

**ASSEMBLY STANDING COMMITTEE
LANDS AND RESOURCES COMMITTEE
THE CITY AND BOROUGH OF JUNEAU, ALASKA**
December 29, 2014, 5:00 PM.
Assembly Chambers

I. ROLL CALL

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. December 8, 2014

IV. PUBLIC PARTICIPATION

(Not to exceed a total of 10 minutes nor more than 2 minutes for any individual).

V. AGENDA TOPICS

A. Update on North Lemon Creek Material Source Development

B. Ordinance 2014-50 An Ordinance Imposing a Limited Moratorium on the Receipt or Processing of Applications, Permits, or Pending Approvals Pertaining to Marijuana Establishments.

On November 4, 2014, Alaskan voters approved a ballot measure related to the legalization of marijuana. The initiative, which goes into effect on February 24, 2015, allows the State nine months to enact regulations concerning the registration and oversight of marijuana establishments, defined by the initiative as marijuana cultivation, testing and product manufacturing facilities and marijuana retail stores. The initiative requires the State to begin accepting and processing applications for the registration of marijuana establishments within one year of the effective date of the act. The initiative authorizes local governments to enact legislation concerning the time, place and manner related to the operation of registered marijuana establishments (for example, hours of operation, allowable locations, and limitations on the number of establishments allowed within the municipality .)

The purpose of the moratorium is to allow the CBJ time to consider and enact legislation concerning the operation of marijuana establishments in the CBJ. The moratorium is set to expire within one year of adoption, which is after the date the State is required to enact regulations given the fact that it may be necessary to coordinate our local legislation with the State's regulatory scheme, but before the time the State is required to begin processing applications.

C. Ordinance 2014-51 An Ordinance Amending the Second-hand Smoke Control Code to Regulate the Use of Marijuana.

This ordinance would amend the Second-hand Smoke Control Code, Chapter 36.30, to provide for the regulation of marijuana smoking in the same way the smoking of tobacco products is regulated within the City and Borough.

VI. STAFF REPORTS

VII. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

VIII. ADJOURNMENT

Note: Agenda packets are available for review online at www.juneau.org.
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**ASSEMBLY AGENDA/MANAGER'S REPORT
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

December 8, 2014

ATTACHMENTS:

Description	Upload Date	Type
☐ December 8, 2014	12/24/2014	Minutes

**ASSEMBLY STANDING COMMITTEE MINUTES
LANDS AND RESOURCES COMMITTEE
THE CITY AND BOROUGH OF JUNEAU, ALASKA
MINUTES**

December 8, 2014, 5:00 PM.
Assembly Chambers

I. ROLL CALL

Jesse Kiehl called the meeting to order at 5:01pm.

Members Present: Jesse Kiehl; Mary Becker; Kate Troll; Jerry Nankervis

Liaisons Present: Karen Lawfer, Planning Commission; Jeff Wilson, Parks & Recreation Advisory Committee

Liaisons Absent: Mike Peterson, Docks & Harbors Board

Staff Present: Jessica Beck, Lands Specialist; Dan Bleidorn, Deputy Lands Manager; Carl Uchtyl, Port Director

Public Present: Derek Duncan, Goldbelt Incorporated

II. APPROVAL OF AGENDA

There were no agenda changes.

III. APPROVAL OF MINUTES

A. October 6, 2014

The minutes of the October 6, 2014 Lands Committee were approved with a minor spelling correction.

IV. PUBLIC PARTICIPATION

There was no public participation on non-agenda items.

V. AGENDA TOPICS

A. Mt. Roberts Tram Lease Amendment

Carl Uchtyl, Port Director, said he has a lease amendment for the Mt. Roberts Tram. The lease includes 10,000 square feet of Docks & Harbors managed property. It was originally signed in 1995. Since 2011 he has been negotiating fair and equitable adjustment to the lease with Goldbelt. The amendment modifies the original lease. Docks & Harbors will be getting significantly more lease rent. Ms. Becker: Congrats to both sides for coming to this agreement. Are both sides are happy with it? Mr. Uchtyl: Yes. Mr. Duncan and I have been meeting for several years now. We have a lease agreement that we can go forward with that both parties can follow to the "T" until 2030 and then another 35 years after that. After negotiating for 25 years, we have a document that both parties agree are fair and reasonable for both parties.

