7. Please provide a breakdown of needed building improvements as well as a budget for construction of building modifications.
8. Please provide an operating budget which includes expenses and income on an annual basis, including staff.
9. Based on the information provided above, when will the facility be operational and ready to provide the proposed service? Please provide a specific date.

Date: _____