ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE
THE CITY AND BOROUGH OF JUNEAU, ALASKA
May 5 2014, 6:00 PM.
Assembly Chambers

Assembly Worksession - No public testimony will be taken.

I. ROLL CALL

Chair Becker called the meeting to order at 6 p.m.

Assembly Present: Mary Becker, Karen Crane, Loren Jones, Jesse Kiehl, Jerry Nankervis, Carlton Smith, Kate Troll, Randy Wanamaker, Merrill Sanford.

Assembly Absent: None.

Others Present: Kim Kiefer, City Manager; Amy Mead, Municipal Attorney, Rob Steedle, Deputy Manager; Laurie Sica, Municipal Clerk; Hal Hart, Community Development Director; Travis Goddard, Planning Manager; Eric Feldt, Planner; Kirk Duncan, Public Works Director; Dave Crabtree, Utilities Superintendent; Greg Chaney, Lands and Resources Manager; David Means, Juneau School District Administrative Services Director; Kristin Bartlett, Communications Manager.

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved.

III. APPROVAL OF MINUTES

No minutes were available for approval.

IV. AGENDA TOPICS

A. Wireless Communication Facilities

Ms. Mead provided a general overview of the draft Wireless Communication Facilities (WCF) ordinance. The Planning Commission would hold its first review of the draft on May 8. The ordinance was circulated to AT&T and Verizon. The companies did not have many comments, were generally happy with one exception which would be discussed with the consultant. Anyone wanting to install a WCF must submit an application, which would be processed in one of three ways. There was a streamlined process that was required by federal law, a director's decision process, and a special use process heard by the Planning Commission similar to a conditional use permit. The Comprehensive Plan instructs that a new special use process be created to address WCF applications. The streamline permit is allowed for co-location and minor modifications, as defined by federal law, with a 90 day turnaround following submission of a complete application and the end result was a building permit. The WCF applications available for director's decision permits were addressed in Table 1 of the draft ordinance, had a 120 day turnaround time for review and the end result was a building permit. A special use permit application would be required for all WCF that were not identified in Table 1, with a 150 day turnaround time, with substantive decisions made by the Planning Commission and the end result was a special use permit and a building permit. Federal Law limited the time for deciding upon an application. The ordinance encourages applicants to construct WCF's according to CBJ's preferred hierarchy, drafted by the Planning Commission and encourages co-location on existing towers not requiring lighting. She explained the incentives in Table 1. CBJ can regulate on the basis of zoning principles and concepts, such as setbacks. The ordinance limits tower height to be no higher than for effective functioning of the provider's network.The ordinance addresses abandonment of WCF's, lighting, and any tower than requires lighting requires a special use permit. The applicant must install the least intrusive lighting configuration required by federal law. Notice requirements for the special use permit follows the same for the conditional use permit process, but it is a policy decision of the Planning Commission to review. Structural assessments will be required when installed. Fees for processing of applications will be similar to building permits and conditional use permits. Any technical review will be charged to applicant. Viewsheds and scenic corridors were outlined in the Comp Plan and were addressed in the ordinance. The ordinance addressed concealment and aesthetics and required WCFs to be designed to resemble the surrounding landscapes and building to minimize visual impacts.

Ms. Troll asked about using a balloon test to assist with public notification of the height of a potential WCF. Ms. Mead said the consultant said advised a balloon test was not effective in this environment, but suggested other things such as the structural assessment and the height guidelines, but the test could be added in.

Mr. Kiehl said he appreciated the structural assessment but it did not provide any public notice and something should be done that served a comparable purpose. He asked about the term concealment, and what were the definition of the phrases in the ordinance, for example, "resemble the surrounding landscape." Ms. Mead said there was a limited world of concealment techniques. The recommendation was to not limit the concealment techniques but to outline the goal. The Law Department's goal with this ordinance was to take the previous ordinance and format it so that it provided a process that was easy to follow. The Planning Commission would provide more substantive policy.

Ms. Crane said the direction that WCFs should not significantly impact scenic corridors and viewsheds was ambiguous. Ms. Mead said those type of determinations would be the purview of the Department Director. Ms. Crane said the public notice should be increased beyond what the ordinance provided.

Mr. Smith asked what type of time committment would be required by staff to respond to the applications. Ms. Mead said a similar process used for building permits was approximately 30 days. She used the maximum time allowed by law for the ordinance. Mr. Smith asked if there was a way to compare this ordinance with the requirements in other communities and any benchmarks. Ms. Mead said she used a number of different ordinances and checked it ageainst federal law. The draft contained benchmarks from other communities, and there was some information from the "old" ordinance worked on by Planning Commission and staff.

Ms. Troll urged the use of a balloon test for a visual marker. Ms. Mead said that the consultant said a neighbor did not have the authority to say the tower was too high and CBJ was very limited on what it could regulate. CBJ could regulate height to the extent that it was imposing zoning conditions. If there was a zoning related reason for imposing the condition, then it could be regulated.

Mr. Kiehl asked about Table 1 and the footnote about maximum height and asked if that referred to above the existing building. Ms. Mead said yes. He asked the setbacks in the various zoning districts and Mr. Goddard said Table 1 was the qualifier for what could be done without requiring a special use permit.

Mayor Sanford said he met with one of the companies that was building a lot of towers which stated they were already built out for their system within Juneau, so requests will be few from them regarding the use of staff time. He asked about the fee for an application and if it was increasing. Ms. Mead said the fees were outlined in the code, and the payment for a technical review was being added. Mr. Goddard said the SUP would have similar fee to CUP and there would be a third party review fee of approximately $3,000 per application. Ms. Mead said CBJ was prohibited from charging more than actual costs.

B. Juneau School District Budget

Mr. Means thanked the Assembly for the opportunity to talk about the state's actions regarding schools. He said $2 billion was put into the teachers retirement system, $1 billion into the public employees retirement system, and as a result the budget needed to be amended to include those figures, which substantially changed the totals of the school budget. SB 119 appropriated $200 to the district for curricular materials. HB 278 passed with several different provisions and affects upon the school budget. It raised the Base Student Allocation (BSA) $150 per student for the upcoming year and an additional $50 in each of the two following years. The state required the school district to provide more funding to the charter school. The School Board met and provided a final budget that was presented to the Assembly. 13 teaching positions and three support staff were added back to the budget, restored some money to high school activities, and other actions outlined in the memo from JSD. The District was below the funding cap of $904,000. If the Assembly were to get the funding to the cap the Board has pledged to restore the class sizes next year to what they are this year, which means about 7.5 teaching positions at about $768,000.

Mr. Wanamaker asked Mr. Means what the total amount of money was provided from the state to the school for transportation. Mr. Means said about $2.9 million and he would provide the exact figure to the Assembly the next day.

Ms. Troll asked if the add backs above the line drawn on the memo dated April 29, 2014 were approved by the School Board and Mr. Means said yes.

Mr. Wanamaker asked about the purchase of curriculum. Mr. Means said the district planned to purchase a Language Arts program for the elementary schools and a music program. The $200,000 from SB119 would be used for part of it and the remainder would come from the operating budget. One of the adbacks that the Board approved as $50,000 for music curriculum. Mr. Wanamaker asked how many teaching positions could be restored if the district delayed that purchase of curriculum. Mr. Means said the elementary language arts program cost was approximately $500,000, products had been reviewed and the selection was yet to be made. That was about equal to five teachers.

Mr. Kiehl said that the $200,000 in capital funds for curriculum would reduce the base amount that the district had in its budget for curriculum. Mr. Means said yes, the funds freed up money in the operating budget for other purposes. Mr. Kiehl said that was a meaningful shift to fund teachers. Because the legislature had set three years of flat funding, he asked what the districts plan was to address the fixed cost increases that were known in the next few years. Mr. Means said the Board had a long discussion on that topic and affected the discussion about curriculum. Additional staffing comes with continued increased costs. There were no negotiated agreements with any employees beyond FY15. It was a topic for future discussion.

MOTION, by Sanford, to refer the school districts request to the Finance Committee. Hearing no objection, so ordered.

C. Juneau Affordable Housing Commission - Housing Action Plan

Norton Gregory and Justin Shearer of the Juneau Affordable Housing Commission were present to encourage the Assembly to fund a Housing Action Plan (HAP). They explained the need for, and the elements and outcomes of a HAP.

Ms. Crane asked if the request was to use $75,000 of the funds that existed in the Affordable Housing Fund. Mr. Gregory said yes, there was currently approximately $400,000 in that fund, so this was not a request for new funds.

Mayor Sanford questioned how the HAP could avoid duplicating information that already existed. Mr. Gregory said that was one of the questions that they hoped the HAP would answer following the statistical analysis of the community, so there would be a roadmap of the need, with a strategy for making that happen.

Mr. Smith asked if the commission had looked at other plans and what are some of the features in those plans and how can they be applied here. Mr. Shearer said Bozeman put together a workforce plan for worker housing and allowed builders a tax deferral for that type of housing. The plans look at taxes, identification of lands for disposal, other resources in the community, land use incentives and designating new areas of land that may not have been considered in the past.

Ms. Crane asked what the next step was - does this have to go to the assembly and what is the process if assembly action is needed. Ms. Kiefer said the funding had already been identified and appropriated, it was money from the principal that was meant for loans initially. The CIP needed to be created. Ms. Crane said she wanted the process to run through the manager's office.

Mr. Wanamaker said he would like the manager take a look at the way the fund was set up. It was a loan fund and this use would change that purpose.

Ms. Kiefer said the Assembly put together the fund as a loan fund and Ms. Kiefer said she would confirm with the city attorney that this was an appropriate use.

Hearing no objection, Ms. Becker said that it was the Assembly's intention to have the manager look into the uses of the fund, and if it were appropriate, award $75,000 to fund the HAP, and if there was any problem Ms. Kiefer would report back to the Assembly.

Mr. Nankervis and Mr. Kiehl were interested in having the manager's office oversee the development of the RFP to ensure that the action plan would provide new information.

D. Utility Rate Study Update

[Please note the spreadsheets in the Utility Rate Study section are set to be printed on legal size paper.]

Ms. Kiefer distributed an updated memo which changed the manager's funding recommendation. The initial recommendation was to increase water rates by 9.5% and increase wastewater rates by 9.5% in FY15. Due to the $1 million grant for improvements at Salmon Creek, Mr. Duncan revised his recommendation to no increase in water rates in FY15. Work on the Water and Wastewater Rate study would continue and he would bring additional information to the Assembly in the future.

Mr. Duncan acknowledged Jeff Larson and Scott Willis from the Utility Advisory Board and Dave Crabtree, Water Superintendent and Samantha Stoughtenger, Wastewater Superintendent, in the audience. He said CBJ had $275 million in water/ww assets, and there was a goal of replacing 25% of those over the next ten period. The funding strategy was outlined in the memo dated May 2. There are $23 million in needs for the water utility and $1.4 million needed for wastewater over the next ten years. 2.5% inflation for operating was built and 4.5% for capital improvment inflation were built in to the model. $1.2 million coming from Marine Passenger Fees was built into the model and $22.5 million from 1% sales tax in 2017. If we do this it allows us to fund the CIP program over the next ten years. The May 5 memo says we still recommend a 9.5% increase in wastewater but today, pending Governor approval, CBJ received notice of $1 million in grant money for the water utility improvements at Salmon Creek. That would allow us to not increase water rates for the next year only. In wastewater today there is $17.4 million in available funds in CIPs and operating funds. We will spend over the next ten years $61 million indexed for inflation. If we do the funding that we've talked about with the beginning fund balance at $17.4 million - it ends up being $26.4 million. We have looked at the next ten years 2025-2034 and we will be spending a $99 million in capital improvement in wastewater. Carrying money in at $26 million, if we just do 5% rate increases annual during that study period it would work out, but it was a policy call. We can't reduce that $26.8 million to something less than that - that was a policy call. This is a recommendation that will allow a future Assembly not to be faced with a series of 9.5% increases, but a consistent 5% increase in the next cycle. The 9.5% increase in wastewater for FY15 would increase on an annual cost the average homeowner would pay $73.08 more per year for wastewater and the water utility would not increase.

Ms. Kiefer showed how the spreadsheet outlined how CBJ was operating at a loss and was using fund balance to meet needs in wastewater expenses. The operating income was $4.3 million in water and operating expenses were $3.4 million, which was why the staff was recommending increasing wastewater now and showing the possibility of holding off on water increases. CBJ had not increased fees since 2011 and they were increased at that time by 7%.

Ms. Crane asked if there were different water and wastewater rates proposed for large users. Mr. Duncan said that topic was called "cost of service" and it was controversial as there were many ways to look at cost of service. Staff recommended continuing the rates study and have an across the board rate increase, and in the future consider whether a cost of service rate made sense.

Ms. Troll said the consultants showed a low/medium and high scenario. This new memo shows the high scenario to build revenues sooner rather than later to get to the 25% increase. She asked for the justification. Mr. Duncan spoke about the best management practice of maintaining assets and lack of reinvestment in the system has caused some issues. Mayor Sanford had stated that the Assembly had funded everything the utility had asked for and he was correct, but staff had not asked for enough. Staff was now asking for what they think they need. It was a good investment.

Mr. Jones asked if the plan proposed included funding in 2017 from sales tax, money from passenger fees, and since this Assembly will not commit that far out, why not do the water rate increase this year. It was good that CBJ received $1 million, but that would be less money that would need to be obtained from a future Assembly from sales tax or other areas. Putting money in the bank, funding depreciation was good and he did not want to get into bouncing up and down in rates depending on capital projects. Mr. Duncansaid they had talked about Marine Passenger Fees being staged over a number of years, but there is only $1.2 million in FY15 from MPF, in the total plan. Yes, we should be funding both water and wastewater but staff was also aware of tremendous needs in the community in many areas. Ms. Kiefer said staff would be back again next year to talk about rates and this was not a one time effort. The plan called for increases every year.

Mr. Kiehl said we are just making a plan already to come back next year and just bouncing around. Juneau residents and businesses are not well served if we can't look down the road and figure out our costs are. There was a smoother approach so that people could do their budgets and he suggested looking to the mid-case vs. the high case and look at both water and wastewater increases this year.

Mr. Nankervis agreed with Mr. Jones and Mr. Kiehl and said he did not want to kick the can down the road. He hoped CBJ would get a better assessment of the assets under the ground because we don't want to keep guessing and the plans are in drawers somewhere. We can't keep deferring maintenance.