Ms. Becker: This lease goes until 2030 or 2020?

Mr. Uchtyl: The original was signed in 1995 and it was a 35 year lease until 2030. The next appraisal period is 2020. The lessee can extend it for another 35 years.

Mr. Kiehl: Clarification, the royalty payment, looking at the history, there was a flat royalty payment until 2006. At that time it was supposed to go to a calculation. Do I understand that there has not been a royalty payment since 2006.

Mr. Uchtyl: That is correct. Since the beginning there was a minimum lease rent of \$90,000 and the City never had the land re-evaluated and in 2006 when the parties got together, there was a decision with Docks & Harbors concurrence that royalty rents were abolished and the rent rate would be set at 8% of appraised value. In some ways were putting the genie back in the bottle by coming back with another amendment which is doing away with royalties but getting a significant lease rent revenue.

Mr. Nankervis: I am thankful you've reached a resolution. This agreement will keep us from getting in a place that we found ourselves in years ago and I think this was the goal on both sides.

Mr. Kiehl: I have one mechanical question about the new provisions: the new provisions that deal with differences in appraisals, when there's more than 35% difference, there's a procedure lined out there, if the lessee disagrees with the amount, the lessee may appeal to the Assembly. Do you know whether that is handled under our existing appeal code?

Mr. Uchytel: The other corrective action we're taking with this amendment is the existing lease written now is very strange in that the dispute resolution was such that the lessor would get an appraisal and the lessee would get an appraisal and we would negotiate for the fair market rent. If the two parties couldn't agree then a third party appraiser would be chosen, and that third party appraiser would select the lessor or lessee's value, nothing in between. That was a lot of the angst in the negotiations within the last few years. It took years before we could get past that to negotiate this amendment. If there's a 15% difference and decide to choose a third party appraiser, those are somewhat nuances in the existing lease. When there's a 35% difference, that was right out of the ordinance. That was one of the debates we had with the lessee, how to determine a fair and equitable value. We tried to keep as much as we could of the existing lease. Tried to use existing ordinance language so we weren't making stuff up.

Mr. Kiehl: So, our existing appeals code covers the appraisal appeals?

Mr. Uchytel: That is correct and I suspect we'll have another one coming soon.

Mr. Kiehl: I very much appreciate having a negotiated agreement before us.

Mr. Derek Duncan, Goldbelt Incorporated, said this has been a long process. We have a much stronger lease agreement as a result of this amendment. We have an appraisal process that will eliminate the negotiation which consumed a lot of time and money. The increased rent is substantially more than we're currently paying. In fact as part of this, we did a lease review of every lease the CBJ has. The 10,000 square foot parcel that Goldbelt rents accounts for less than .48% of the leased land owned by the CBJ, but it's 36% of the lease revenue. The agreement is fair to both parties and also fair to the tax payers. It's been a long process but we're getting there.

Mr. Wilson: I want to thank staff and Docks & Harbors. It's incredible that it's gotten that far. Looking at the numbers, they do seem fair.

Motion: Ms. Becker: I move that we forward this Mt. Roberts Tram Lease Agreement to the full assembly.

Hearing no objections, motion passes unanimously.

VI. STAFF REPORTS

Mr. Bleidorn noted that Greg Chaney is out of the office today, but said that things are moving along at a rapid speed.

VII. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

Committee Comments:

Mr. Nankervis: Mr. Bleidorn, I'm going to reference something you didn't write, but I promised the Assembly I would share this information. I had asked how many acres does the City have that is zoned industrial. Perhaps you can get us the number of acres. Mr. Chaney said we have the fire training center and associated lands, Public Works (next to the Brewery in Lemon Creek), the Rock Dump, the sand and gravel quarries in Lemon Creek, and some wetland parcels near the fish streams next to the Airport, but that doesn't include Airport. Can you send out an email to the number of acres to the full Assembly.

Mr. Bleidorn: Sure. At the current time that number is a little difficult to tease out of our properties, but Lands is working on maps and digitizing things so in the future that information will be a lot easier to present to the Assembly.

Ms. Troll: You said everything is rapidly moving along. I would like some context about what is moving along. Then also, I'm curious to know if Lands has been working with the assisted living facility to see if we have any suitable land for them.

Bleidorn: There's a number of projects Lands is working on. We can provide you with a list, we provided one to the Chair. In regards to the Land, are you speaking of the Housing First project?

Troll: No, Housing First said they would be working with Tlingit and Haida. There's the assisted living facility, but I'd like to hear if you have updates on either of the projects.

Bleidorn: We're willing to have conversations with both of those projects to try to find what we have

available. We don't have a lot of land available for such uses that is on the road system. A lot of times there's land in other public or private ownership that might work better for such projects. We are definitely willing to meet with those folks to find something that will work to fill the needs of the community.

Ms. Troll: Have they come to meet with you?

Mr. Bleidorn: They have not contacted me directly, but I cannot speak on behalf of Greg Chaney.

Liaison Reports:

Mr. Wilson: The Parks & Recreation Advisory Committee had an exciting meeting this month discussing the Treadwell Arena and the aquatics facilities, to look at staff's budget, employee hours, cost savings measures and what our opportunities are to get the revenues up and get more public use of the facilities. We'll hopefully work with the empowered board if the assembly goes that way. We had a presentation for a new motocross facility in Lena. There's a motocross group that's looking at the facility. They've been out reaching with to neighborhood and done preliminary noise studies. It will probably keep moving forward. I think they will go to Planning Commission and have an exciting community session on off-road vehicles and motocross.

Ms. Lawfer: Tomorrow the Planning Commission will be having a Committee of the Whole meeting to tour Soboleff Cultural Center to see what progress is being done and see what it's like inside. We are finishing up on the subdivision ordinance and there were a few things that needed to be ironed out, but you should be receiving that very shortly. It's the Planning Commission's desire that you have it sooner rather than later. It's been a long process to work through. It's something that can at least be worked out and make some decisions as a consensus of everyone. I think you'll find it refreshing. This will be my last Lands Committee meeting. I didn't put my name in for reconsideration on the Planning Commission. I have other things that will be taking me away and I think it's important that someone should be there and be present. There is a lot of work that needs to be done. So I've been appreciative, but I feel that someone else can now carry the load. I'm going to do other things.

Mr. Wilson: I too, after 15 years of serving on the PRAC, 7 years as Chair, I will not be re-applying for my PRAC seat.

Mr. Kiehl: That is a pair of losses. Thank you both for your years of service and volunteer work.

Committee Comments:

Mr. Kiehl: I've had the opportunity to meet with a couple of people about the City's land use regulations as they relate to daycare centers or daycare homes. I had the opportunity to sit down with some of the Planning Staff. I think that we have an opportunity to increase the chances for people to open day cares in the community. There is a huge imbalance between the supply of child care slots and the children who need child care. As it stands, there are two issues I would like us to address. One is that we have more levels of rules than I think we need. We have a break point in homes at 6 children in care and then 7-12 children in care. That once reflected state licensing regulations. In my conversations I haven't really found a reason why CBJ needs to be in that business. Our table of permissible uses generally focuses on traffic, noise and neighborhood impacts as opposed to the things the state cares to regulate (quality of child care, safety of child care). I would like to see us go to one category for the small child care homes. For the larger centers (13 children and above), we limit the centers to some of the higher density zones and commercial zones. That's not an approach we take with schools and churches (where you can have a child care). So, I would like to see us change the table of permissible uses in a second way to allow child care centers in the lower density residential zones. I request the Lands Committee give the stamp of approval to drafting an ordinance to make those two changes and referring it to the Planning Commission for recommendations (or changes, if there's impacts I've missed) to Assembly adoption. If I remember right, any committee can start the ordinance rolling and so I ask the Lands Committee for the green light to start moving.

Ms. Becker: I definitely support that because we've had at least two centers close recently. We have a person that wants to open a place that has restrictions that are making it difficult. I would like us to do what we can to remove those restrictions if possible.

Ms. Troll: I applaud Mr. Kiehl for taking the initiative to start implementing part of the Economic Development Plan. The cost of daycare and the lack of facilities has been shown as an impediment

to economic growth. It's being very proactive and I certainly support it. In terms of the exact number of children that's allowed, I read in the newspaper that the woman who was examining opening up a new daycare center and she needed 15 to make it a profitable operation. I think we'll get into those details as the process moves along. To get it started and engage the Planning Commission in the community is time well spent and it's responding right away to some of our critical needs.
Kiehl: Hearing no objections, I'll consider it passed.