Mr. Smith asked if therewere adequate contingencies for capital on both sides with these numbers if there were surprises regarding capital improvements. Mr. Duncan said as long as a major water line did not "blow up," this action put the utility on the right path and started to fund the depreciation discussed.

Mayor Sanford said water and sewer improvement projects were based on best guesses on a yearly basis. He asked about the biosolid issue and its timing. The Assembly had to be careful when putting the community's money in the bank and there were unknowns. We have to make difficult decisions on where 1% sales tax money would be spent - on building new or repairing existing infrastructure. A true picture of what was going on with our system within the next three years was needed but beyond that it was a guess.

Ms. Becker asked if the CIP projects listed were shovel ready and Mr. Duncan said yes, they were ready and in the CIP system.

Ms. Troll referred to an editorial in the Juneau Empire that said essentially that CBJ's utility rates were a bargain for a very good system. Mr. Duncan said the rates were raised in 2004 by 39% for wastewater and 19% for water, in 2010 and 2011 they were raised 7% for water and 7% for wastewater. There was no increase in rates from 1980 - 2004.

Mayor Sanford said CBJ had a good, functioning system built within a reasonable cost. Mr. Duncan said yes, CBJ had a very good system and his job was to ensure it continued.

Mr. Wanamaker said it was important to have operational audit, an independent third party review, to maximize efficiency and he asked if there were any plans to do such a study. Mr. Duncan said he was working with the manager's office on scope for "right sizing" to look at what other utilities are doing. Mr. Wanamaker said that sounded like part of what needed to be done, but 2.5% operational inflation - 4% capital inflation - those were significant.

MOTION, by Jones, to forward to the Assembly a proposal to increase the water and wastewater rates by 9.5 % for the fiscal years 2015, 2016 and 2017.

Roll call:
Aye: Crane, Jones, Nankervis, Smith, Troll
Nay: Becker, Kiehl, Wanamaker, Sanford
Motion passed, 5 ayes, 4 nays.

V. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

None.

VI. ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 7:35 p.m.

Submitted by Laurie Sica, Municipal Clerk

Note: Agenda packets are available for review online at www.juneau.org.

Parameters of Local Jurisdiction over Wireless Infrastructure

The development and deployment of wireless infrastructure (e.g. towers) has presented challenges to local government since the beginning of the wireless revolution in the early 1990's. Following the sale of spectrum by the US Government, the various wireless providers who paid millions wanted to deploy service and receive a return on their investment, but found they were being stymied by local government's regulations on construction of towers.

The industry went back to Congress for relief and as a result a portion of the 1996 Telecommunications Act (Section 704, codified at 47 USC §332(c)) contained the following provisions:

(A) the regulation of placement, construction, and modification of personal wireless services facilities by any state or local government shall not unreasonably discriminate among providers of functionally equivalent services;

(B) the regulation of the placement, construction, and modification of personal wireless service facilities by any state or local government shall not prohibit or have the effect of prohibiting the provision of personal wireless services;

(C) once an applicant files a request for authorization to place, construct, or modify a personal wireless service facility, the governmental entity shall act on the application "within a reasonable period of time after the request is duly filed";

(D) no state or local governmental entity may regulate the placement, construction, or modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such emissions comply with FCC regulations; and

(E) any decision by a state or local governmental entity to deny an application to place, construct, or modify a personal wireless service facility shall be in writing and supported by substantial evidence contained in a written record.

There's been plenty of court decisions since 1996 interpreting Section 704 and what constitutes "unreasonable discrimination" and prohibition of services, so that part of the law is fairly settled at this point as to what is permitted and what isn't. So the next issue that the wireless industry had with local government was with how long it took to process applications for wireless siting, since Section 704 required local government to act "within a reasonable period of time". The industry told the FCC that many local governments sat on their applications for extended periods of time and that services could not be deployed because of the delays. As a result of their desire to get speed into the process, the industry first went to the FCC, and had the FCC issue a Declaratory Ruling in 2009 requiring local government to move along applications, in the case of co-locations requiring decisions in 90 days and for new locations in 150 days. This put an administrative burden on local government to make decisions which they may not be adequately informed upon in an expedited fashion, or otherwise they will be deemed approved.

Arlington and San Antonio Texas challenged the FCC's authority to impose those timelines on local government decisions, and the case went all the way to the Supreme Court, which in the 2013 session found that the FCC did in fact have authority to impose those timelines on local government, and thus (absent an intervening state law with different timelines) a local government is bound to make a decision on a wireless facility application in either 90 or 150 days, depending on the type of facility. The clock starts upon submission of a "complete" application and the local government must notify the applicant within 30 days of initial submission if the application is incomplete, otherwise the clock continues to run. IF the local government fails to adjudicate an application within those timelines, the applicant can go to US District Court and file suit against the community, which the court is supposed to address on an "expedited basis". Presumptions will be made in favor of the applicant in the case of a community failing to act within the timeline, with the community being required to overcome those presumptions with evidence as to why a decision could not be reached within those parameters.

Still unsatisfied with local governments' efforts to regulate placement of wireless facilities, the wireless industry went back to Congress and got a small paragraph inserted in the Middle Class Tax Relief and Job Creation Act of 2012, known as Section 6409 (now codified at 47 USC §1455(a)), which says:

SEC. 6409. WIRELESS FACILITIES DEPLOYMENT.
(a) FACILITY MODIFICATIONS.

(1) IN GENERAL. Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104–104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

(2) ELIGIBLE FACILITIES REQUEST. For purposes of this subsection, the term ''eligible facilities request'' means any request for modification of an existing wireless tower or base station that involves —
(A) collocation of new transmission equipment;
(B) removal of transmission equipment; or
(C) replacement of transmission equipment.

(3) APPLICABILITY OF ENVIRONMENTAL LAWS. Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of the National Historic Preservation Act or the National Environmental Policy Act of 1969.

Section 6409 mandates that local government MUST approve certain types of applications if they met the prescribed standards. Note however that Congress did not define what it meant by "substantially change the physical dimensions" or what was an "existing wireless tower or base station". In the absence of any standards or definitions, the wireless industry expressed its opinions on Congressional intent as to those terms, which led to conflicting findings.

Into the void stepped the FCC in January 2013, issuing an "Informal Guidance" to assist local government in ascertaining Congressional intent. The "Informal Guidance" had no binding effect, but was useful in illustrating what the FCC thought was the intent of Congress in Section 6409. A full copy of the "Informal Guidance" is attached to this memo. In the Informal Guidance, the FCC adopted a previously developed definition of "substantially change" from other legislation to be the definition for purposes of Section 6409, involving increases in height, width, addition of equipment and expansion of compound size. The "Informal Guidance" also offered its interpretation of what an "existing wireless tower or base station" meant, finding that a wireless tower was "any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities…" and an existing base station was "a structure that ***currently*** supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station." (emphasis added). As noted above, the FCC's "Informal Guidance" had no binding effect however, and was merely a statement of what the FCC staff thought Congress intended. Nevertheless, the wireless industry adopted the "Informal Guidance" in part and lobbied for new state legislation in several jurisdictions which used parts of the "Informal Guidance" as standards to require local governments in those states to require approval of wireless infrastructure (see recent legislation in North Carolina and Georgia as examples[1]).

Unsatisfied with just the "Informal Guidance" and emboldened by the Supreme Court's affirmation of their authority to impose certain conditions upon the local approval of wireless facilities in the 2013 "Shot Clock" ruling, the FCC issued a Notice of Proposed Rulemaking[2] in September 2013 soliciting comments from all interested parties on a variety of wireless siting issues, including:

- Streamlining the environmental and historic preservation review processes for newer technologies, including small cells and distributed antenna systems;
- Removing barriers to the deployment of temporary towers, that are used in cases of emergencies or to add capacity during short term events;
- The meaning of terms included in a provision of the Middle Class Tax Relief and Job Creation Act of 2012 which states "a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless

[1] North Carolina House Bill 664, S.L. 2013-185, Georgia House Bill 176
[2] *Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies (FCC 13-122)*

tower or base station that does not substantially change the physical dimensions of such tower or base station;" and

- Clarification of issues addressed in the Commission's "shot clock" order which set time periods for state and local governments to complete review of wireless siting applications.

Well over 200 comments were filed by local government and industry representatives, as well as the general public, and the FCC has not yet issued a Report and Order arising from the Notice of Proposed Rulemaking, but it is anticipated that the Report and Order will adopt the 4 prong test for "substantially change" used in the "Informal Guidance" as the guidepost for determining if an application for collocation MUST be approved without public hearing. The greater question will be what the FCC decides happens IF a local government fails to meet the Shot Clock timelines on an application, as one option would be a "deemed approved" which would permit the applicant to just obtain a building permit and construct if the local government failed to act. A host of other issues covered by the NPRM will also be decided in the Report and Order, and local governments will likely have to adapt to those issues absent a successful judicial challenge to the FCC's findings.

Based on the current state of federal regulation of wireless infrastructure, it is important for local government to balance their legitimate local planning and zoning requirements with the expressed federal preference for the deployment of wireless infrastructure to ensure the availability of a variety of wireless services to all Americans. It is anticipated with the forthcoming 2015 TV Spectrum auction (where TV stations will give up some of their spectrum for the FCC to auction off to wireless providers) that the demand for further infrastructure will only increase to permit the auction winners to recover their investments in that spectrum. It is therefore important to have regulations that accomplish your local objectives while still remaining compliant with the applicable federal rules, and having the ability to adjust those regulations as needed when further clarification of the federal rules becomes available.

PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: http://www.fcc.gov
TTY: 1-888-835-5322

WIRELESS TELECOMMUNICATIONS BUREAU OFFERS GUIDANCE ON INTERPRETATION OF SECTION 6409(a) OF THE MIDDLE CLASS TAX RELIEF AND JOB CREATION ACT OF 2012

DA 12-2047
January 25, 2013

On February 22, 2012, the Middle Class Tax Relief and Job Creation Act of 2012 (Tax Act)[1] became law. Section 6409(a) of the Tax Act provides that a state or local government "may not deny, and shall approve" any request for collocation, removal, or replacement of transmission equipment on an existing wireless tower or base station, provided this action does not substantially change the physical dimensions of the tower or base station.[2] The full text of Section 6409(a) is reproduced in the Appendix to this Public Notice.

To date, the Commission has not received any formal petition to interpret or apply the provisions of Section 6409(a). We also are unaware of any judicial precedent interpreting or applying its terms. The Wireless Telecommunications Bureau has, however, received informal inquiries from service providers, facilities owners, and state and local governments seeking guidance as to how Section 6409(a) should be applied. In order to assist interested parties, this Public Notice summarizes the Bureau's understanding of Section 6409(a) in response to several of the most frequently asked questions.[3]

What does it mean to "substantially change the physical dimensions" of a tower or base station?

Section 6409(a) does not define what constitutes a "substantial[] change" in the dimensions of a tower or base station. In a similar context, under the *Nationwide Collocation Agreement* with the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers, the Commission has applied a four-prong test to determine whether a collocation will effect a "substantial increase in the size of [a] tower."[4] A proposed collocation that does not involve a substantial increase in

[1] Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, H.R. 3630, 126 Stat. 156 (enacted Feb. 22, 2012) (Tax Act).

[2] *Id*., § 6409(a).

[3] Although we offer this interpretive guidance to assist parties in understanding their obligations under Section 6409(a), *see, e.g., Truckers United for Safety v. Federal Highway Administration*, 139 F.3d 934 (D.C.Cir. 1998), the Commission remains free to exercise its discretion to interpret Section 6409(a) either by exercising its rulemaking authority or through adjudication. With two exceptions not relevant here, the Tax Act expressly grants the Commission authority to "implement and enforce" this and other provisions of Title VI of that Act "as if this title is a part of the Communications Act of 1934 (47 U.S.C. 151 et seq.)." Tax Act § 6003.

[4] 47 C.F.R. Part 1, App. B, Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, § I.C (*Nationwide Collocation Agreement*).

size is ordinarily excluded from the Commission's required historic preservation review under Section 106 of the National Historic Preservation Act (NHPA).[5] The Commission later adopted the same definition in the *2009 Declaratory Ruling* to determine whether an application will be treated as a collocation when applying Section 332(c)(7) of the Communications Act of 1934.[6] The Commission has also applied a similar definition to determine whether a modification of an existing registered tower requires public notice for purposes of environmental review.[7]

Under Section I.C of the *Nationwide Collocation Agreement*, a "substantial increase in the size of the tower" occurs if:

> 1) [t]he mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or
>
> 2) [t]he mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
>
> 3) [t]he mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
>
> 4) [t]he mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

Although Congress did not adopt the Commission's terminology of "substantial increase in size" in Section 6409(a), we believe that the policy reasons for excluding from Section 6409(a) collocations that substantially change the physical dimensions of a structure are closely analogous to those that animated the Commission in the *Nationwide Collocation Agreement* and subsequent proceedings. In light of the Commission's prior findings, the Bureau believes it is appropriate to look to the existing definition of "substantial increase in size" to determine whether the collocation, removal, or replacement of equipment

---

5 *See* 16 U.S.C. § 470f*, see also* 47 C.F.R. § 1.1307(a)(4) (requiring applicants to determine whether proposed facilities may affect properties that are listed, or are eligible for listing, in the National Register of Historic Places).

6 *See* Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance, WT Docket No. 08-165, *Declaratory Ruling*, 24 FCC Rcd. 13994, 14012, para. 46 & n.146 (2009) (*2009 Declaratory Ruling*), *recon. denied,* 25 FCC Rcd. 11157 (2010), *pet. for review denied sub nom. City of Arlington, Texas v. FCC*, 668 F.3d 229 (5th Cir.), *cert. granted*, 113 S.Ct. 524 (2012); 47 U.S.C. § 332(c)(7).

7 *See* 47 C.F.R. § 17.4(c)(1)(B); National Environmental Policy Act Compliance for Proposed Tower Registrations, WT Docket No. 08-61, *Order on Remand*, 26 FCC Rcd. 16700, 16720-21, para. 53 (2011).

on a wireless tower or base station substantially changes the physical dimensions of the underlying structure within the meaning of Section 6409(a).

What is a "wireless tower or base station"?

A "tower" is defined in the *Nationwide Collocation Agreement* as "any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities."[8] The Commission has described a "base station" as consisting of "radio transceivers, antennas, coaxial cable, a regular and backup power supply, and other associated electronics."[9] Section 6409(a) applies to the collocation, removal, or replacement of equipment on a wireless tower or base station. In this context, we believe it is reasonable to interpret a "base station" to include a structure that currently supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station.[10] Moreover, given the absence of any limiting statutory language, we believe a "base station" encompasses such equipment in any technological configuration, including distributed antenna systems and small cells.

Section 6409(a) by its terms applies to any "wireless" tower or base station. By contrast, the scope of Section 332(c)(7) extends only to facilities used for "personal wireless services" as defined in that section.[11] Given Congress's decision not to use the pre-existing definition from another statutory provision relating to wireless siting, we believe the scope of a "wireless" tower or base station under Section 6409(a) is not intended to be limited to facilities that support "personal wireless services" under Section 332(c)(7).

May a state or local government require an application for an action covered under Section 6409(a)?

Section 6409(a) states that a state or local government "may not deny, and shall approve, any eligible facilities request…." It does not say that a state or local government may not require an application to be filed. The provision that a state or local government must approve and may not deny a request to take a covered action, in the Bureau's view, implies that the relevant government entity may require the filing of an application for administrative approval.

---

8 *See Nationwide Collocation Agreement,* § I.B.

9 *See* Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, WT Docket No. 10-133, *Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services, Fifteenth Report,* 26 FCC Rcd. 9664, 9481, para. 308 (2011).

10 *See also* 47 C.F.R. Part 1, App. C, Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process, § II.A.14 (defining "tower" to include "the on-site fencing, equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with that Tower but not installed as part of an Antenna as defined herein").

11 47 U.S.C. § 332(c)(7)(A). "Personal wireless services" is in turn defined to mean "commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services." *Id.* § 332(c)(7)(C)(1).

Is there a time limit within which an application must be approved?

Section 6409(a) does not specify any period of time for approving an application. However, the statute clearly contemplates an administrative process that invariably ends in approval of a covered application. We believe the time period for processing these applications should be commensurate with the nature of the review.

In the *2009 Declaratory Ruling*, the Commission found that 90 days is a presumptively reasonable period of time to process collocation applications.[12] In light of the requirement of Section 6409(a) that the reviewing authority "may not deny, and shall approve" a covered request, we believe that 90 days should be the maximum presumptively reasonable period of time for reviewing such applications, whether for "personal wireless services" or other wireless facilities.

Wireless Telecommunications Bureau contact: Maria Kirby at (202) 418-1476 or by email: Maria.Kirby@fcc.gov.

-FCC-

For more news and information about the Federal Communications Commission please visit: www.fcc.gov

[12] *See 2009 Declaratory Ruling*, 24 FCC Rcd. at 14012-13, paras. 46-47.

APPENDIX

SEC. 6409. WIRELESS FACILITIES DEPLOYMENT.

(a) FACILITY MODIFICATIONS.

(1) IN GENERAL. Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104–104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

(2) ELIGIBLE FACILITIES REQUEST. For purposes of this subsection, the term ‘‘eligible facilities request’’ means any request for modification of an existing wireless tower or base station that involves —
(A) collocation of new transmission equipment;
(B) removal of transmission equipment; or
(C) replacement of transmission equipment.

(3) APPLICABILITY OF ENVIRONMENTAL LAWS. Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of the National Historic Preservation Act or the National Environmental Policy Act of 1969.

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

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2014-____

An Ordinance Amending the Land Use Code of the City and Borough to Provide for the Regulation of Wireless Communication Facilities

NOW, THEREFORE, 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. New Article. Article IX. – Wireless Communication Facilities, is created to read:

ARTICLE IX. – WIRELESS COMMUNICATION FACILITIES

49.65.900 Purpose.

It is the purpose of this article to establish reasonable regulations for the placement, construction and modification of wireless communication facilities (WCF) consistent with the Telecommunications Act of 1996 and applicable law and:

(a) Promote the health, safety, and general welfare of the public and the City and Borough;

(b) Minimize the impacts of WCFs by establishing standards for siting, design and screening and by requiring consistency with the City and Borough's Wireless Telecommunications Master Plan;

(c) Encourage the collocation of antennas on existing structures thereby minimizing new visual impacts and reducing the need for new towers;

(d) Maintain the natural surroundings and character of the City and Borough;

(e) Preserve neighborhood harmony and Scenic Corridors/Viewsheds identified in the Comprehensive Plan of the City and Borough of Juneau;

(f) Accommodate the growing need and demand for wireless communications services;

(g) Respond to the policies embodied in the Telecommunications Act of 1996 in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting personal wireless services; and

(h) Respond to the policies embodied in Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012.

49.65.910 Applicability.

(a) This article shall apply to the development activities including installation, construction, or modification of all WCFs including, but not limited to, existing towers, proposed towers and collocated facilities on existing structures.

(b) All applications for WCF are subject to the standards in this article to the extent that they do not violate Federal limitations on local siting standards and are not otherwise inconsistent with Federal law. The provisions of this article are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This article shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.

(c) Exempt Facilities. The following are exempt from this article:

(1) Noncommercial, FCC licensed amateur (ham) radio antennas;

(2) Satellite earth stations and/or antennas used for private television reception;

(3) A government-owned or temporary, commercial WCF installed upon the declaration of a state of emergency by federal, state, or local government, or a written determination of public necessity by the director; except that such facility must comply with all federal and state requirements. The WCF shall be exempt from the provisions of this article for up to one week after the duration of the state of emergency; and

(4) A temporary, commercial WCF installed for providing coverage of a special event such as news coverage or sporting event, subject to approval by the director. The WCF shall be exempt from the provisions of this article for up to one week after the duration of the special event.

(d) All WCFs existing on or before the effective date of this article shall be allowed to continue as they presently exist, provided, however, that any proposed modification to an existing WCF, including collocation, must comply with this article.

49.65.920 Location Preference for new WCFs.

(a) Locating a new antenna array or new tower shall be in accordance with the following location preferences, one being the highest priority and six being the lowest priority:

(1) Collocated antenna on existing WCF;

(2) Attached concealed antenna;

(3) Attached non-concealed antenna;

(4) Concealed freestanding new WCFs;

(5) Non-concealed freestanding new WCFs;

(6) Any WCF requiring air navigation lighting.

(b) If the proposed location is not the highest priority listed above, then a detailed explanation justifying why a site of a higher priority was not selected must be submitted with the WCF application, as required by section 49.65.960. Any application seeking approval to locate a WCF in a lower-ranked location may be denied unless the applicant demonstrates to the satisfaction of the director or planning commission the following:

(1) That despite diligent efforts to adhere to the established hierarchy, doing so is not technically feasible or is commercially impractical;

(2) The reason or reasons why the application should be approved for the proposed location; and

(3) The hardship that would be incurred by the applicant if the application is not approved for the proposed location.

49.65.930 General Requirements.

(a) *Concealed and non-concealed antenna.*

(1) Antennas shall be mounted on WCFs so as to present the smallest possible silhouette, profile, or cross-section, unless applicant provides sufficient evidence that doing so would prohibit the applicant from properly deploying the network. New antenna mounts shall be flush-mounted onto existing WCFs, unless it is demonstrated through RF propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area.

(2) Attached, concealed feed lines and antennas shall be designed to architecturally match the facade, roof, wall, or structure on which they are affixed so that they blend with the existing design, color, and texture of the structure.

(b) *Security of WCFs.* All WCFs shall be located, fenced or otherwise secured in a manner that prevents unauthorized access.

(1) All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or accessed.

(2) Transmitters and telecommunications control points must be installed in a manner to be readily accessible only to persons authorized to operate or service them.

(c) *Signage.* WCFs shall contain a sign no larger than four square feet with text in a sufficient font size to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. The sign shall contain the name(s) of the owner(s) and operator(s) of the facility, an emergency phone number(s), and FCC registration number, if applicable. The sign shall be on the equipment shelter or shed of the applicant and be visible from the access point of the site. The sign shall not be lighted unless authorized by the City and Borough or unless applicable provisions of law require such lighting. No other signage, including advertising, shall be permitted on any WCF, unless required by law.

(d) *Lighting.* Notice is required to be provided to the FAA, on a form prescribed by the FAA, if the facility falls under notification requirements mentioned in 14 CFR Part 77. The applicant is responsible for determining whether notification is required. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. Dual lighting standards. Strobe lights at night are prohibited unless required by the FAA. The lights shall be oriented so as not to project directly onto surrounding property, consistent with FAA requirements.

(e) *Design criteria.*

(1) All freestanding WCFs up to 120 feet in height shall be engineered and constructed to accommodate no fewer than four antenna arrays. All WCFs between 121 feet and 150 feet shall be engineered and constructed to accommodate no fewer than five antenna arrays. All WCFs between 151 feet and taller shall be engineered and constructed to accommodate no fewer than six antenna arrays.

(2) All utilities at a WCF site shall be installed underground and in compliance with all ordinances, rules and regulations of the City and Borough, including, but not limited to, the National Electrical Code where appropriate. The director may waive or vary the requirements of underground installation of utilities whenever, in the opinion of the director, such variance or waiver shall not be detrimental to the health, safety, or general welfare of the community or the environment, or the visual and scenic characteristics of the area.

(3) All appurtenant or associated facilities of a WCF shall maximize use of building materials, colors and textures designed to blend with the structure to which it may be affixed, or to harmonize with the natural surroundings, which shall include the utilization of concealed or concealment technology. If located in or abutting a Residential, Commercial or Mixed-Use district, the appurtenant or associated facility shall either be

placed inside an enclosed structure, fenced, or screened with sight-obscuring foliage as tall as the structure.

(4) Use of ground or guy-wires shall only be permitted in the Rural Reserve (RR) and Industrial (I) zoning districts, and only on roof-tops in the Light Commercial (LC), General Commercial (GC), Waterfront Commercial (WC), and Waterfront Industrial (WI) districts.

(f) *Setbacks.*

(1) Unless otherwise provided, a WCF tower shall be setback from the nearest property line a distance equal to the height of the tower except that this setback may be reduced to one-half of the height of the tower if the applicant submits a report stamped by a professional engineer registered in the State of Alaska that certifies that the tower is designed and engineered to collapse upon failure within the distance from the tower to the property line. Other setback reductions, to the minimum required by the applicable zoning district, may be had by obtaining written agreement from the adjacent property owner(s).

(2) Setbacks may be modified by the director to no less than 20 feet from a property line only if there is significant existing vegetation, topography, or some other land feature that will provide a higher level of screening of the WCF.

(3) Any appurtenant structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

(4) With respect to collocation on an existing nonconforming building or structure, the existing permitted nonconforming setback shall prevail.

(g) WCF shall not significantly affect the Scenic Corridors/Viewsheds identified in the Comprehensive Plan of the City and Borough of Juneau.

(h) WCFs shall be consistent with the City and Borough's Wireless Telecommunications Master Plan.

(i) *Visibility.*

(A) WCF shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties and shall be maintained in accordance with the requirements of this article.

(B) WCFs shall be designed to either resemble the surrounding landscape and other natural features where located in proximity to natural surroundings, or blend in with the urban environment, through matching or complementing existing structures and specific design considerations such as architectural designs, height, scale, color, and texture.

(j) *Structural assessment.* The owner of a freestanding WCF tower shall have a structural assessment of the tower by a professional engineer, licensed in the State of Alaska, if the tower is adjacent to a dwelling, parking lot, playground, or right-of way, and shall submit the structural assessment report, signed by the engineer who conducted the assessment, to the director by July 1 every fifth year from the date of issuance of the building permit.

49.65.940 Permit application process for all WCFs.

(a) Applications, on a form specified by the director, and site plans for all WCFs shall be submitted to the director.

(b) At the time that a person submits an application for a permit for any type of WCF, such person shall pay a nonrefundable application fee to the CBJ, as set forth in

Chapter 49.85.100. In addition to the application fee, the director may require a technical review by a third party expert, the actual costs of which shall be borne by the applicant. The technical expert review may address some or all of the following, at the discretion of the director:

(1) The accuracy and completeness of the items submitted with the application;

(2) The applicability of analysis and techniques and methodologies proposed by the applicant;

(3) The validity of conclusions reached by the applicant;

(4) Whether the proposed WCF complies with applicable approval criteria set forth in this article; and

(5) Other matters deemed to be relevant to determining whether a proposed WCF complies with the provisions of this article.

(6) Based on the results of the technical review, the director may require changes or additional documentation before the application will be considered complete.

(c) *Permit types.*

(1) A special use permit, in addition to any applicable building permits, are required of all WCFs, unless otherwise provided. When a special use permit is required, an applicant must obtain the special use permit approval prior to issuance of a building permit.

(2) Unless lighting of the completed WCF will be required by the FAA or FCC, applications for those WCF listed in Table 1, which meet the performance criteria identified in section 49.65.930, shall be approved or denied by the director.

TABLE 1

WCF Type	**Zoning Districts**	**Maximum Height**	**Min. Distance to D-1 – D-18 Districts**
Eligible Collocation, Removal or Replacement of Transmission Equipment as provided in CBJ 49.65.950	All	Not more than 10% of existing structure or 20 feet (unless the increased height requires an existing unlit WCF to become lit)	N/A
Concealed Attached	All	≤ 20 Feet[1]	N/A
Non-concealed Attached	D-1 – D-18	≤ 5 Feet[1]	N/A
Non-concealed Attached	Non-Residential and Mixed Use	≤ 20 Feet[1]	N/A
New Concealed Tower	WI, WC, GC, LC, and RR	≤ 10 Feet above Max. Height of Zoning District	N/A
New Concealed Tower	I	≤ 90 Feet	> 500 Feet
New Concealed Tower	D-1 – D-18	Compliant with Max Height of Zoning District	N/A
New Non-Concealed Tower	RR & I	≤60 Feet	>500 Feet

Note: (fn. 1) Rooftop and attachment heights are identified as above the highest point of the existing structure.

(d) *Director's decision.* Except for applications eligible for the streamlined process in section 49.65.950 or those applications requiring a special use permit, applications shall be approved or denied, in writing, by the director.

(1) The director shall review the submitted application for completeness and shall notify the applicant within 30 days of receipt of the initial submission whether the

application is deemed complete. If rejected as incomplete, the director shall identify the deficiencies in the application, which if cured, would make the application complete.

(2) The director shall review all completed applications for compliance with the requirements of section 49.65.930. The director may notify an applicant of a failure to comply with section 49.65.930 and may allow the applicant to resubmit a revised application. Any period of time from when the director notifies the applicant to the date the revised application is received shall not count for the purposes of calculating the 120 day deadline in subsection (3).

(3) Applications not meeting the requirements of this article shall be rejected. The director's decision to approve or deny an application shall be in writing and supported by substantial evidence. The director's decision shall be postmarked to the applicant by the 120th calendar day from the date of receipt of the final application.

(4) If the director denies an application, the applicant may, within 20 days from the postmarked date of the notice of denial, appeal the director's denial in accordance with section 49.20.110.

49.65.950 Collocations and other modifications to existing facilities pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012.

(a) Modifications to facilities that involve the collocation, removal or replacement of transmission equipment on an existing wireless tower or base station that do no substantially change the physical dimensions of the existing tower or base station, shall be eligible for a streamlined application process.

(b) For the purposes of this section, "substantial change" means:

(1) The mounting of the proposed antenna would increase the existing height of the WCF by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection if necessary to avoid interference with existing antenna or unless the increased height requires an existing unlit WCF to become lit;

(2) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter;

(3) The mounting of the proposed antenna would involve adding an appurtenance to the body of an existing WCF that would protrude from the edge of the existing WCF more than twenty feet, or more than the width of the WCF at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection if necessary to shelter the antenna from inclement weather or to connect the antenna to the structure via a cable; or

(4) The mounting of the proposed antenna would involve excavation outside the existing WCF site, defined as the current boundaries of the leased or owned property surrounding the WCF and any access or utility easements currently related to the site.

(c) The following streamlined process shall be used for eligible applications:

(1) The director shall review the submitted application for completeness and shall notify the applicant within 30 days of receipt of the initial submission whether the

application is deemed complete. If rejected as incomplete, the director's shall identify the deficiencies in the application, which, if cured, would make the application complete.

(2) The director shall review all completed applications for compliance with the requirements of section 49.65.930. The director may notify an applicant of a failure to comply with section 49.65.930 and may allow the applicant to resubmit a revised application. Any period of time from when the director notifies the applicant to the date the revised application is received shall not count for the purposes of calculating the 90 day deadline in subsection (3).

(3) Applications not meeting the requirements of this article shall be rejected. The director's decision to approve or deny an application shall be in writing and supported by substantial evidence. The director's decision shall be postmarked to the applicant by the 90th calendar day from the date of receipt of the final application.

(4) If the director does not respond in writing to the applicant within the specified timeframe, then the application shall be deemed approved.

(5) If the director denies an application, the applicant may, within 20 days from the postmarked date of the notice of denial, appeal the director's denial in accordance with section 49.20.110.

(d) Applications that are not eligible for the streamlined process shall be processed in accordance with 49.65.940(d).

49.65.960 General application submittal requirements for all WCFs.

An application for a special use permit for a WCF shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application. All information submitted in an application shall be provided by a person qualified to provide the information. All applications for the construction or installation of a new WCF shall be accompanied by the following documentation, except applications for collocation or modification under section 49.65.950 are exempt from providing the documentation required by subsections (o), (p), or (q):

(a) In addition to the information required by 49.65.920(b), an affidavit demonstrating compliance with 49.65.920. If a lower ranking alternative is proposed the affidavit must address why higher ranked options are technically infeasible or commercially impracticable given the location of the proposed wireless communications facility;

(b) A signed statement from a qualified person, together with a statement of that person's professional qualifications, certifying that radio frequency emissions from the antenna array(s), both individually and cumulatively considering any other facilities located on or immediately adjacent to the proposed facility, complies with FCC standards;

(c) Name, address, email address, and phone number of all persons preparing the application and any required submittals;

(d) Name, address and phone number of the property owner, operator, and applicant;

(e) Postal address and tax map parcel number of the property;

(f) Zoning designation of the property on which the proposed WCF will be situated;

(g) Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines;

(h) Locations of any dwellings within a radius equal to the height of the proposed tower from its base;

(i) Location, size and height of all structures on the property which is the subject of the application;

(j) Location, size and height of all proposed and existing antennae and all appurtenant structures;

(k) Type, locations and dimensions of all proposed and existing landscaping and fencing;

(l) The number, type and design of the WCFs proposed and the basis for the calculations of the WCFs capacity to accommodate multiple collocations;

(m) A detailed description of the proposed WCF and all related fixtures, structures, appurtenances and apparatus, including height above preexisting grade, materials, color and lighting;

(n) Certification that the applicant is in compliance with all applicable laws pertaining to the type of service offered;

(o) Certification that a geotechnical study has been conducted, and a statement that, taking into account the subsurface and substrata and the proposed drainage plan, the site is adequate to assure the stability of the proposed WCF on the proposed site;

(p) Propagation studies of the proposed site and all adjoining in-service or existing sites;

(q) Applicant shall disclose in writing any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new WCF that it constructs;

(r) Applicant shall furnish written certification by a professional engineer, licensed in the State of Alaska, that the WCF, foundation and appurtenant attachments are designed and will be constructed to meet EIA/TIA 222 G (as amended) and local building code structural requirements for loads, including wind, snow and ice loads for the specified number of collocations required in section 49.65.930(c)(1).

(s) Certification by a professional engineer licensed in the State of Alaska that the WCF was constructed, repaired, modified or restored in strict compliance with all current applicable technical, safety and safety-related laws adopted by the City and Borough, state, or federal government, and in compliance with accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors; and

(t) Proof of FAA compliance with 14 CFR Part 77, if applicable.

49.65.970 Special use permit applications.

No person shall be permitted to site, place, build, construct, modify, or prepare any site for the placement or use of WCF, except for those WCF identified in section 49.65.940, Table 1, as of the effective date of this article without having first obtained a special use permit. All applicants for a special use permit and any modification of such facility shall comply with the requirements set forth in this section.

(a) *Pre-application meeting.* Prior to submission of an application, the applicant shall meet with the director for the purpose of discussing the site and development proposal, and to address any issues that will help to expedite the review and permitting process, including the scope of the visual assessment the applicant will be required to provide as part of the special use permit process. A pre-application meeting may also include a site visit, as determined by the director. No statement by either the applicant or director shall be regarding as binding or authoritative for purposes of this section.

(b) *Additional required application submittals.*

(1) In addition to the fee required in 49.65.940(b), the applicant shall pay an additional special use permit application fee as set forth in 49.85.100.

(2) In addition to the documentation required by section 49.65.960, the following additional documentation must be submitted with any special use permit application:

(A) Certification of compliance with the design criteria listed in section 49.65.930;

(B) *A visual impact assessment*. The scope of the required assessment will be reviewed at the pre-application meeting, but the planning commission may require submission of a more detailed visual analysis after submittal of the following required information. The visual impact assessment must include:

(i) A "zone of visibility map" which shall be provided in order to determine locations where the tower may be seen;

(ii) An analysis demonstrating that the WCF will be sited so as to have the least adverse visual impact on the environment and its character, on existing vegetation, and on the properties in the area; and

(iii) Pictorial representations of "before and after" views from key viewpoints as may be appropriate, including but not limited to roadways, parks, public lands, historic districts, and any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided concerning the appropriate key sites at the pre-application meeting;

(iv) Description of the visual impact of the tower base, guy wires (if applicable) and accessory buildings from abutting properties and streets;

(v) The applicant shall demonstrate in writing and/or by drawing how it shall effectively screen from view the base of its proposed WCF tower and all related facilities and structures; and

(C) The applicant shall provide evidence that the proposed facility is designed to meet the minimum height requirement necessary for effective functioning of the provider's network.

(c) *Director's Review.*

(1) The director shall review the application for completeness.

(2) Incomplete applications shall be rejected and the applicant notified in writing within 30 days of receipt of the initial submission. If rejected, the director's decision shall identify the deficiencies in the application, which, if cured, would make the application complete.

(3) Once an application is deemed complete, the director shall schedule it for a hearing before the planning commission, and shall give notice to the applicant and the public in accordance with subsection (d).

(d) *Public notice.* Public notice of planning commission consideration of a special use permit shall be provided as follows:

(1) Permit consideration shall be included as an item in the posted agenda.

(2) Notice of the hearing and the agenda item shall be published in a newspaper of general circulation in the City and Borough a minimum of ten days prior to the date of the meeting.

(3) The applicant shall post a sign on the site at least 14 days prior to the hearing at a location determined by the director. The sign shall be between four square feet and 32 square feet in area, shall have a red background, and shall indicate in white lettering, 216-point or larger, that a special use permit for a WCF has been sought for the site, the date of the hearing thereon, and that further information is available from the director. The applicant shall maintain the sign and shall remove it within 14 days after final action on the application.

(4) The director shall mail notice of the application and the public hearing to the owners of record of all property located within 500 feet of the site.

(e) *Planning Commission determination.* The planning commission is authorized to review, analyze, evaluate and make decisions with respect to reviewing special use permits for WCFs.

(1) The planning commission may impose any conditions on a special use permit:

(A) Required to ensure compliance with the design criteria specified in section 49.65.930; and

(B) That are consistent with the purposes of this article, which may include conditions related to the aesthetic effect of the WCF and compatibility with other WCFs. Factors relevant to aesthetic effects are: the protection of the view in sensitive or particularly scenic areas, Scenic Corridors/Viewsheds identified in the Comprehensive Plan of the City and Borough of Juneau, and in historic sites; the concentration of WCFs in the proposed area; and whether the height, design, placement or other characteristics of the proposed facility could be modified to have a less intrusive visual impact.

(2) The planning commission may deny an application for any of the following reasons.

(A) Conflict with safety and safety-related codes and requirements;

(B) Conflict with traffic needs or traffic laws, or definitive plans for changes in traffic flow or traffic laws;

(C) Conflict with the historic nature of a neighborhood;

(D) The use or construction of a WCF that is contrary to an already stated purpose of a specific zoning or land use designation;

(E) Presence of another approved WCF application within the geographic search area;

(F) The proposed site is on, or eligible to be on, the National Register of Historic Places;

(G) With respect a new concealed or non-concealed tower, the applicant fails to demonstrate that no existing structure or tower can accommodate the applicant's proposed use without increasing the height of the existing tower or structure or otherwise creating a greater visual impact; or that use of such existing facilities would prohibit or have the effect of prohibiting personal wireless services in the search area to be served by the proposed tower; and

(H) Conflicts with the provisions of this article.

(3) The planning commission shall deny any application for WCF in the following locations:

(A) State or local wildlife refuges;

(B) In any area designated as a public park, unless screened so as to minimize visual and noise impacts, and as long as public use will not be disrupted, as determined by the planning commission; and

(C) Any area designated as a Scenic Corridor/Viewshed identified in the Comprehensive Plan of the City and Borough of Juneau.

(4) The planning commission shall condition a permit on a requirement to construct WCF within a reasonable period of time, which may not exceed 18 months.

(f) Any and all representations made by the applicant to the planning commission on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the commission.

(g) A holder of a special use permit granted under this article shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the City and Borough or other governmental entity or agency having jurisdiction over the applicant.

(h) The planning commission's decision shall be in writing and mailed to the applicant, postmarked by the 150th day of receipt of a completed application. A decision to deny a request to place, construct or modify a WCF shall be supported by substantial evidence.

(i) If the planning commission denies a request to place, construct or modify a WCF, the applicant may, within 20 days from the postmarked date of the decision, appeal the planning commission's decision in accordance with section 49.20.110.

49.65.980 Extent and parameters of special use permit for WCFs.

(a) Special use permits may not be assigned or transferred without providing prior notice to the City and Borough, on a form acceptable to the director.

(b) Special use permits may, following a hearing upon prior notice to the applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the special use permit for WCFs or for a material violation of this article after prior written notice to the applicant and the holder of the special use permit.

(c) The holder of a special use permit shall notify the City and Borough of any intended modification of a WCF and shall apply to the director to modify, relocate or rebuild any WCF.

(d) A special use permit shall become void 18 months after its effective date if no substantial construction progress has been made. A new application must be submitted for a voided permit, including the payment of any required fees, and a new permit obtained. No permit shall be renewed more than once.

49.65.990 Interference with public safety equipment.

In order to facilitate the regulation, placement, and construction of antenna, and to ensure that all parties are complying to the fullest extent possible with the rules, regulations, and/or guidelines of the FCC, each owner of an antenna, antenna array or applicant for a collocation shall agree in a written statement to the following:

(a) Compliance with "good engineering practices" as defined by the FCC in its rules and regulations;

(b) Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI);

(c) In the case of an application for collocated telecommunications facilities, the applicant, together with the owner of the subject site, shall use their best efforts to provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with the City and Borough's public safety communications equipment and will implement appropriate technical measures, as described in antenna element replacements, to attempt to prevent such interference; and

(d) Whenever the City and Borough has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one or more antenna arrays, the following steps may be taken:

(1) The City and Borough shall provide notification to all wireless service providers operating in the City and Borough of possible interference with the public safety communications equipment, and upon such notifications, the owners shall use their best efforts to cooperate and coordinate with the City and Borough among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Enhanced Best Practices Guide," released by the FCC in Appendix D of FCC 04-168 (released August 6, 2004), including the "Good Engineering

Practices," as may be amended or revised by the FCC from time to time in any successor regulations.

(2) If any equipment owner fails to cooperate with the City and Borough in complying with the owner's obligations under this section or if the FCC makes a determination of radio frequency interference with the City and Borough public safety communications equipment, the owner who failed to cooperate and/or the owner of the equipment which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the City and Borough for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the City and Borough to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "Enhanced Best Practices Guide" within 24 hours of the City and Borough's notification.

49.65.1000 Transfer of Ownership

In the event a WCF provider or owner transfers ownership of a WCF to a different provider or owner, the previous and new service provider or owner shall notify the director no less than 10 days from the date of transfer. The new provider or owner shall include the name, address and phone number of the person to be responsible for the WCF.

49.65.1010 Non-use and abandonment.

(a) Notwithstanding section 49.10.600, the director may require removal of a WCF under the following circumstances, which are deemed detrimental to the health, safety, and welfare interests of the City and Borough:

(1) WCFs with a permit that have not been used as a WCF for a period exceeding 90 consecutive days or a total of 180 days in any 365-day-period, except for periods caused by force majeure or acts of God, in which case, repair or removal shall commence within 90 days.

(2) Permitted WCFs that have fallen into such a state of disrepair that creates a public health or safety hazard, which shall be deemed a nuisance per se.

(3) WCFs that have been located, constructed, or modified without first obtaining all permits required by law, or that have been located, constructed or modified in a manner inconsistent with the applicable permit requirements, which shall be deemed a nuisance per se.

(b) If the director makes such a determination as noted in subsection (a) of this section, the director shall notify the permittee in writing that said WCF is to be removed.

(c) Within 90 days of the postmarked date of the director's notice, the permittee, or its successors or assigns, shall dismantle and remove such WCF, and all associated structures and facilities, from the site and restore the site as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability proven to the satisfaction of the director.

(d) If the WCF is not removed or substantial progress has not been made to remove the WCF within 90 days after the permit holder has received notice, the City and Borough may remove or cause to be removed the WCF at the sole expense of the owner or permit holder.

(e) If, the City and Borough removes or causes to be removed a WCF and the owner of the WCF does not claim and remove it from the site to a lawful location within ten days, then the City and Borough may take steps to declare the WCF abandoned, and sell it and its components.

(f) Notwithstanding anything in this section to the contrary, the director may approve a temporary use permit/agreement for the WCF, for no more than 90 days, during which time a suitable plan for removal, conversion, or relocation of the affected WCF shall be developed by permit holder or owner, subject to the approval of the director. If such a plan is not developed, approved and executed within the 90-day time-period, then the City and Borough may take possession of and dispose of the affected WCF in the manner provided in this section.

49.65.1020 Conflict with other ordinances.

Where this article differs or conflicts with other ordinances, unless the right to do so is preempted or prohibited by the state or federal government, the more restrictive or protective of the City and Borough and the public shall apply.

49.65.1030 Violations

Violations of this article or any special use permit obtained pursuant to this article shall be subject to the provisions of section 49.10.600 through 49.10.660.

Section 3. Amendment of Section. CBJ 49.80.120 Definitions, is amended by the addition of the following definitions to be incorporated in alphabetical order:

Amateur Radio Antenna means any tower used for amateur radio (ham) transmissions consistent with FCC regulations.

Antenna means communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Antenna array means a single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.

Antenna support structure means a structure that is primarily constructed for the purpose of holding antenna but on which one or more antennas may be mounted, including buildings, water tanks, pole signs, church steeples, and electric power transmission towers.

Appurtenant or associated facilities means an accessory facility or structure serving or being used in conjunction with (WTF), and located on the same property or lot as the (WTF), including but not limited to, utility or transmission equipment storage sheds or cabinets.

Base station means a facility consisting of radio transceivers, antenna, coaxial cable, a regular and back-up power supply, and other electronics associated with the operation of a WCF.

Collocation means the placement of an antenna on an existing WCF for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Commercially impracticable means the inability to perform an act on terms that are reasonable in commerce. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not be considered "commercial impracticability" and shall not render an act or the terms of an agreement commercially impracticable.

Concealed means a tower, ancillary structure, or equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. There are two (2) types of concealed facilities: 1) Antenna Attachments, including painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure and 2) Freestanding. Freestanding concealed towers usually have a secondary, obvious function, which may include church steeple, windmill, bell tower, clock tower, light stanchion, flagpole with or without a flag, or tree.

Equipment cabinet or shelter means a small structure shelter, cabinet or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning and emergency generators.

FAA means the Federal Aviation Administration or its duly designated and authorized successor agency.

FCC means the Federal Communications Commission or its duly designated and authorized successor agency.

Feed lines means cables used as the interconnecting media between the transmission/receiving base station and the antenna.

Flush mounted means any antenna or antenna array attached directly to the face of the support structure or building in a manner that permits mechanical beam tilting if necessary but such that no portion of the antenna extends above the height of the support structure or building.

Guy wire means any wire or cable that provides structural support between a tower and the ground.

Monopole WCF means a style of free-standing WTF consisting of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of WTF is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof.

Non-concealed means a WCF that has not been treated, camouflaged, or disguised to blend with its surroundings and is readily identifiable.

Radio frequency emissions means any electro-magnetic radiation or other communication signal emitted from an antenna that is regulated by the FCC.

Satellite earth station means a parabolic or dish antenna that is mounted to a structure, which may include associated equipment cabinets, necessary for the transmission or reception of wireless communication signals with satellites.

Tower means a structure that is built for the sole or primary purpose of supporting equipment for the transmission and/or reception of radio frequency signals or other wireless communications or meteorological purposes, and usually consisting of an antenna or antenna array, transmission cables, equipment cabinets, and their associated facilities.

Tower base means the foundation, usually concrete, on which the tower and other support equipment is situated. For measurement calculations, the tower base is that point on the foundation reached by dropping a perpendicular from the geometric center of the tower.

Unipole means a wireless communication structure in which antennas are mounted inside a RF transparent cylinder. This design may also be referred to as a concealed monopole, flagpole, light pole, free standing pole, or roof mounted pole on existing structures.

Wireless Communication Facility (WCF) means any manned or unmanned location for the transmission and/or reception of radio frequency signals or other wireless communications, and usually consisting of an antenna or group of antennas, transmission cables, and equipment cabinets, and may include an antenna support structure. The following developments shall be considered a WCF: developments containing new, mitigated, or existing antenna support structures, public antenna support structures, replacement antenna support structures, collocation on existing antenna support structures, attached wireless communications facilities, concealed wireless communication facilities, and non-concealed wireless communication facilities. Excluded from the definition are: noncommercial amateur radio, amateur ham radio and citizen band antennas, satellite earth stations and antenna support structures, and antennas and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities.

Specific types of WCFs include:

Attached WCF means an antenna or antenna array that is secured to an existing building or structure with any accompanying pole or device which attaches it to the building or structure, together with transmission cables, and an equipment cabinet, which may be located either on the roof or inside/outside of the building or structure. An attached wireless communications facility is considered to be an accessory use to the existing principal use on a site.

Concealed WCF, sometimes referred to as a concealed or camouflaged facility, means a WCF, ancillary structure, or WCF equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. There are two types of concealed WCFs: 1) attached and 2) freestanding. 1) Examples of concealed attached facility include, but are not limited to the following: painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure. 2) Freestanding concealed WCFs usually have a secondary, obvious function which may be, but is not limited to the following: church steeple, windmill, bell tower, clock tower, cupola, light standard, flagpole with or without a flag, or faux tree.

Freestanding WCF means any manned or unmanned location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, feed lines, and equipment cabinets, and may include an antenna support structure. A freestanding WCF includes, but is not limited to the following: guyed, lattice, or monopole support structures.

Non-concealed WCF means a wireless communication facility that is readily identifiable as such and can be either freestanding or attached.

Section 4. Amendment of Section. CBJ 49.85.100 is amended to add a subsection (1) to read:

(18) Wireless Communication Facility Application Fees.

(A) Application fees required by 49.65.940(b): $350

(B) Additional fee required for special use permit applications required by 49.65.970(b)(1): $500

(C) Technical expert review fee specified in 49.65.940(b): $4000

Section 5. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this ________ day of ________________________, 2014.

____
Merrill Sanford, Mayor

Attest:

____
Laurie J. Sica, Municipal Clerk

ASSEMBLY AGENDA/MANAGER'S REPORT
THE CITY AND BOROUGH OF JUNEAU, ALASKA

Wireless Communication Facilities

ATTACHMENTS:

	Description	Upload Date	Type
☐	Federal Regulations Memo	4/30/2014	Cover Memo
☐	FCC Informal Guidance	4/30/2014	Cover Memo
☐	DRAFT CBJ Wireless Ordinance	5/2/2014	Ordinance

JUNEAU AFFORDABLE HOUSING COMMISSION

April 11, 2014

Karen Crane, Chair
Finance Committee
City and Borough of Juneau
155 S. Seward Avenue
Juneau, Alaska 99801

Dear Ms. Crane:

The members of the Juneau Affordable Housing Commission are requesting approval to use existing funds available in the Affordable Housing Fund to pay for the development of a Housing Action Plan for the community.

The commission members have had extensive discussion on the concept of formulating an action plan. We have reviewed a number of other community action plans, and we have unanimously agreed that this should be the next major step towards stimulating the future development of additional housing options for our community.

After reviewing a number of other communities plans we are estimating the expense for this plan will be $75,000.

Our concept for this plan would include an update of the housing needs assessment, formulating an action plan, establishing and prioritizing goals, and coordinating with other CBJ planning initiatives.

Thank you for considering our request. The commission members represent a very diverse group of dedicated volunteers. Our group includes local contractors, nonprofit housing developers, realtors, local business representatives and concerned community members. We all agree the time has come to take the next step in planning for our future housing.

We are available to meet if you have additional questions or would like to talk with the commission members about this request.

Tamara J Rowcroft

Tamara Rowcroft,
Vice Chair
Affordable Housing Commission

PURPOSE & OBJECTIVE

The City and Borough of Juneau (CBJ) seeks to develop an overall Housing Action Plan to provide a stable supply of housing for current and future residents of Juneau affordable at all income levels. The Housing Action Plan will focus on finding ways to provide housing to those segments of the community identified as having the highest needs through an updated Housing Needs Assessment. Broad community outreach and engagement with key housing stakeholders including social service agencies, non-profit housing providers, home builders, major employers, realtors, mortgage lenders, the University of Alaska Southeast, the Juneau Coalition for Housing and Homelessness, the Juneau Economic Development Council, and the Juneau Affordable Housing Commission, is expected to provide the best overall outcome. The Housing Action Plan process will use the AHC as a Steering Committee.

BACKGROUND

In 2013, the CBJ updated the Housing Chapter of the Comprehensive Plan. One of the principle recommendations of the Plan is to develop a housing plan. In 2012 the CBJ and Juneau Economic Development Council updated the 2010 Housing Needs Assessment. As of the 2012 report, Juneau's housing costs were the highest in the state. The 2012 Housing Needs Assessment estimates that to achieve a 5% vacancy rate 683-747 total market rate housing units and 441 new public housing rental units and/or housing vouchers to bring rents to ≤$700/month were needed. Some other housing issues identified in the Juneau Housing Needs Assessment and other studies include:

- Juneau's aging population, which with its declining household size increases the demand for smaller housing units;
- The age of Juneau's housing stock;
- Changes in public housing and housing vouchers which will require more households to move into fair-market units;
- Building permits have not kept pace with population growth;
- Limited inventory of land for sale which is attractive to home builders, especially small-scale builders;
- Underdeveloped and undeveloped land along the transit corridor; and
- Limited funding in recent years for public financing of supportive housing

SCOPE OF WORK

The CBJ desires to have a comprehensive housing plan for encouraging and promoting new home construction and which addresses the changing housing needs of Juneau's current and projected population over the next twenty years, and which provides creative solutions to Juneau's housing market which is not meeting and for many years has not met the needs of the community in terms of affordability and choice. The development of the Juneau Housing Action Plan should include, but not be limited to, the following broad areas of engagement:

Background Research and Analysis
The consultant is expected to complete a review of relevant planning, financial, and development documents and engage with other consultants engaged to develop any planning documents in development to aide in understanding local conditions and the community's housing needs. Examples of such documents include:

- 2013 Comprehensive Plan
- Economic Development Plan (contract awarded January 2014)
- Senior Housing & Services Demand Assessment (contract to be awarded March 2014)
- Transit Plan
- Transportation Plan

Public Outreach
The Housing Action Plan process will use the AHC as a Steering Committee. The planning process will engage the community as a whole, as well as decision makers.

The consultant will develop and implement public outreach and education programs at appropriate times during the Housing Action Plan process. The purpose of the public outreach and education programs is to educate the general public and stakeholder groups regarding the Housing Action Plan as well provide opportunities for input into the plan. The public outreach plan will be reviewed and coordinated with the Steering Committee.

Public outreach will include a variety of tools, such as public meetings/open houses, surveys, key informant interviews, and development of a project webpage. The use of focus groups and study circles or other suitable methods is encouraged. The proposal should include clarification on the expected role of the community, the City, and the consultant for each of these activities, as well as who will be responsible for the production, publication and distribution of informational materials and mailings.

The consultant will work with City staff throughout the process, which will provide:

§ Meeting Coordination
§ Facilitation of Committee Meetings
§ Open Houses
§ Advertisement
§ Informational Handouts
§ Newsletters and Other Mailings
§ On-going Updates

Identification of Issues and Concerns
Using the information contained in the previous tasks, identify the key issues and concerns to providing safe, sanitary and affordable housing to all segments of the community.

The plan shall identify, at a minimum, issues and concerns related to the following components:

- Identify housing needs of the community (location, amenities, size, ownership type, affordability).
- Inventory Juneau's existing housing in relation to identified needs to determine gaps.
- Inventory buildable lands
- Identify barriers to providing affordable housing
- Identify existing housing resources in the community
- Review best practices

  As part of plan development the consultant will engage with local builders, multi-family landlords, realtors, mortgage lenders, major employers, supportive & subsidized housing providers, and conduct statistically relevant survey to determine housing needs, barriers to development, and to aide in understanding local conditions and the community's housing needs.

Preparation of Goals, Objectives, and Recommendations
Based upon the information obtained in the previous tasks, the consultant shall work with the community to develop goals, objectives and recommendations for the Housing Action Plan.

Recommendations for Implementation Strategy
The plan shall include a range of strategies to achieve the goals, objectives and recommendations of the Housing Action Plan.

- Strategies that will improve the quality, safety and affordability of existing housing throughout the CBJ.
- Strategies to encourage development of diverse housing types and affordability levels.
- Strategies for developing and redeveloping targeted areas: TBD (Downtown, near UAS, others???)
- Incentives to encourage private sector housing development for all incomes.
- Ways to attract funding, including state, federal and private financing that addresses housing needs and to leverage existing funds with new funds.
- Identify ways to leverage local partners resources, THRHA, CCS, St. Vincent, JEDC, VOA, AHFC, others??? And identify other potential financial/development partners.
- Ways to encourage development of under-developed / vacant land along CBJ's transit corridor.

- Strategies to meet the housing needs of CBJ's seasonal workforce, which is principally engaged in the tourism, seafood and construction industries from early May to mid-October and the state legislature in January through April or May.
- Strategies for encouraging tenants who no longer need subsidies to move into fair market housing.

In addition, this task shall result in the following:

- A timeframe for identified actions.
- An allocation of responsibilities for actions among the various governmental agencies and where applicable, not-for-profit organizations having interests in carrying out the programs.
- A general description of any land use development regulations or incentives that may be adopted by the City in order to achieve the goals, policies, and guidelines set forth in the plan.
- A description of other procedures that the community may use in monitoring and evaluating the implementation of the plan.
- Identification of potential funding sources for projects or other issues identified during the planning process.
- Providing an estimated social and/or economic return on investment for recommended strategies.

Presentations

The consultant will be required to undertake a series of presentations at various stages of the planning effort to the Planning Commission and Assembly. The purpose of these presentations is to provide information and obtain feedback. The consultant is also expected to present the plan when formally reviewed and considered by the Planning Commission and Assembly. Presentations to other boards and commissions may be arranged.

Project Schedule

The proposal should include a schedule of major milestones for the project. The CBJ anticipates the schedule should include, but not be limited to, the following stages:

- Project Start-Up
- Data Collection, Background Research and Analysis
- Community Participation
- Development of Goals, Objectives and Recommendations
- Implementation Strategy/Action Plan
- Public Review Draft Plan
- Planning Commission Draft Plan
- Final Plan

Deliverables

Work collaboratively with AHC/CBJ project team to complete work in phases

- Detailed needs Assessment
- Community outreach/visioning for strategies
- Development of plan
- Vetting plan/comment
- Final plan adoption

Juneau Affordable Housing Fund (JAHF)

Assembly's Juneau Affordable Housing Commission (AHC)

CITY/BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY

5/5/2014 Packet Version

Current JAHF Loan Program

- Help leverage outside resources, including public subsidies and private capital to assist with the development of more affordable housing in Juneau
- Provides “gap” financing up to $150,000 to projects developing affordable housing in Juneau

v Will request funds for a specific project if we receive an application

New JAHF Loan Programs

1. Incentive for Homeowners to Create New Rental Units
   - Loan up to $20,000 to homeowners to create a new unit (accessory apartment, bungalow home)

2. Mobile Home Down Payment Assistance
   - Loan up to 50% of the required down payment, not to exceed $10,000 to borrowers purchasing a mobile home in a mobile home park

v The request for funds for these programs will come at a later date after the AHC has finalized the programs

Housing Action Plan

- The AHC has had extensive discussion regarding the concept of a housing action plan (not limited to affordable housing) & reviewed similar plans from other communities around the world
- The AHC has unanimously agreed that a housing action plan is the next major step towards stimulating future development of additional housing options of all types in Juneau

Potential Scope of Work:

- Background Research & Analysis
- Coordinate with other CBJ planning initiatives
  - Examples: Economic Development Plan, Senior Housing & Services Demand Assessment, Transportation Plan, etc.
- Public Outreach
- Identification of Issues and Concerns
- Preparation of Goals, Objectives & Recommendations
- Recommendations for Implementation Strategy

Housing Action Plan Funding

- The AHC is requesting **$75,000** from the Juneau Affordable Housing Fund for the Housing Action Plan
- These funds will not be repaid to the JAHF, but will be paid back to the community in the form of development initiatives and new housing units

ASSEMBLY AGENDA/MANAGER'S REPORT
THE CITY AND BOROUGH OF JUNEAU, ALASKA

Juneau Affordable Housing Commission - Housing Action Plan

ATTACHMENTS:

	Description	Upload Date	Type
☐	Juneau Affordable Housing Commission - 4/11/2014 Letter to Assembly Finance Committee	4/30/2014	Cover Memo
☐	Housing Action Plan - Proposed Scope of Work	4/30/2014	Cover Memo
☐	Juneau Affordable Housing Commission Powerpoint	5/2/2014	Cover Memo

JUNEAU SCHOOL DISTRICT
CITY AND BOROUGH OF JUNEAU

10014 Crazy Horse Drive ♦ Juneau, Alaska 99801 ♦ 907-523-1702 ♦ Fax: 907-523-1708

April 30, 2014

Juneau School District
Board of Education
10014 Crazy Horse Drive
Juneau, AK 99801

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

Re: K-12 Education Funding

The City and Borough of Juneau Assembly is a long-standing partner and champion of quality schools in our community. Its steadfast history of support is evidenced by the many volunteer hours individual Assembly members have spent in our schools, by the ongoing generous financial support of our programs, and by the public advocacy of our efforts to increase the success of students in our community.

As a leadership team, you demonstrate your understanding that a strong public school system is essential to the economic viability of our community. You have consistently funded our schools at the maximum allowed by statute and have generously provided funding outside of the funding cap to support specific programs. That "outside the cap" funding represents an investment of $770,000:

From the General Fund:	
Pupil Transportation – After School Activities	$35,000
Pupil Transportation – Homeless Students	$35,000
Community Schools	$135,000
High School Activities	$365,000
From the Roaded Service Fund:	
High School Activities	$155,000
Middle School Activities	$15,000
Elementary Activities	$30,000
Total Outside the Cap	**$770,000**

As the publicly elected governing body of our schools, we sincerely appreciate your commitment to our work. We recognize that you collectively face a serious financial challenge to provide key community services in a declining revenue environment. We understand the difficulty of that dilemma all too well and empathize regarding the magnitude of the problem. We also are compelled to ask that, as you consider where to invest scarce available resources, you again consider a deep investment in our public schools.

The actions taken by the Alaska State Legislature to increase school funding provide the option for our City and Borough to contribute additional funds to public schools. An increase in the State's foundation formula enables the CBJ to contribute an additional $363,700 to public schools. CBJ also has the option of matching one-time State funding up to $347,700. With the increase in local property values, the Assembly could choose to increase funding by another $193,200. The total allowable increase inside the funding cap is $904,600.

Within our current budget for FY2015 – bolstered by the recent Legislature decisions – we are able to maintain our investments in essential infrastructure such as curriculum and professional development and to minimize class size increases. We understand that the statutory ability to provide these additional funds does not contribute to the Assembly's financial ability to spend to that level. That stated, to the degree that you are able to provide any additional funding, our commitment would be to invest those funds to avoid any increase in class size. That could be accomplished with an additional investment of $768,608.

To reiterate, as a Board we greatly appreciate the longstanding support of our neighbors who serve on the Assembly. We value the collaborative and respectful relationship we share as community leaders. We appreciate the fiscal challenges for school districts and municipalities statewide and especially here in our hometown. We ask that members of the Assembly consider the degree to which additional K-12 educational investments can be provided from the City and Borough of Juneau. We will, as we always have, respect the decisions you make in that regard. Thank you for your consideration.

Respectfully,

Sally Saddler, President
Juneau School Board

Explanation of Legislative Changes to School Funding
April 30, 2014

David Means
Director of Administrative Services
Juneau School District

The 2014 Legislature added money to local school districts and made it available for spending in FY 2015. In particular they focused on non-traditional education programs--they changed the factor for correspondence programs and for our charter school. They increased the base student allocation by $150, and they appropriated nearly $43 million as a lump sum distribution to school districts. I estimate this adds $3,118,451 in state revenues. But the District already assumed a lump sum distribution of $25 million, so the actual increase to our budget is $2,210,368. The Assembly funded the district as the same level as the prior year, or $193,200 less than the District's request. In sum, there is $2,017,168 in new revenues.

The Legislature included $200,000 in the capital funding bill for curricular materials for the Juneau School District.

The Legislature also mandated more funds be allocated to the Juneau Charter School. In particular, the amount they will now get a proportional share of the amount allocated by CBJ to the District. Also, some of the new state money was a result of the Legislature revising the calculation formula for charter schools (about $231,000 in our case). So, out of the new money, $549,570 goes to the Charter School.

This left $1,749,000 for add backs.

The Board looked at the add back list as prepared by the administrative team. The cabinet added a few items to it as well. For example, they added $40,000 to implement the new teacher and administrator evaluation system to comply with the new state evaluation system requirements. They also reviewed the Budget committee's report
When compared to the priority add back list recommended by the Budget committee, the Board added back:

- Intermediate PTR by 1 instead of 3
- Primary PTR by 1 instead of 3
- Middle (school) PTR by 1 instead of 3
- High School PTR by 1 instead of 3
- Pay for music curriculum
- Restore 1 custodian

The Board partially restored primary PTR by 0 instead of 1 when they added back the "increase elementary PTR (grades K - 5) by .5 instead of 1.

Even though the committee recommended against restoring money to high school activities, the Board restored it as well.

The Board is concerned with providing enough resources so that the new superintendent can be an effective leader when he or she becomes superintendent. They have noted the increased burden on Glenn when the assistant superintendent position was cut. Their solution was to budget $20,000 for the superintendent to bring in services as he or she may deem necessary.

Likewise the Board is concerned that the District may have reduced the finance department too much in recent years. A position was eliminated a few years ago with the understanding that less expensive hourly employees would pick up parts when the work load became excessive for the payroll and accounting staff. The hourly employee's time was cut in the March version of the budget. Last night the Board restored part of this back.

The actual add backs exceeded available resources slightly so the budgeted ending fund balance will be less than the targeted $500,000.

April 28, 2014

Juneau School District
Analysis of Legislative and CBJ Funding Decisions on FY 2015 Operating Fund Budget

Bill/Section	**Description**	**Changes in Revenue** State	Local	Total	**Change in Expenditures**
HB278 Sec 08	Internet Funding to 10 M	25,000			
HB278 Sec 13	Change in Charter School				549,570
HB278 Sec 25	Increase Correspondence Factor	38,624			
HB278 Sec 26	Change in Charter School Factor	231,006			
HB278 Sec 27	Increase in Base Student Allocation	1,311,790			
HB278 Sec 55	Additional State Funding ($43 Mil)	1,512,031			
State Budget	Less Amt Previously Budgeted ($25 Mil)	(908,083)			
SB119 Sec 01	Curricular Materials				(200,000)
	CBJ Assembly Funding Decision		(193,200)		
	Totals	2,210,368	(193,200)	2,017,168	349,570

Potential Additional CBJ Funding	
CBJ Assembly Funding Decision	193,200
CBJ Match for Changes in Foundation Formula	363,700
Local Share of One-time Additional State Funding	347,700
Totals	904,600

Amount Available for Addbacks	
Increase in Revenues	2,017,168
Less Mandatory Increase in Expenditures	(549,570)
Plus Legislative Funding for Curricular Materials	
Freed up Funds for Other Expenditures	200,000
Planned Unexpended Ending Fund Balance for June 30, 2015	81,647
Leaves Amount Available for Other Addbacks	1,749,245

Juneau School District
Addbacks to Operating Fund for
FY 2015

April 29, 2014

Addbacks to Budget	**Amount**	**Cumulative Total**	**FTE**
Raise PTR by 1 student instead of 3 (K-12)	1,024,810	1,024,810	10.00
Restore 1.00 custodian	68,491	1,093,301	1.00
Purchase music curriculum	50,000	1,143,301	
Restore special ed administrative assistants	96,706	1,240,007	2.00
Retain HS activity support	140,000	1,380,007	
Adjust Supt Salary and Benefits	8,092	1,388,099	
Implement new teacher and administrator evaluation system	40,000	1,428,099	
Raise PTR by .5 student instead of 1 (K-5)	307,443	1,735,542	3.00
Supt Professional Services	20,000	1,755,542	
Restore a portion of finance dept hourly staff	18,000	1,773,542	
Restore school level budget reductions of 5%	33,711	1,807,253	
Do not raise PTR for elementary schools (K-5)	358,684	2,350,403	3.50
Do not raise PTR for middle schools (6-8)	204,962	2,555,365	2.00
Restore 2.00 FTE resource room teachers	204,962	2,760,327	2.00
Do not raise PTR for high schools (9 - 12)	204,962	2,965,289	2.00
Restore 1.80 FTE bulge positions	184,466	1,991,719	1.80
Purchase curriculum materials	200,000	3,165,289	
Potential Addbacks	3,165,289		
Total of teacher positions to be restored if revenue funds were added (does not include bulge positions)	973,570		

Items above the line were added to the Operating Fund budget by the School Board April 29, 2014

List of Changes to Available Resources

Juneau School District
Operating Fund Budget Update
FY 2015

Aprroved by School Board
April 29, 2014

	Budget without On-Behalf			
	FY 2015 Budget as of March 25	Revision	FY 2015 Budget as of April 29	**FY 2015 Budget With On-Behalf**
OTHER AVAILABLE RESOURCES				
Fund Balances, Beginning of Year	968,976	0	968,976	968,976
REVENUES				
Foundation (BSA: $5,680 becomes $5,830)	36,438,692	1,581,420	38,020,112	38,020,112
State Payment into Retirement Systems				
As Budgeted March 25, 2014				18,438,700
With Increase from $3 billion State Contribution				59,735,400
Revised State Payment into Retirement Systems				78,174,100
State Aid	908,083	628,948	1,537,031	1,537,031
CBJ Direct Appropriation	24,327,600	-193,200	24,134,400	24,134,400
Other Local Revenue	20,000	0	20,000	20,000
Tuition from Students	80,000	0	80,000	80,000
E-Rate	175,000	0	175,000	175,000
Medicaid: Direct Billing	460,000	0	460,000	460,000
Total Revenues	62,409,375	2,017,168	64,426,543	142,600,643
Total Available Resources	63,378,351	2,017,168	65,395,519	143,569,619
EXPENDITURES AND OTHER FINANCING USES				
Budget As Passed March 25, 2014	62,796,704		62,796,704	81,235,404
Budget Reductions				
Reduce curricular materials budget, funds available for other use		-200,000		
Budget Increases				
Adjust Juneau Community Charter School allocation per law		549,570		
Adjust for advertised superintendent salary & benefits		8,092		
Raise PTR by 1 instead of 3 grades K - 12		1,024,810		
Restore 1.00 FTE custodian		68,491		
Restore 2.00 special education administrative assistants		96,706		
Purchase music curriculum		50,000		
Restore high school activities program budget		140,000		
Purchase and implement teacher and administrator evaluation system		40,000		
Raise PTR by .5 instead of 1 grades K - 5		307,443		
Restore finance department hourly assistance		18,000		
Provide for assistance to new superintendent		20,000		
Adjust on-behalf retirement system estimate for $3 billion state contribution				59,735,400
Net Change of Increases and Decreases		2,123,112	2,123,112	2,123,112
Total Expenditure Budget	62,796,704		64,919,816	143,093,916
Budgeted Fund Balance, June 30, 2015	581,647		475,703	475,703

School District
Comparison of FY14 Amended to FY15 Proposed Budgets
May 5, 2014

	FY14 Amended Budget	FY15 Proposed Budget	Increase/ (Decrease)
EXPENDITURES:			
Education - Operating			
Personnel Services	70,701,700	135,800,200	65,098,500
Commodities and Services	6,808,900	7,055,200	246,300
Support To Education -			
Special Revenue	-	(100,000)	(100,000)
Other (Student Activities)	338,500	(100,000)	(438,500)
Totals	**77,849,100**	**142,655,400**	**64,806,300**
Education - Special Revenue			
Personnel Services	1,646,800	1,508,100	(138,700)
Commodities and Services	4,683,900	4,481,500	(202,400)
Support To Education -			
Operating	100,000	100,000	-
Totals	**6,430,700**	**6,089,600**	**(341,100)**
Education - Other			
Other Special Revenue	6,678,900	5,579,900	(1,099,000)
Other (Student Activities)	2,608,500	2,808,500	200,000
House Building Project	320,000	320,000	-
Special Revenue Fund Support	80,000	80,000	-
Totals	**9,687,400**	**8,788,400**	**(899,000)**
Total Expenditures	**93,967,200**	**157,533,400**	**63,566,200**
FUNDING SOURCES:			
Education - Operating			
State Foundation Funding	38,275,000	38,020,100	(254,900)
State Contribution for PERS/TRS	13,620,900	78,174,100	64,553,200
State Aid to School Districts	908,100	1,537,000	628,900
Federal	400,000	460,000	60,000
Other	150,000	275,000	125,000
Support From:			
Special Revenue Fund	100,000	-	(100,000)
General Fund	24,134,400	24,134,400	-
Fund Balance (To) From	260,700	54,800	(205,900)
Total Operating	**77,849,100**	**142,655,400**	**64,806,300**
Education - Special Revenue			
State	3,142,800	3,148,000	5,200
Federal	823,000	825,500	2,500
User Fees	1,911,300	1,768,300	(143,000)
Support from:			
Education - Other	80,000	80,000	-
General Fund	205,000	205,000	-
Fund Balance (To) From	268,600	62,800	(205,800)
Total Special Revenue	**6,430,700**	**6,089,600**	**(341,100)**
Education - Other Special Revenue			
State	1,662,900	1,571,700	(91,200)
Federal	3,781,000	3,173,900	(607,100)
Other	1,315,000	268,000	(1,047,000)
Fund Balance (To) From	-	646,300	646,300
Total Other Special Revenue	**6,758,900**	**5,659,900**	**(1,099,000)**
Education - Other (Student Activities)			
Student Activities Fundraising	1,705,000	1,905,000	200,000
Support from:			
Education Operating Fund	338,500	338,500	-
General Fund	365,000	365,000	-
Roaded Service Area	200,000	200,000	-
Total Student Activites	**2,608,500**	**2,808,500**	**200,000**
Education - House Building Project			
Proceeds from Sale of House	320,000	320,000	-
Total House Building Project	**320,000**	**320,000**	**-**
Total Funding Sources	**93,967,200**	**157,533,400**	**63,566,200**

CBJ Special Assembly Meeting
April 29, 2014
CBJ Funding for Education

After changes from the State Legislature

	Introduced Ordinance 2014-25	SD Board Approved April 29, 2014	Difference
State law required minimum local contribution	$ 12,964,800	$ 12,964,800	
Additional CBJ funding per the State Foundation Funding Formula	11,169,600	11,169,600	-
Subtotals	24,134,400	24,134,400	-
CBJ Funding outside the CAP	770,000	770,000	-
Totals	**$ 24,904,400**	**24,904,400**	**-**
Potential CBJ Funding to CAP		556,900	
Potential Local Share of 1-Time Additional State Funding		347,700	
Potential Total CBJ Funding		**$ 25,809,000**	**904,600**

ASSEMBLY AGENDA/MANAGER'S REPORT
THE CITY AND BOROUGH OF JUNEAU, ALASKA

Juneau School District Budget

ATTACHMENTS:

	Description	Upload Date	Type
☐	Letter from School Board to Assembly re: K-12 Education Funding	5/1/2014	Cover Memo
☐	Explanation of Legislative Changes	5/2/2014	Cover Memo
☐	JSD Analysis of Legislative Changes	5/2/2014	Cover Memo
☐	JSD Add-back list	5/2/2014	Cover Memo
☐	JSD Changes in Resources	5/2/2014	Cover Memo
☐	Comparison of FY14 to FY15 JSD Budgets	5/2/2014	Cover Memo
☐	Ord 2014-25 compared to JSD request	5/2/2014	Cover Memo

MEMORANDUM

CITY/BOROUGH OF JUNEAU

Public Works Department
5433 Shaune Drive, Juneau, Alaska 99801
Kirk Duncan, Director
Voice (907) 586-5254
Fax (907) 780-4637

TO: Assembly Committee of the Whole

FROM: Kirk Duncan, Public Works Director

DATE: May 2, 2014

SUBJECT: Water and Wastewater Rate Study Update

At a previous CBJ Finance Committee meeting, a question was asked concerning the impact of proposed water and wastewater increases on the residents and businesses of Juneau. This memo is intended to provide that information.

Over the last few months, CBJ staff has presented a proposed water and wastewater rate study that would fund the needed improvements and enhancements recommended for the next 10 year time period.

CBJ Water and Wastewater Assets total approximately $275 Million. Most of these assets have a life expectancy of 20 years to 50 years. The staff is recommending the adoption of a funding strategy that would provide for replacement, rebuilding or extensive repairing of 25% of the total assets over the next 10 year period or a total of approximately $74.4 Million. A list of those projects is attached to this document. In addition, a rate model showing revenues and expenditures over the next ten years has been included with this document.

CBJ Public Works hired the FCS Group to update the water and wastewater rate study that FCS developed in 2004. Assumptions upon which the current rate study has been created are:

1. Capital Improvements for Water total $23.0 Million (FY2014 Dollars)
2. Capital Improvements for Wastewater total $51.4 Million (FY2014 Dollars)
3. Operating Expenses are indexed for inflation by 2.5% annually
4. Capital Improvements are indexed for inflation at 4.5% annually
5. $1.2 Million for Capital Improvements coming from Marine Passenger Fees (FY2015 Dollars)
6. $22.5 Million for Capital Improvements coming from 1% Sales Tax (for placement on 2017 Ballot for 1% Sales Tax effective October 1, 2018)

Assuming that the Assembly approves the rate increases and that outside funding from 1% Sales Tax and Marine Passenger Fees are also approved, the rates for a flat residential customer which is the largest number of accounts would increase from the current $26.40 per month to $28.91 in 2015 and ultimately to $52.33 in 2024. Wastewater rates would increase for flat rate residential customers from the current $64.13 per month to $70.22 in 2015 and ultimately $128.85 in 2024.

All metered water customers would see their rates increase in 2015 by 9.5% with an additional annual rate increase of 9.5% until 2019, when the rate would increase at an annual rate of 5.5% through 2024. Metered wastewater users would see their rates increase by 9.5% annually through 2019 with annual increase in 2020 through 2024 of 5.0%.

The table below provides further information.
As stated previously, this rate structure, if approved, will provide for needed infrastructure improvements through 2024. It is important to point out that these projections are based on the best current data on the condition of the assets and due to the buried nature of many of the assets, additional funds may be required before the end of the study period.

	Residential & Commercial Flat Rates		Metered Residential, Commercial Large Commercial and Bulk Rates	
	Water Rates	Wastewater Rates	Water % Increase	Wastewater % Increase
2014	$ 26.40	$ 64.13	0.0%	0.0%
2015	$ 28.91	$ 70.22	9.5%	9.5%
2016	$ 31.65	$ 76.89	9.5%	9.5%
2017	$ 34.66	$ 84.20	9.5%	9.5%
2018	$ 37.95	$ 92.20	9.5%	9.5%
2019	$ 40.04	$ 100.96	5.5%	9.5%
2020	$ 42.24	$ 106.00	5.5%	5.0%
2021	$ 44.57	$ 111.30	5.5%	5.0%
2022	$ 47.02	$ 116.87	5.5%	5.0%
2023	$ 49.60	$ 122.71	5.5%	5.0%
2024	$ 52.33	$ 128.85	5.5%	5.0%

Attachments:
May 5, 2014 Wastewater & Water Utility Rate Model
Water & Wastewater Capital Improvement Projects List 2014-2024

CBJ Public Works
May 5, 2014

Wastewater Utility Rate Model

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	
Operating Income	$ 9,710,349	$ 10,667,866	$ 11,620,477	$ 12,616,548	$ 13,774,867	$ 15,066,441	$ 15,819,464	$ 16,645,683	$ 17,511,726	$ 18,432,655	$ 19,396,314	
Operating Expense	$ 9,872,639	$ 10,050,481	$ 10,281,417	$ 10,673,252	$ 12,311,423	$ 12,623,583	$ 12,904,397	$ 13,128,574	$ 13,405,420	$ 13,691,234	$ 13,994,907	
Transfer to Capital Projects	$ 684,930	$ 786,708	$ 968,661	$ 140,775	$ 1,755,862	$ 2,144,531	$ 3,047,705	$ 3,417,469	$ 4,004,831	$ 4,557,591	$ 5,179,294	$ 26,688,357
Net Operating Income (Loss)	$ (847,220)	$ (169,323)	$ 370,399	$ 1,802,521	$ (292,418)	$ 298,327	$ (132,638)	$ 99,640	$ 101,475	$ 183,830	$ 222,113	
Beginning Fund Balance	$ 17,463,779	$ 16,276,489	$ 13,173,674	$ 5,072,178	$ 2,963,261	$ 2,975,407	$ 3,849,359	$ 8,321,318	$ 12,868,229	$ 18,800,986	$ 24,698,693	
Transfer from Operating Account - Capital Projects	$ 684,930	$ 786,708	$ 968,661	$ 140,775	$ 1,755,862	$ 2,144,531	$ 3,047,705	$ 3,417,469	$ 4,004,831	$ 4,557,591	$ 5,179,294	
Marine Passenger Fees	$ -	$ -										
1% Sales Tax Funds	$ -	$ -		$ -	$ -	$ 4,500,000	$ 4,500,000	$ 4,500,000	$ 4,500,000	$ 4,500,000		$ 22,500,000
Revenue Bond Proceeds	$ -	$ -		$ 1,984,556	$ 18,344,511							$ 20,329,067
Operational (Loss) / ProfitContribution	$ (847,220)	$ (169,323)	$ 370,399	$ 1,802,521	$ (292,418)	$ 298,327	$ (132,638)	$ 99,640	$ 101,475	$ 183,830	$ 222,113	
Capital Projects to be appropriated	$ (1,025,000)	$ (3,720,200)	$ (9,440,556)	$ (6,036,769)	$ (19,795,809)	$ (6,068,906)	$ (2,943,108)	$ (3,470,198)	$ (2,673,549)	$ (3,343,714)	$ (3,253,471)	$ (61,771,280)
Ending Balance	$ 16,276,489	$ 13,173,674	$ 5,072,178	$ 2,963,261	$ 2,975,407	$ 3,849,359	$ 8,321,318	$ 12,868,229	$ 18,800,986	$ 24,698,693	$ 26,846,629	
Rate Increase	0%	9.50%	9.50%	9.50%	9.50%	9.50%	5.00%	5.00%	5.00%	5.00%	5.00%	
Cumulative Rate Increase	0%	9.50%	19.90%	31.29%	43.77%	57.42%	65.30%	73.56%	82.24%	91.35%	100.92%	

Water Utility Rate Model

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	
Operating Income	$ 4,350,815	$ 4,749,958	$ 5,156,998	$ 5,556,336	$ 6,044,083	$ 6,356,807	$ 6,689,402	$ 7,027,791	$ 7,395,660	$ 7,789,943	$ 8,189,828	
Operating Expense	$ 3,407,715	$ 3,491,257	$ 3,660,034	$ 3,821,079	$ 3,819,434	$ 3,917,292	$ 4,075,994	$ 4,177,757	$ 4,282,932	$ 4,391,651	$ 4,792,232	
Transfer to Capital Projects	$ 956,374	$ 1,202,203	$ 1,415,506	$ 1,647,018	$ 1,944,422	$ 2,197,822	$ 2,447,661	$ 2,700,733	$ 2,998,237	$ 3,274,609	$ 3,309,706	$ 24,094,291
Net Operating Income (Loss)	$ (13,274)	$ 56,498	$ 81,458	$ 88,239	$ 280,227	$ 241,693	$ 165,747	$ 149,301	$ 114,491	$ 123,683	$ 87,890	$ 1,375,953
Beginning Fund Balance	$ 6,755,984	$ 6,924,084	$ 7,198,735	$ 2,862,440	$ 3,161,443	$ 3,702,672	$ 4,540,843	$ 4,175,307	$ 4,876,540	$ 6,234,396	$ 6,058,629	
Transfer from Operating Account - Capital Projects	$ 956,374	$ 1,202,203	$ 1,415,506	$ 1,647,018	$ 1,944,422	$ 2,197,822	$ 2,447,661	$ 2,700,733	$ 2,998,237	$ 3,274,609	$ 3,309,706	
Marine Passenger Fees	$ -	$ 1,200,000										$ 1,200,000
1% Sales Tax Funds	$ -	$ -		$ -	$ -	$ -	$ -	$ -				
Revenue Bond Proceeds	$ -	$ -	$ 1,013,738	$ 925,960	$ 15,919		$ 767,658					$ 1,709,537
Operational (Loss) / Income Contribution	$ (13,274)	$ 56,498	$ 81,458	$ 88,239	$ 280,227	$ 241,693	$ 165,747	$ 149,301	$ 114,491	$ 123,683	$ 87,890	
Capital Projects to be appropriated	$ (775,000)	$ (2,184,050)	$ (6,846,997)	$ (2,362,214)	$ (1,699,339)	$ (1,601,344)	$ (3,746,602)	$ (2,148,801)	$ (1,754,872)	$ (3,574,059)	$ (1,557,628)	$ (28,250,906)
Ending Balance	$ 6,924,084	$ 7,198,735	$ 2,862,440	$ 3,161,443	$ 3,702,672	$ 4,540,843	$ 4,175,307	$ 4,876,540	$ 6,234,396	$ 6,058,629	$ 7,898,597	
Rate Increase	0%	9.50%	9.50%	9.50%	9.50%	5.50%	5.50%	5.50%	5.50%	5.50%	5.50%	
Cumulative Rate Increase	0%	9.50%	19.90%	31.29%	43.77%	51.67%	60.02%	68.82%	78.10%	87.90%	98.23%	

PROPOSED WATER WASTEWATER CAPITAL IMPROVEMENT PROJECTS 2014-2024

	Wastewater Capital Improvement Projects					**Water Capital Improvement Projects**	
					2014	Juneau Douglas Bridge 14" water main restraints- Harbor way line connect	$100,000
2014	Backloop Water Repairs	$ 75,000			2014	Backloop Waterline traffic circle	$75,000
2014	Biosolids Management	$ 275,000			2014	Areawide water repairs/replacement	$125,000
2014	Wastewater Facilities Plan	$ 675,000			2014	Last Chance Basin Generator replacement	$475,000
	2014 Subtotal	**$ 1,025,000**				**2014 Subtotal**	**$775,000**
2015	Backloop Water Repairs	$ 175,000			2015	Egan Drive, Main St. to 10th St.	$1,200,000
2015	Biosolids Management	$ 685,000			2015	Cope Park water main replacement	$350,000
2015	Pavement Management Program-Utility Adjustments	$ 20,000			2015	PAVEMENT MANAGEMENT PROGRAM, Valve box adjust, Hydrant Pads	$20,000
2015	Lemon Ck, Eagles Edge Subd., Gull Way Improvements	$ 20,000			2015	LAKEWOOD SUBD IMPROVEMENTS, PHASE 3	$20,000
2015	ABTP Facility Plan Update	$ 50,000			2015	SCOTT DR IMPROVEMENTS & DRAINAGE, Valve box adjust, hydrant relocate	$10,000
2015	PM/Asset Management Program Development & Implementation	$ 210,000			2015	BIRCH LN IMPROVEMENTS, PH 1, Valve box adjust, hydrant replace.	$20,000
2015	JDTP Digester Basin Repairs & Improvements	$ 300,000			2015	EAST ST (6TH ST TO 5TH ST), Water Main and services	$150,000
2015	Valley Court/Lemon Creek FM	$ 1,000,000			2015	FRONT STREET DOUGLAS IMPROVEMENTS - SAVIKKO RD TO "D" ST	$300,000
2015	Glacier Hwy (Gruening Park PS) Improvements	$ 1,100,000			2015	WREN DR RECONSTRUCT, Valve box adjust, hydrant pads.	$20,000
	2015 Sub Total	**$ 3,560,000**				**2015 Sub Total**	**$2,090,000**
2016	Backloop Water Repairs	$ 100,000			2016	Last Chance Basin, new Well #6 operational, backup Well #7 drilled	$3,000,000
2016	Areawide Sewer Cleanout Improvements	$ 20,000			2016	Salmon Creek UV, Secondary Disinfection, operational by Oct 2015 per ADEC	$2,000,000
2016	Valley, Birch Lane Improvements, Phase I	$ 25,000			2016	Pump Station Improvements, Crow Hill fill line 16" HDPE	$500,000
2016	Lemon Ck, Eagles Edge Subd, Brittany Place Improvements	$ 50,000			2016	Auke Bay Seaview/Bayview St. Vet. Mem. Hwy water feed ugrade	$50,000
2016	Downtown, Side Streets-Third St Between Gold & Franklin	$ 60,000			2016	Water Reservoir water quality mixer, and cathodic protection W. Juneau	$140,000
2016	Douglas, Front St Improvements-Savikko Rd to "D" Street	$ 150,000			2016	PAVEMENT MANAGEMENT PROGRAM	$20,000
2016	Downtown, Whittier St Improvements	$ 150,000			2016	LAKEWOOD SUBD IMPROVEMENTS PH4	$20,000
2016	Valley, Lakewood Subd Improvements, Phase III	$ 150,000			2016	BIRCH LN IMPROVEMENTS, PH 2	$20,000
2016	Pavement Management Program-Utility Adjustments	$ 20,000			2016	DISTIN/W 8TH ST REBUILD	$150,000
2016	Lemon Ck, Eagles Edge Subd., Gull Way Improvements	$ 20,000			2016	W 8th ST REBUILD (Egan to the Water)	$150,000
2016	SCADA	$ 250,000			2016	JACKSON ST - BLUEBERRY HILL TO END	$200,000
2016	WW Utility Wide GIS Mapping	$ 250,000			2016	RIVER RD RECONSTRUCT	$20,000
2016	Collections Facilities Plan	$ 250,000				**2016 Sub Total**	**$6,270,000**
2016	MWWTP Instrumentation Upgrades	$ 300,000					
2016	Long Run Dr Lift Station Wet Well Improvements	$ 300,000					
2016	Valley, Columbia Blvd Improvements	$ 300,000					
2016	MWWTP Roof Repair	$ 500,000					
2016	Biosolids Final Alternative (Design)	$ 2,000,000					
2016	MWWTP Headworks (including upgraded grit system)	$ 2,750,000					
2016	PM/Asset Management Program Development & Implementation	$ 100,000					
2016	JDTP Digester Basin Repairs & Improvements	$ 900,000					
	2016 Sub Total	**$ 8,645,000**					
2017	Lemon Ck, Eagles Edge Subdiv. - Birch Ln Improvements, Phase II	$ 20,000			2017	Water Utility SCADA Upgrades, panelview, control logic, radio modems, phase 1	$75,000
2017	Lemon Ck, Eagles Edge Subdiv. - Chatham Dr.	$ 50,000			2017	Egan Drive Road Crossings Highland Drive to Norway Point	$450,000
2017	Downtown, Capitol Ave - Willoughby to Ninth Street	$ 50,000			2017	Douglas Hwy water replacement	$750,000
2017	Douglas, Side Streets - "D" Street	$ 100,000			2017	Fritz Cove Road intersection waterline upgrades to NOAA Lab	$225,000
2017	Downtown, W. Ninth St & Indian St Improvements	$ 100,000			2017	PAVEMENT MANAGEMENT PROGRAM	$20,000
2017	Valley, Lakewood Subd Improvements, Phase III	$ 150,000			2017	WHITTIER AVENUE IMPROVEMENTS	$350,000
2017	MWWTP ABF & Chlorine Building Modifications	$ 250,000			2017	STARLIGHT CT AND MISTY LN IMPROVEMENTS - BAYVIEW SUBD	$150,000
2017	ABTP Tank Repairs	$ 300,000				DOUGLAS SIDE STREETS - "E" ST	$50,000
2017	JDTP Clarifier Building Repairs & Improvements	$ 1,800,000		**Water**		**2017 Sub Total**	**$2,070,000**
2017	Biosolids Final Alternative (Site Work) - Phase I	$ 2,000,000					
2017	SCADA	$ 100,000					
2017	WW Utility Wide GIS Mapping	$ 250,000					
2017	Asset Management	$ 470,000					
	2017 Sub Total	**$ 5,640,000**					

PROPOSED WATER WASTEWATER CAPITAL IMPROVEMENT PROJECTS 2014-2024

	Wastewater Capital Improvement Projects				**Water Capital Improvement Projects**	
2018	Downtown, Calhoun Ave Improvements-W 8th St to Gold Creek	$	50,000	2018	Water Utility SCADA Upgrades, panelview, control logic, radio modems, phase 2	$75,000
2018	Douglas, Side Streets - "E" Street	$	100,000	2018	Douglas Hwy Water Replacement phase II	$750,000
2018	Mtnside Estates, Abbey Way Improvements	$	100,000	2018	Metering system upgrades, MIU's replacement 10yr life span 1500 MIU's	$225,000
2018	Energy Efficiency Improvements	$	100,000	2018	STEELHEAD DR RECONSTRUCT	$20,000
2018	Distin Ave (I&I project)	$	250,000	2018	PAVEMENT MANAGEMENT PROGRAM	$20,000
2018	Biosolids Final Alternative (Construction) - Phase II	$	16,000,000	2018	SHAUNE DRIVE IMPROVEMENTS - ANKA TO BORROW	$20,000
	2018 Sub Total	**$**	**16,600,000**	2018	SLIM WILLIAMS WAY	$20,000
				2018	Last Chance Basin Well Rehab #1	$75,000
				2018	CALHOUN AVE IMPROVEMENTS - W8TH ST TO GOLD CREEK	$200,000
				2018	MALISSA DR	$20,000
					2018 Sub Total	**$1,425,000**
2019	Downtown, 6th Street - Park St to East St	$	25,000			
2019	Valley, Malissa Dr	$	25,000			
2019	Valley, Cascade St	$	35,000	2019	Lee Street Pump Station Upgrades to provide fire flows 4" VFD's	$200,000
2019	Downtown, Jackson St. - Blueberry Hill to End	$	40,000	2019	Douglas Hwy Water Replacement phase III	$750,000
2019	Lemon Ck, Pine St	$	45,000	2019	Water Reservoir improvments, mixer, cathodic protection, Crow Hill	$140,000
2019	Valley, Slim Williams Way	$	50,000	2019	PAVEMENT MANAGEMENT PROGRAM	$22,000
2019	JDTP New Vactor Dump	$	250,000	2019	MELROSE ST RECONSTRUCT AND DRAINAGE	$22,000
2019	JDTP Backup Power Supply (Solids Handling/Biosolids Disposal)	$	900,000	2019	RADCLIFFE RD - BERNER'S TO THE END	$22,000
2019	JDTP Aeration Basin Repairs & Improvements	$	3,500,000	2019	SHARON ST - KILLEWICH TO RIVERSIDE	$22,000
	2019 Sub Total	**$**	**4,870,000**	2019	Last Chance Basin Well Rehab #2	$75,000
				2019	LAPEROUSE AVE	$22,000
				2019	LADD ST	$10,000
					2019 Sub Total	**$1,285,000**
2020	MWWTP Air Handling Upgrades	$	55,000	2020	Cedar Park Pump Station improvements/backup generator.	$400,000
2020	JDTP Facility Structural and Painting Projects	$	100,000	2020	Savikko road waterline replace	$200,000
2020	JDTP Office/Lab Building Updates	$	100,000	2020	Mendenhaven watermain/services replacement	$500,000
2020	MWWTP Site Improvements (lighting, security, access)	$	150,000	2020	PRV Station Improvements/upgrades, crowhill, 5th street douglas	$500,000
2020	Pump and Motors Improvements/Lift Station Upgrades	$	150,000	2020	Bonnie Brae Pump Station VFD's for fire flows	$200,000
2020	Whittier St Rehab	$	355,000	2020	MOV installations & communications Mill Tunnel, W. Juneau, Crow Hill	$800,000
2020	ABTP Disinfection Upgrades	$	450,000	2020	Last Chance Basin Well #3 Rehab	$75,000
2020	ABTP Generator/Backup Power	$	900,000	2020	PAVEMENT MANAGEMENT PROGRAM	$22,000
	2020 Sub Total	**$**	**2,260,000**	2020	LAWSON CREEK RD, watermain, services, hydrant	$180,000
					2020 Sub Total	**$2,877,000**

PROPOSED WATER WASTEWATER CAPITAL IMPROVEMENT PROJECTS 2014-2024

	Wastewater Capital Improvement Projects	
2021	ABTP Facility Structural and Painting Projects	$ 100,000
2021	MWWTP Above Ground Fuel System	$ 150,000
2021	MWWTP Furnace Oil Supply Upgrade	$ 150,000
2021	Street Rehab/DOT projects pipeline upgrades	$ 650,000
2021	JDTP Headworks Building and System Repairs/Upgrades	$ 1,500,000
	2021 Sub Total	**$ 2,550,000**
2022	ABTP Instrumentation Upgrades	$ 50,000
2022	ABTP SCADA Upgrades	$ 75,000
2022	JDTP SCADA Upgrades	$ 80,000
2022	JDTP Instrumentation Upgrades	$ 100,000
2022	MWWTP Press Room Upgrades	$ 775,000
2022	Pump and Motors Improvements/Lift Station Upgrades	$ 150,000
2022	Street Rehab/DOT projects pipeline upgrades	$ 650,000
	2022 Sub Total	**$ 1,880,000**
2023	MWWTP SBR Basin Repairs (Structural)	$ 1,600,000
2023	Street Rehab/DOT projects pipeline upgrades	$ 650,000
	2023 Sub Total	**$ 2,250,000**
2024	JDTP Site Improvments (lighing, security, access)	$ 120,000
2024	MWWTP Facility Structural and Painting Projects	$ 500,000
2024	Wastewater Utility All Facilities Plan Update	$ 675,000
2024	Street Rehab/DOT projects pipeline upgrades	$ 650,000
2024	Pump and Motors Improvements/Lift Station Upgrades	$ 150,000
	2024 Sub Total	**$ 2,095,000**

	Water Capital Improvement Projects	
2021	Well #3 onsite chlorine generation replacement	$230,000
2021	Egan Drive water crossings, Norway Point, Highland Drive, Salmon Creek P.S.	$500,000
2021	Water Utility GIS Mapping/GPS Improvements	$300,000
2021	8th Street, behind Gov. mansion, and Federal building mainline replacement	$350,000
2021	Last Chance Basin Well #4 Rehab	$75,000
2021	Street CIP	$100,000
2021	Pavement management program	$24,000
	2021 Sub Total	**$1,579,000**
2022	Outer Drive watermain replacement Main St. south to Admiral Way/S.Franklin	$250,000
2022	Metering upgrades, radio read, master station, mobile pack	$500,000
2022	Mill Tunnel PRV Station Access	$85,000
2022	Cope Park Pump Station upgrades, pumps, motors, and communications	$200,000
2022	Last Chance Basin Well #5 Rehab	$75,000
2022	Pavement management program	$24,000
2022	Street CIP	$100,000
	2022 Sub Total	**$1,234,000**
2023	Salmon Creek onsite chlorine generation replace/upgrade	$260,000
2023	Glacier Hwy replace 12" mainline with 30" HDPE mainline Highland Dr. to Hosp.	$1,800,000
2023	Downtown Stairway/Easements 3rd St. Franklin to Gold St.,	$220,000
2023	Pavement management program	$25,000
2023	Street CIP	$100,000
	2023 Sub Total	**$2,405,000**
2024	4th Street Douglas watermain replacement	$250,000
2024	I Street Douglas watermain replacement	$185,000
2024	First Street Douglas from Dst to Hst watermain replacement	$300,000
2024	Harris Street 4th to 5th watermain replacement.	$140,000
2024	Pavement management program	$28,000
2024	Street CIP	$100,000
	2024 Sub Total	**$1,003,000**

ASSEMBLY AGENDA/MANAGER'S REPORT
THE CITY AND BOROUGH OF JUNEAU, ALASKA

Utility Rate Study Update

MANAGER'S REPORT:

[Please note the spreadsheets in the Utility Rate Study section are set to be printed on legal size paper.]

ATTACHMENTS:

	Description	Upload Date	Type
☐	Kirk Duncan Memo re: Water and Wastewater Study Update	5/2/2014	Cover Memo
☐	Water and Wastewater Uility Rate Model	5/2/2014	Exhibit
☐	Water and Waste Water CIP List 2014-2024	5/2/2014	Exhibit