VIII. ADJOURNMENT

Meeting adjourned at 5:29pm.

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

Update on North Lemon Creek Material Source Development

ATTACHMENTS:

Description		Upload Date	Type
☐	Memo	12/24/2014	Cover Memo
☐	Image for Memo	12/24/2014	Exhibit

MEMORANDUM

CITY/BOROUGH OF JUNEAU

Lands and Resources Office
155 S. Seward St., Juneau, Alaska 99801
Greg_Chaney@ci.juneau.ak.us
Voice (907) 586-0205
Fax (907) 586-5385

TO: Assembly Lands Committee

FROM: Greg Chaney, Lands and Resources Manager
Alan Steffert, CBJ Engineering

DATE: December 24, 2014

LOCATION: Lemon Creek, Hidden Valley

SUBJECT: Update on North Lemon Creek Material Source Development
For the CBJ Lands Committee meeting 12/29/14

At the December 29th Lands Committee meeting Alan Steffert, Material Source manager, will provide an overview of the development history to-date of CBJ's North Lemon Creek Material Source (NLCMS) and timeline for future developments.

The NLCMS is located north of the Lemon Creek Correctional Center and is intended to replace the existing CBJ Lemon Creek gravel pit behind Costco (See Attached Aerial Imagery). A bridge installed across Lemon Creek in 2007 provides access to the NLCMS as well as the CBJ impound lot. Rudimentary construction access and initial site clearing at NLCMS began in the summer of 2009. 2010 saw the beginning of excavation of the large road cut required to access to the upper levels of the new gravel pit. Excavation of the road cut has been sporadic, with material removed as needed for fill in various public construction projects. The past four years has seen a significant mid-height bench excavated within the planned road cut area. When complete, the NLCMS access road will pass through a corner of State Land, for which an easement from the Department of Natural Resources (DNR) will be required. Construction access through State land to build the road is currently authorized under an Early Entry Permit.

A construction contract to finish excavation and complete the NLCMS access road will be out to bid in the spring of next year. A portion of this access road will pass through State property. Additional clearing of overburden and the establishment of a mining face will allow the NLCMS to "open for business" if all goes well by the end of 2015.



North Lemon

Creek Material

Source

CBJ

NLCMS Access Rd.

Lemon Creek

Haul Road

CBJ

Bridge

Lemon Creek
Correctional
Center

CBJ
Impound
Lot

Secon

CBJ

CBJ

Access Easement
Needed from DNR

State of Alaska

500'

North Lemon Creek Material Source

2014

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

Ordinance 2014-50 An Ordinance Imposing a Limited Moratorium on the Receipt or Processing of Applications, Permits, or Pending Approvals Pertaining to Marijuana Establishments.

MANAGER'S REPORT:

On November 4, 2014, Alaskan voters approved a ballot measure related to the legalization of marijuana. The initiative, which goes into effect on February 24, 2015, allows the State nine months to enact regulations concerning the registration and oversight of marijuana establishments, defined by the initiative as marijuana cultivation, testing and product manufacturing facilities and marijuana retail stores. The initiative requires the State to begin accepting and processing applications for the registration of marijuana establishments within one year of the effective date of the act. The initiative authorizes local governments to enact legislation concerning the time, place and manner related to the operation of registered marijuana establishments (for example, hours of operation, allowable locations, and limitations on the number of establishments allowed within the municipality .)

The purpose of the moratorium is to allow the CBJ time to consider and enact legislation concerning the operation of marijuana establishments in the CBJ. The moratorium is set to expire within one year of adoption, which is after the date the State is required to enact regulations given the fact that it may be necessary to coordinate our local legislation with the State's regulatory scheme, but before the time the State is required to begin processing applications.

RECOMMENDATION:

ATTACHMENTS:

Description	Upload Date	Type
☐ Ordinance 2014-50	12/16/2014	Ordinance

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

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2014-50

An Ordinance Imposing a Limited Moratorium on the Receipt or Processing of Applications, Permits, or Pending Approvals Pertaining to Marijuana Establishments.

WHEREAS, on November 4, 2014, the Alaskan voters approved a ballot measure legalizing the use of marijuana, and, with a State license, the operation of marijuana establishments, defined as cultivation, manufacturing, testing and retail facilities; and

WHEREAS, the initiative, which goes into effect on February 24, 2015, requires the State to begin accepting and processing applications for the registration of marijuana establishments within one year of the effective date of the act; and

WHEREAS, the initiative authorizes local governments to enact legislation concerning the time, place and manner related to the operation of registered marijuana establishments; and

WHEREAS, it is in the public's best interest that the CBJ thoughtfully consider and adopt land use regulations that ensure the orderly development and regulation of marijuana establishments within the CBJ; and

WHEREAS, the purpose of this moratorium is to allow the CBJ a reasonable period of time to consider and enact legislation concerning the operation of marijuana establishments in the CBJ.

1 NOW, THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF
2 JUNEAU, ALASKA:

3 **Section 1. Classification.** This is a non-code ordinance.
4

5 **Section 2. Moratorium.** Notwithstanding CBJ 49.25.300 or any other section of
6 the Land Use Code, no development permit application shall be accepted, or pending
7 applications approved, pertaining to marijuana establishments, including marijuana
8 cultivation, testing, and product manufacturing facilities and marijuana retail stores.
9

10 **Section 3. Moratorium Period.** The prohibition imposed by Section 2 shall be in
11 effect for one year from the effective date of this ordinance.
12

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

15 Adopted this _____ day of _____, 2015.

16 _____
17 Merrill Sanford, Mayor

18 Attest:

19 _____
20 Laurie Sica, Municipal Clerk
21
22
23
24
25

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

Ordinance 2014-51 An Ordinance Amending the Second-hand Smoke Control Code to Regulate the
Use of Marijuana.

MANAGER'S REPORT:

This ordinance would amend the Second-hand Smoke Control Code, Chapter 36.30, to provide for the regulation of marijuana smoking in the same way the smoking of tobacco products is regulated within the City and Borough.

RECOMMENDATION:

ATTACHMENTS:

	Description	Upload Date	Type
☐	Ordinance 2014-51	12/16/2014	Ordinance

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

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2014-51

An Ordinance Amending the Second-hand Smoke Control Code to Regulate the Use of Marijuana.

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

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

Section 2. Amendment of Section. CBJ 36.60.005 Definitions, is amended to read:

36.60.005 Definitions.

In this chapter:

...

Enclosed public place means an enclosed area or portion thereof to which the public is invited or into which the public is permitted, including:

...

(16) Bars, private clubs, and any other enclosed place, where marijuana or alcoholic beverages are sold, or food is offered for sale.

...

1
2 Marijuana means all of the plant of the genus cannabis whether growing or not, the
3 seeds thereof, the resin extracted from any part of the plant, and every compound,
4 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin,
5 including marijuana concentrate.

6 ...

7 *Smoking* means inhaling or exhaling tobacco or marijuana smoke, or burning or
8 carrying any lighted tobacco product or marijuana, or the use of any noncombustible product
9 that provides a vapor of liquid nicotine or marijuana to the user, or relies on vaporization of
10 any liquid or solid nicotine or marijuana. This term shall include such devices whether they
11 are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name, but
12 shall not include a tobacco substitute prescribed by a licensed physician or a product that
13 has been approved by the United States Food and Drug Administration for sale as a tobacco
14 use cessation or harm reduction product or for other medical purposes and which is being
15 marketed and sold solely for that approved purpose.

16
17
18 **Section 3. Amendment of Section.** CBJ 36.60.010 Smoking prohibited, is
19 amended to read:

20 **36.60.010 Smoking prohibited.**

21 (a) Smoking is prohibited in:

22 ...

23
24 (6) Private clubs that are licensed by the State of Alaska to sell marijuana or alcoholic
25 beverages, or that offer food for sale, regardless of the number of employees; and

...

Section 4. Amendment of Section. CBJ 36.60.030 Exceptions; areas where smoking is not prohibited, is amended to read:

36.60.030 Exceptions; areas where smoking is not prohibited.

(a) Unless otherwise prohibited by State or Federal law, Smoking is not prohibited in the following places:

...

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

Adopted this _____ day of _____, 2015.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk