

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

April 26, 2021 7:00 PM

Zoom Webinar & FB Live Stream

Meeting No. 2021-11; Zoom Webinar Link <https://juneau.zoom.us/j/96118672075> or call:
1-253-215-8782 Webinar ID: 961 1867 2075

Submitted By:

Duncan Rorie Watt, City Manager

I. FLAG SALUTE

II. ROLL CALL

III. SPECIAL ORDER OF BUSINESS

A. Proclamation: Public Service Recognition Week May 2-8

B. Instruction for Public Participation

Anyone wishing to provide public comment during the meeting is asked to call the Municipal Clerk's public testimony request phone line at 586-0215 by 3 p.m. the day of the meeting or send an email to City.Clerk@juneau.org providing their name, email address, and phone number they will be calling from. Testimony time will be limited by the Mayor based on the number of participants. The public is encouraged to send comments in advance of the meeting to BoroughAssembly@juneau.org.

If you have not notified the Clerk's Office ahead of time you may still be able to participate. When attending the zoom webinar [login info listed at top of agenda] to speak on an item up for public hearing or a non-agenda item please hit the 'raise hand' button if participating via a computer/tablet; if participating by phone press *9 on your phone; this will place a 'raised hand' icon next to your phone number and will add you to the queue.

IV. APPROVAL OF MINUTES

A. November 7, 2020 Assembly Retreat Corrected Draft Minutes

B. January 12, 2021 Special Assembly Meeting 2021-02 Draft Minutes

C. **March 1, 2021 Regular Assembly Meeting 2021-06 Draft Minutes**

D. **April 5, 2021 Regular Assembly Meeting 2021-08 Draft Minutes**

V. MANAGER'S REQUEST FOR AGENDA CHANGES

VI. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

VII. CONSENT AGENDA

A. Public Requests for Consent Agenda Changes, Other Than Ordinances for Introduction

B. Assembly Requests for Consent Agenda Changes

C. Assembly Action

1. Ordinances for Introduction

- a. **Ordinance 2020-09(AV) An Ordinance Appropriating up to \$125,000 to the Manager as Partial Funding for the Pile Anodes Installation Capital Improvement Project; Grant Funding Provided by the Alaska Department of Transportation and Public Facilities.**

This ordinance would appropriate up to \$125,000 to the Pile Anodes Installation CIP. This project would install zinc anodes to each steel piling in Harris Harbor as part of a maintenance plan to extend the longevity of all Docks and Harbors facilities.

Grant funding is provided by the Alaska Department of Transportation and Public Facilities. The 50% local match requirement is being met by previously appropriated capital improvement project funding from the Pile Anodes Installation CIP (H51-121).

The Docks and Harbors Board will review this request at the regular board meeting on April 29, 2021.

The City Manager recommends the Assembly introduce this ordinance and set it for public hearing at the May 12 Special Assembly meeting.

- b. **Ordinance 2020-09(AW) An Ordinance Appropriating \$109,500 to the Manager as Funding for Security Camera Equipment for Capital Transit; Grant Funding Provided by the Alaska Department of Transportation and Public Facilities, with Local Match Funding Provided by the Equipment Replacement Reserve Fund's Fund Balance.**

This ordinance would appropriate \$109,500 for the purchase of security camera equipment for Capital Transit. Grant funding in the amount of \$87,600 is comprised of Federal Transit Administration funds passed through the Alaska Department of Transportation and Public Facilities. The local match requirement of \$21,900 is provided by the Equipment Replacement Reserve Fund's fund balance. This funding will replace older cameras on transit buses with high-definition security camera equipment with wireless download capabilities that will result in operational efficiencies due to the staff time necessary to retrieve videos from the current system. Additionally, this funding will be used to purchase cameras for the Downtown Transit Center.

The Public Works and Facilities Committee reviewed this request at its January 11, 2021 meeting.

The City Manager recommends the Assembly introduce this ordinance and set it for public hearing at the next regular Assembly meeting.

2. Bid Award

a. **Bid Award: BE21-215 4th Street Douglas Utilities and Drainage**

Bids were opened on this project on April 13, 2021. The bid protest period expired at 4:30 p.m. on April 16, 2021. Results of the bid opening were as follows:

RESPONSIVE BIDDERS	TOTAL BID
Glacier State Contractors	\$1,639,211
North40 Construction Corp.	\$1,850,456
Henricksen Construction, Inc.	\$1,888,641
Admiralty Construction, Inc.	\$2,086,655
Architect's/Engineer's Estimate	\$1,738,235

The City Manager recommends award of this project to Glacier State Contractors for the total amount bid of \$1,639,211.00.

3. Liquor License

a. **Liquor License Renewals for Licenses: 4034 & 4859**

These liquor license actions are before the Assembly to either protest or waive its right to protest the license action.

Liquor License Renewal

License Type: Club, License #4034

Licensee: Juneau Moose Lodge #700 d/b/a Loyal Order of Moose #700

Location: 8335 Airport Blvd, Juneau

License Type: Wholesale-General, License #4859

Licensee: Southern Glazer's Wine & Spirits of Alaska, LLC d/b/a Southern Glazer's of AK

Location: 5452 Shaune Drive Bay 2, Juneau

Staff from the Police, Finance, Fire, Public Works (Utilities), and Community Development Departments have reviewed the above licenses and recommend the Assembly waive its right to protest the applications. Copies of the documents associated with these licenses are available in hardcopy upon request to the Clerk's office.

The City Manager recommends the Assembly waive its right to protest the above-listed liquor license renewals.

VIIIPUBLIC HEARING

- A. Ordinance 2020-09(AU) An Ordinance Appropriating \$425,000 to the Manager as Partial Funding for the Bartlett Regional Hospital Emergency Department Addition Capital Improvement Project; Funding Provided by Bartlett Regional Hospital Fund's Fund Balance.**

This ordinance would appropriate \$425,000 to begin design for the Bartlett Regional Hospital Emergency Department Addition CIP (B55-083). The project will expand the Emergency Department and perform ventilation and related improvements in adjacent areas of the hospital. The entire project is estimated at \$7 million and is part of Bartlett's long-range plan of improvements to the hospital campus.

Funding for this request is provided by Bartlett Regional Hospital Fund's fund balance.

The Bartlett Regional Hospital Board reviewed and unanimously approved this request at its February 23, 2021 meeting. The Public Works and Facilities Committee reviewed this request at its March 15, 2021 meeting.

The City Manager recommends the Assembly adopt this ordinance.

- B. Ordinance 2021-15 An Ordinance Amending Ordinance Serial No. 2020-21 Regarding the Proposed Refinancings by the Alaska Municipal Bond Bank of Various General Obligation and Revenue Bonds of the City and Borough Authorized Thereunder.**

This ordinance amends Ordinance 2020-21 (adopted May 2020), which authorized

CBJ's participation in the Alaska Municipal Bond Bank's (AMBBA) refunding of multiple bond issues: 2013 Bartlett Hospital Refunding, 2013 GO CIP, and 2015 Cruise Ship Dock Expansion bonds. The refundings authorized by Ordinance 2020-21 were not completed prior to AMBBA discontinuing services in 2020. However, now that AMBBA has reestablished their services, the refundings can move forward by amending the original ordinance.

The current remaining debt service payments (bonds + interest) total approximately \$47.5 million. AMBBA is proposing a partial Exchange refunding based on various scheduled maturities that show substantial cost savings. Approximately \$18.4 million in debt principal will be refinanced. In March 2021, AMBBA has estimated savings to CBJ of approximately \$1.4 million in a partial Exchange refunding.

The bond refunding transaction will not extend the term of the bonds.

The Assembly Finance Committee reviewed this request at the April 21, 2021 meeting.

The City Manager recommends the Assembly adopt this ordinance.

C. Ordinance 2021-06 An Ordinance Amending the Land Use Code Relating to Floodplain Regulations.

For private property owners to participate in the National Flood Insurance Program, the CBJ must adopt and enforce a floodplain management ordinance, which includes updated floodplain maps. The CBJ recently adopted the updated floodplain maps with Ordinance 2020-42. This ordinance would update the Title 49 provisions to be consistent with the floodplain maps and policies of the National Flood Insurance Program.

The Community Development Department conducted extensive public review for the flood map revision and associated Title 49 language since 2018. The Planning Commission has received updates and reviewed this matter multiple times. The Lands, Housing, and Economic Development Committee recommended the Assembly adopt this ordinance.

The City Manager recommends the Assembly adopt this ordinance.

D. Emergency Ordinance 2021-11 An Emergency Ordinance Reestablishing the City and Borough of Juneau COVID-19 Mitigation Strategies and Providing for a Penalty.

The CBJ COVID-19 mitigation measures balance the desire to support the economy while protecting the public health. The CBJ Emergency Operations Center proposed amendments to the existing mitigation strategies to the Assembly Committee of the Whole on April 12. Notably, the amendments proposed in this ordinance reflect the community's progress in getting COVID vaccinations.

The City Manager recommends the Assembly adopt this emergency ordinance.

E. Emergency Ordinance 2021-16 An Emergency Ordinance Mandating COVID-19 Testing for Travelers Arriving in the City and Borough of Juneau.

The CBJ has a local travel mandate that requires testing and strict social distancing, which is set to expire on May 1. This ordinance would amend the travel mandate to remove the strict social distancing and generally require testing for all travelers except for travelers that are fully vaccinated.

This topic was discussed at the Assembly Committee of the Whole on April 12. The Committee recommended having this ordinance presented for consideration at tonight's meeting.

Because the Assembly Committee of the Whole only recommended this ordinance for presentation, the City Manager does not have a recommendation whether this ordinance should be adopted.

IX. UNFINISHED BUSINESS

X. NEW BUSINESS

A. 2021 Election: Vote By Mail Decision

B. Notice of Appeal: TDLH LLC v. CDD Director

TDLH LLC received a grading permit, BLD2021-0039, for the property located near 3101 Mendenhall Loop Road. The Community Development Department revoked the grading permit in early March. Travis Arndt, the representative for TDLH LLC, filed a timely appeal.

On April 13, 2021, this notice of appeal was presented to the Planning Commission. Consistent with 49.20.110(c), the Planning Commission certified this appeal to the Assembly without review, hearing, or recommendation.

In accordance with the Appeals Code, the Assembly must decide whether to accept or reject the appeal. If you determine, after liberally construing the notice of appeal in order to preserve the rights of the appellant, that there has been a failure to comply with the appellate rules, or if the notice of appeal does not state grounds upon which any of the relief requested may be granted, you may reject the appeal.

If the appeal is accepted, you must decide whether the Assembly will hear the appeal itself or if it will assign the appeal to a hearing officer. If you decide to hear the appeal yourselves, a presiding officer should be appointed.

In hearing an appeal, the Assembly would sit in its quasi-judicial capacity and must avoid discussing the case outside of the hearing process. (See CBJ 01.50.230, Impartiality.)

The City Attorney recommends the Assembly accept the appeal and consider

assigning it to a hearing officer.

XI. STAFF REPORTS

XII.ASSEMBLY REPORTS

- A. Mayor's Report
- B. Committee Reports, Liaison Reports, Assembly Comments and Questions
- C. Presiding Officer Reports
 - 1. **Proposed Decision in Assembly Appeal 2020-03 Wille and Weldon vs. Planning Commission and CCTHITA**

XIIICONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

XIV.EXECUTIVE SESSION

XV. ADJOURNMENT

ADA accommodations available upon request: Please contact the Clerk's office 36 hours prior to any meeting so arrangements can be made for closed captioning or sign language interpreter services depending on the meeting format. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.org

**Proclamation
Public Service Recognition Week**

In honor of the millions of public employees at the federal, state, county and city levels

Whereas, Americans are served every single day by public servants at the federal, state, county and city levels. These unsung heroes do the work that keeps our nation working. Their tireless efforts are especially critical today during the COVID-19 pandemic; and

Whereas, public employees take not only jobs, but oaths; and

Whereas, many public servants including military personnel, police officers, firefighters, border patrol officers, embassy employees, health care professionals and others risk their lives each day in service to the people of the United States and around the world; and

Whereas, public servants include teachers, doctors and scientists...bus drivers and astronauts...nurses and safety inspectors...laborers, computer technicians and accountants ...and countless other occupations. Day in and day out they provide the diverse services demanded by the American people of their government with efficiency and integrity; and

Whereas, without these public servants at every level, continuity would be impossible in a democracy that regularly changes its leaders and elected officials; and

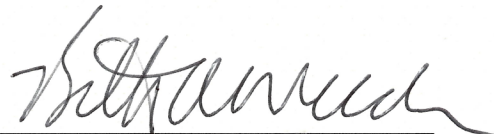
Whereas, Juneau, as Alaska's capital city, is home to many hardworking public servants.

NOW, THEREFORE, I, Beth A. Weldon, Mayor of the City and Borough of Juneau, Alaska, on behalf of the City and Borough Assembly, do hereby issue this proclamation marking May 2-8, 2021 as

Public Service Recognition Week

in Juneau, Alaska and encourage all citizens to recognize the accomplishments and contributions of government employees at all levels – federal, state, county, and city.

IN WITNESS WHEREOF, I have hereto set my hand and caused the seal of the City and Borough of Juneau, Alaska, to be affixed this 26th day of April, 2021.



Beth A. Weldon, Mayor



THE CITY AND BOROUGH OF JUNEAU, ALASKA
Assembly Annual Retreat/Special Meeting, Elizabeth Peratrovich Hall
DRAFT Meeting Minutes – November 7, 2020

I. CALL TO ORDER/ROLL CALL

MEETING NO. 2020-45: The Special Meeting of the City and Borough of Juneau Assembly Annual Retreat/Worksession held at the Elizabeth Peratrovich Hall in the Andrew Hope Building and was called to order at 8:30 a.m. by Mayor Beth Weldon.

Assembly Members Present: Mayor Beth Weldon, Loren Jones, Maria Gladziszewski, Carole Triem, Michelle Hale, Wade Bryson, Alicia Hughes-Skandijs, Greg Smith and Christine Woll

Assembly Absent: None.

Leadership Team Staff Present: City Manager Rorie Watt, City Attorney Robert Palmer, Deputy City Manager Mila Cosgrove, Municipal Clerk Beth McEwen, Finance Director Jeff Rogers

Presenters and Public present:

In person: Brian Holst, JEDC; Ibn Bailey, Kirby Day, Karla Hart, Haifa Sadighi.
Virtually: Barbara 'Wáahlaal Gíidaak Blake, Liz La quen náay Medicine Crow

II. APPROVAL OF AGENDA

The agenda was approved as presented.

III. AGENDA TOPICS

A. Economic Outlook – Brian Holst, JEDC Executive Director

Brian Holst presented a snapshot of the Juneau economy as of one month ago and answered questions from Assemblymembers. Some of the key points of Mr. Holst's presentation included the following:

- Tourism, Mining and Local Government had been growing while State and Federal government jobs contracted, however during the pandemic, Federal jobs did increase, mainly due to the 2020 Census.
- While unemployment was rising, it remained below regional, state, and national rates.
- With the rise of unemployment, labor force participation declined and low wage jobs suffered.
- In the trade industries, only the Mining Sector was holding steady.
- Tourism was up in the air due to the uncertainty of the 2021 cruise ship season but the long term outlook for cruise ship tourism trade was anticipated to grow. Tourism did see summer air travel by independent travelers even during the pandemic.
- Small Cruise and Independent Travelers are an opportunity to further diversify Juneau's economy.
- It is not the mandates but rather COVID-19 that is the biggest threat to consumer spending. There is a direct correlation between the number of cases and the lack of consumer spending.

- The pandemic and lack of cruise ships and the pandemic is the biggest threat to Juneau businesses with most businesses needing the pandemic to end in order to survive.
- Juneau spending continues to grow but drops are seen when COVID spikes occur.
- The construction industry and home sales continue to hold strong during the pandemic with the days real estate is on the market at a record low despite the pandemic.
- New home construction is steady and the rental market has eased as new units have become available, however rental prices continue to rise.
- Non-profits will likely see decreases in sponsorships as 90% of businesses will likely decrease their charitable donations as well as decreases by individuals.
- COVID testing of inbound passengers is of high importance to the business community.
- The case for working remotely has become a national trend with only 3.6% of the U.W. workforce working remotely in 2018 compared to a likely 25-30% of workers will work remotely multiple days per week by the end of 2021.
- Bringing remote jobs to Juneau economy and building infrastructure to support this “industry” would be of significant benefit to Juneau with a median national remote job salary of \$66,000.
- Barriers to Juneau being a remote work location include housing costs, internet speed, cost and reliability, and need for a space to work such as co-working spaces.
- In looking to the future, keeping Juneau healthy is key. The high housing prices continue to present a challenge. Further diversifying Juneau’s economy will increase resilience.
- Opportunities for growth include remote workers, marijuana industry growth, mariculture, small cruise ships, and increase in (local) online sales.
- Transitioning from COVID Response to Rebuilding the economy – it looks more like loans and incentives for growth and less free money and it doesn’t mean that all businesses will be saved.

Assemblymembers discussed the housing market as well as the impact that lack of affordable housing has on recruiting and retaining jobs in Juneau. They also discussed the high cost of living and the impact that has for those who are retiring and/or are retired. The trend was those retiring with incentives for staying in AK tend to stay and retire in Juneau. For the retirees who do not have that incentive for staying in AK, they tend to move out of town due to Juneau’s high cost of living.

Additional discussion took place regarding the construction industry and what the Assembly can do to help keep jobs going with construction projects. Ms. Gladyszewski asked JEDC to send updates as they occur.

The Assembly took a break from 9:17-9:30a.m.

B. CBJ Financial Forecast – Jeff Rogers, CBJ Finance Director

The main focus was review of the November 4, 2020 Assembly Finance Committee meeting materials to be able to give budget direction to the City Manager.

Mr. Rogers suggested that for the short term, the Assembly should continue to spend some of the budget reserve to keep the economy going strong during the pandemic but also added a note of caution in spending down the budget reserve too much. Mr. Rogers reiterated what Mr. Holst said about Juneau's diversified economy and that remote work/jobs is a trend that won't be going away.

Mr. Watt encouraged members to look at the process and carefully consider any financial requests. He said that with respect to looking for direction for the upcoming budget, he would like to introduce a status quo budget and see what the pandemic and stimulus package (if any) as well as tourism industry looks like for the next year and adjust as needed.

Mayor Weldon asked members to provide their insights and desires with respect to direction they want to take on the budget in terms of process rather than specific items.

They went around the room with each of the Assemblymembers providing their preferences with respect the approach to take on the budget process. Members provided input that due to the uncertainty of what is happening with the pandemic as well as what is happening with the state budget, they agreed with the Manager on a status quo budget and not to take any cuts in a specific direction. Some of the key points they touched on included the priority based budgeting process done two years ago and how that might inform their decisions in the upcoming budget cycle. Ms. Woll asked members to share their experience with the priority based budgeting process since she was not present when that was done. Additional discussion took place amongst Assemblymembers regarding the pros/cons of big projects vs. smaller projects.

Members agreed that while priority based budgeting was beneficial, it may take looking at individual departments and services provided and make a determination on what that might look like. Assembly needs to be disciplined and when the budget time comes, there may not be able to have a 'pending list' as they have had in past budgets with things that people want.

Some of the comments Assemblymembers expressed they may want to look at included using the Affordable Housing Fund, School Bond Debt Reimbursement, and School budget and the possibility of potentially having to close schools if enrollment continues to go down vs. mill rate increases. Mayor Weldon said that while they can begin with a status quo budget, some of what they may be looking at during the budget cycle is taking a deeper look into the services CBJ provides and ask if some of those services can be cut or reduced depending on budget forecasts in the spring.

Mr. Watt said that Assembly time is a resource and it is important to target the highest priorities and do them well rather than having too many irons in the fire and not accomplish anything.

Ms. Woll asked about Mr. Rogers comment about showing FY23 budget and what they would need from the Assembly as they get ready to look at the FY22 budget. Mr. Rogers said that they have discussed shifting in the future to a rolling biennial budget process. He said that he does not need additional information from the Assembly at this point but appreciates the direction and will provide some of the FY23 updates as they prepare for the FY22 budget process.

Ms. Cosgrove said that the priority based budgeting process last year was rather unique. They didn't engage the public as much as they might. She said if the Assembly wants to go towards that type of priority based budget process in the future, they may want to do more community engagement.

Ms. Triem asked for a reminder about the labor contract negotiations and future negotiations. Ms. Cosgrove said that for FY22, they have already included a negotiated 1% salary increase and also an insurance premium increase, and was built into the FY22 budget last budget cycle. She said that FY23 sees all three of CBJ's union contracts coming open for more labor negotiations.

Ms. Hale said that even before COVID hit, she was looking at the Assembly needing to have fewer meetings. In light of the pandemic, she finds that she is not as able to do her job of an Assemblymember as well due to the exhaustion and she had similar concerns for senior staff. Mayor Weldon said they would discuss the staff piece further when they discuss the committee topic at the end of the retreat agenda.

The Assembly took a break from 10:22a.m.-10:35a.m.

C. Assembly Goals and Objectives

2020 Review & 2021 Discussion

Mr. Watt provided an overview of the 2020 goals and reviewed those in comparison to the Assembly's prioritization for 2021 as found in the packet pages 71-75.

Goal 1) Housing – Assure adequate and affordable housing for all CBJ residents.

Mr. Watt commented that the Assembly needs to be realistic with Land Use Code as a lot has been tasked with the Law Department during the pandemic and there may be a big ask to have them also work on Land Use Code.

Goal 2) Economic Development - Assure Juneau has a vibrant, diverse local economy.

Members discussed the fact that they deleted the Comprehensive Plan "Comp Plan" from the budget as well as cutting some Community Development Department (CDD) staffing so they need to be realistic on what CDD staff can do. The Comp Plan and Area Plans rated -0- in the Assemblymembers' high priority ranking category. Members discussed the work that CDD has been doing and it was noted that the staffing has been down on planners and they recently lost the Assistant City Attorney assigned to the Planning Commission so their human resources are currently somewhat thin. They are finishing up the Blueprint Downtown and they are working on downtown parking. Members suggested that it may be best to give up some of the area plans and the Comp Plan for a year and have them focus on downtown revitalization.

Mr. Watt noted that it would be good to try to finish up the Eaglecrest Summer Operations Plan to try to increase revenues.

Mr. Watt said that he thought the Assembly will likely end up spending a lot of time on the Visitor Industry Task Force (VITF) recommendations, especially in light of the impacts on the tourist industry from the pandemic.

Goal 3) Sustainable Budget and Organization - Assure CBJ is able to deliver services in a cost efficient and effective manner that meets the needs of the community.

Mr. Watt said that with respect to the first two implementing actions: Examining life cycle costs of CBJ facilities and focusing on deferred maintenance needs, they have included life cycle cost analysis on all the CIP projects. He said that there will always be a push from sustainability advocates to look at sustainability issues on all CIP projects. He said they have made some progress on IT needs and are going to likely have to spend more resources in the future on IT. We all rely on technology and it is an increasing part of our public service. *(Clerk's note: Ironically, just after making the above statement, his microphone died and the remaining comments were not recorded.)*

Goal 4) Community, Wellness, and Public Safety – Juneau is safe and welcoming for all citizens.

Mr. Watt noted that for the implementing actions, the Assembly may want to spend some time on looking at the role of BRH in partnering with non-profit agencies, other government agencies, and the community with respect to public health is important especially in light of the fact that they will shortly have a new CEO hired.

Mr. Watt said that the implementing action “Reducing Homelessness” was ranked the highest and what the Assemblymembers were most aligned on. He said that the Assembly’s grant support of funding for the new Glory Hall, the United Human Services, and other similar programs really speak to this being their top priority.

Mr. Watt also noted that the Assembly’s adopting the ordinance creating the Systemic Racism Review Committee and the equity training beginning during the retreat’s afternoon session are examples of their work on the final implementing action under Goal #4.

Goal 5) Sustainable Community – Juneau will maintain a resilient social, economic, and environmental habitat for exiting population and future generations.

Mr. Watt noted that with respect to the last goal, 2020 wasn’t at all how we anticipated it. They managed to accomplish three main things this past year: 1) they survived the COVID rodeo, 2) they dealt with CARES Act funding, and 3) they kept the city running during a pandemic.

Mayor Weldon asked the Assembly how they wished to proceed. She said there were some new proposed additions on packet page 75, mostly from Ms. Woll who wasn’t present at the last retreat, and Mayor Weldon asked the Assembly if they were wanting to add those new proposed

items, change them, or not include them. Ms. Woll shared that she was concerned with how the public would react to not seeing anything in the goals related to COVID issues.

Assemblymembers discussed the approach they would take in either using the priority ranking they had initially submitted or categorizing each of the goals and implementing actions as *short term, mid-term, or long term* items. They took a break and coming back from their break decided to arrange the goals in *short term, mid-term, or long term* categories.

There was lengthy discussion and debate as to each of the goals and implementing actions.

Clerk's Note: Copies of the 2020 goals document with prioritization for 2021 (packet pages 73-75) with the items discussed as well as the final/approved version of the 2021 goals as a result of the Assembly discussion at the retreat are attached as an appendix to these minutes as they provide the most concise synopsis of what was discussed and decided upon. Where there were specific points of discussion that are not intuitive by looking at the final goals document, those are noted below.

With respect to **Goal#2-I “Complete work of Visitor Industry Task Force (VITF)”** VITF Chair Triem stated that she just wanted to finish that implementing action and that she didn't have an opinion as to whether it needed to stay on the list or come off the list. Mr. Jones noted that due to COVID and the CDC plans for cruise ships, it will likely change many of the recommendations for this next year and he was in favor of taking it off the goals list.

Under Goal #4: Community, Wellness, & Public Safety – Juneau is safe and welcoming for all citizens, the below language took the place for previous implementing actions A & B:

MOTION by Ms. Hale to add an implementing action that would take the place of implementing actions A & B: **“Working with non-profits, BRH Board and CEO, develop a plan for non-profits and BRH's role with public health and social services in the community.”** *Motion passed by unanimous consent.*

Mr. Smith asked that Ms. Hale's language might include “addiction, mental health, and unsheltered populations” but that amendment was not approved for inclusion in the final goals document.

Ms. Woll said that she was OK with removing her proposed additional actions under Goal #4.

Members agreed to remove **Goal #4-D “Develop pedestrian focused snow removal strategies.”**

Under **Goal 5: Sustainable Community – Juneau will maintain a resilient social, economic, and environmental habitat for exiting population and future generations,** it was agreed to remove implementing actions C, D, & E as noted below:

- C. Explore creating an Assembly Sustainability Committee
- D. Develop a single use plastics program

E. Develop strategy to reduce water consumption borough wide

Under Goal 5, it was also decided that since implementing action F “Make a long term plan to achieve reliance on 80% renewable energy sources by 2045” was included, it was not necessary to add the proposed implementing action “Evaluate dock electrification and relationship with community’s long-term energy growth goals.”

Lastly, it was decided to include a COVID related goal appearing as new **Goal #6: Pandemic Recovery – Protect Public Health and Recover Economic Strength During the COVID Pandemic.**

D. Lunch Break – *the Assembly took a recess for lunch and reconvened at 1:10p.m.*

E. Racial Equity Dialogue with First Alaskans Institute

La quen náay Liz Medicine Crow greeted the Assembly in Lingit and English and provided a traditional introduction and invitation of her ancestors into the room:

Liz La quen náay Kat Saas Medicine Crow (Haida/Tlingit), is from Keex Kwaan (Kake), Alaska. On her Haida side, she is Eagle Tiits Gitee Nei, Hummingbird. On her Tlingit side, she is Raven Kaach.adi, Fresh Water-marked Sockeye Salmon. La quen náay’s maternal grandparents were Mona & Thomas Jackson, Sr. of Kake, her paternal grandparents were Lillian and Charles Cheney of Washington. Her parents are Della and William Cheney of Kake.

‘Wáahlaal Gíidaak Barbara Blake greeted the Assembly in Lingit and English and provided a traditional introduction and invitation of her ancestors into the room:

‘Wáahlaal Gíidaak is from Prince of Wales Island and lives in Juneau. She belongs to the Káat nay-st/Yahkw Jáanaas (Shark House/Middle Town People) Clan. She is the daughter of Sandra Demmert (Yahkw Jáanaas) and Kenneth Johnson (Naltsiine) who is Ahtna Athabaskan, and the granddaughter of Frances Demmert Peele (Yahkw Jáanaas), Franklin Demmert, Sr. (Teeyeeneidi), Irene Johnson (Naltsiine) and Walter Johnson (Norwegian).

Discussion Overview - La quen náay provided information about the First Alaskans Institute and the work that they do with organizations. She explained that First Alaskans Institute works with organizations to help address racial equity and they are important and hard conversations. She said that the Assembly has already begun some of that work but this is a decade’s long issue and it takes time, commitment, and willingness to have the hard conversations.

La quen náay explained that First Alaskans Institute’s vision is “Progress for the next 10,000 years.” That is a minimum of how long they have actually been here in Alaska and how long they intend to continue to be here so they cherish it in a way that they want others to cherish it too and know who they are as native people. One of the things that is central to the work of the First Alaskans Institute is to extend that hand and to try to get to know the people of Alaska, both the native peoples but also those who now call Alaska home. FAI does racial equity work through their Policy Center and ‘Wáahlaal Gíidaak is the Policy Center Director. They have been

engaged in this work for a long time even before the FAI began the Institute. They really started having dialogues around the state during the same year that the state was “celebrating” 50 years of statehood. The FAI trustees and staff went around the state and asked for Alaskan Native perspectives on statehood and for the people to tell FAI where they were at and not for others to dictate to the people what they should be feeling. What FAI heard as a result of those questions was that racism, discrimination and bigotry were alive and well and they were priority areas for FAI and the native community to work on. They took that feedback and turned that into an operating principal to bring things into the equity dialogue work FAI has begun. So far, they have done this work with approximately 25,000 Alaskans as well as individuals throughout the lower 48 and other countries.

La quen náay and ‘Wáahlaal Gíidaak shared the group agreements that the First Alaskans Institute uses when having dialogues about race and is based on shared experiences in working with groups from across the state. La quen náay explained that this is a racial equity dialogue and the closest distance between two or more people is a story. She said that it is through the sharing of each of our stories that building the bridges working together to connect and construct a world that we all want to live in and nurture our community. She shared that each racial equity dialogue usually takes place over the course of three days and this would be the introduction of that dialogue and it will be up to the Assembly to decide how it wants to move forward.

The following were the community agreements as established by First Alaskans Institute (FAI):

- Every chair is a leader. Leadership is not a title or an elected position but rather, leadership for them is a characteristic. It is about who you are and how you are willing to step forward and serve the people and the way that you serve. It is not a job or a paycheck but rather your characteristics as a leader. In light of that, they ask each person to take off all their proverbial hats as each person is more than just their title or seat they are filling in this capacity as this spans all aspects of a person’s character. They are then asking that those hats be used as the foundation by which individuals speak as a whole person.
- They ask that each person speak to be understood and listen to understand. How each person communicates with each other and each of the facilitators is a way that they can lift up their own understanding of what they are putting forward. Ideas and thoughts are not to be put out there to be adversarial and individuals are not sitting back listening for offenses against them. Each person is tasked with deeply listening to each other to try to come to a better understanding of one another. That leads to a safe space for meaningful conversation. This format used by FAI strives to create a safe space for individuals to have that safety net around them while they are speaking. FAI facilitators are there not to be offended by any comments or questions that may arise but rather they are creating the safe space for everyone and hoping that each attendee will also lift that up for each other.
- We want to be present, engaged, and value our time together and valuing the fact that we are responsible for our experience together collectively. We don’t have a lot of time to work on this today but experience in our community and in the country has shown us that we have some deep work to do in this area. Today is just the beginning of these

conversations. Don't feel like the hour and half today is the end all be all but rather the beginning of the dialogue.

- We will acknowledge that there are a lot of challenges when it comes to racial equity. Many of the challenges came up during the Assembly meeting discussions related to the formation of the Systemic Racism Review Committee. However, we don't want to stew in those places of challenges but rather we want to come up with the solutions. It's OK to bring up the challenges within the conversation but then solutions to those challenges should also be brought within those same conversations.
- Our value of humor helps us. Humor is medicine, we find ways to laugh and cry over hard things and it helps hold each other up and they will use humor as it arises and is a natural part of the conversation.
- Lastly, self-care is important and support of one another during this dialogue and process.

Everyone agreed to the agreements as outlined above.

La quen náay explained that First Alaskans Institute's vision is "Progress for the next 10,000 years." That is a minimum of how long they have actually been here in Alaska and how long they intend to continue to be here so they cherish it in a way that they want others to cherish it too and know who they are as native people. One of the things that is central to the work of the First Alaskans Institute is to extend that hand and to try to get to know the people of Alaska, both the native peoples but also those who now call Alaska home. FAI does racial equity work through their Policy Center and 'Wáahlaal Gíidaak is the Policy Center Director. They have been engaged in this work for a long time even before the FAI began the Institute. They really started having dialogues around the state during the same year that the state was "celebrating" 50 years of statehood. The FAI trustees and staff went around the state and asked for Alaskan Native perspectives on statehood and for the people to tell FAI where they were at and not for others to dictate to the people what they should be feeling. What FAI heard as a result of those questions was that racism, discrimination and bigotry were alive and well and they were priority areas for FAI and the native community to work on. They took that feedback and turned that into an operating principal to bring things into the equity dialogue work FAI has begun. So far, they have done this work with approximately 25,000 Alaskans as well as individuals throughout the lower 48 and other countries.

'Wáahlaal Gíidaak then explained that when FAI sent the invitation to CBJ to participate in the Alaskan Native Dialogues on Racial Equity, they also sent an invitation to CBJ to become accountability partners alongside them for the Truth Racial Healing and Transformation (TRHT) endeavor. The TRHT is an evolution of what the Alaskan Native Dialogue on Racial Equity ended up transforming into. She said that it is not a Truth and Reconciliation process as one has never happened in the United States or State of Alaska. She said they purposely do not use the word "reconciliation" because in order to have reconciliation, you had to have good relations to begin with. You cannot reconcile what you never had. She said that when they are talking about a Truth Racial Healing and Transformation process, they are talking about the opportunity for indigenous people and people of color to finally speak their truths, to have those truths heard by the people of Alaska, by leadership, and by our own people. 'Wáahlaal Gíidaak provided an

example saying that often times in newspaper coverage of current events, wrongs that happened TO Alaskan natives might be found on pages 3 or 10 or deeper in the paper whereas whenever an Alaska Native is accused of something, that often makes the front page. She explained the process this work goes through and how encouraging the transformation piece and policy changes that come about as a result. They recently held a tribunal related to what is commonly referred to as “subsistence” but that the Alaskans refer to as “their way of life.” They were joined in that tribunal by accountability partners from the federal, state, and non-profits, and resource extraction and every walk of life to sit alongside them and listen deeply to the testimony that was told over a day-long session. FAI will convene with those partners later down the road to sit with them and discuss what the solutions and transformation might look like. She said that as they are thinking of this work today and in the future with the Assembly’s work, that is something to think about if the Assembly is willing to stand up with them as accountability partners.

FAI then facilitated a series of exercises with the Assemblymembers related to the differences between racial equality vs. racial equity.

The next steps included FAI setting up times and opportunities for small group conversations with space for anonymity to pose questions and concerns that would then be discussed later in the small groups.

The session closed with each person creating a six word story, similar to those written by Ernest Hemmingway, which tells what their commitment to racial equity looks like.

Mayor Weldon and the Assemblymembers thanked La quen náay and ‘Wáahlaal Gíidaak for this important session.

Mayor Weldon asked Ms. Cosgrove to provide an overview of the next steps for the equity training. Ms. Cosgrove provided the financial cost for the FAI facilitation and that they can accommodate up to 20 people in the break out groups. She said that she and Mr. Palmer had some lengthy discussions about how the Assembly might be able to move forward in light of the Open Meetings Act. She said that they came up with the following three options:

- 1) Hold future sessions with the full Assembly, subject to the Open Meeting Act (OMA), with public attendance able to observe the sessions, similar to this format. Ms. Cosgrove said that in her discussions with ‘Wáahlaal Gíidaak and La quen náay, they said it was up to the Assembly to decide but they did not recommend this format to be able to get into the deeper meaningful conversations that generally occur with this work.
- 2) Split the Assembly up into three smaller groups with no more than three Assemblymembers which would not be subject to the OMA.
- 3) Split the Assembly up into three smaller groups with no more than three Assemblymembers, which would not be subject to the OMA, but also feather in members of the CBJ Leadership Team participating.

Ms. Cosgrove said that they would like the Leadership Team to also take equity training so if they Assembly decided not to choose option 3, the Manager’s office would proceed separately in

conducting this training with the Leadership Team. Option 3 was just a suggestion in an attempt to accomplish the same outcome while conserving the financial resources.

Mayor Weldon asked the Assemblymembers what their preference would be moving forward. It was the consensus of the Assembly to choose option 3.

F. Committee Operations Discussion

Mayor Weldon and Ms. Gladziszewski distributed a four page document that outlined the Assembly Standing Committees, including their scope and charge as outlined in the Assembly Rules of Procedure, and a list of all the CBJ Boards and Commissions and a brief description of their scope and how they relate back to the work of the Assembly.

Ms. Gladziszewski explained that she did a bit of research to see what other communities in Alaska have with respect to standing Assembly committees. She said that Juneau has by far the most committees of any community in the state. She said that CBJ has an Assembly Finance and COW which most other communities do not have. She then provided a list of comparable communities across the state and the types of Assembly committees they have which were generally limited from zero to two Assembly standing committees. She said that the one exception was Municipality of Anchorage which has quite a few committees but they are much larger than Juneau.

She said in light of how other communities' are established, she was questioning if CBJ should have all the Assembly standing committees that it does have. [Assembly Finance Committee (AFC), Assembly Committee of the Whole (COW), Assembly Public Works and Facilities Committee (PWFC), Assembly Lands and Resources Committee (LC), and the Joint Assembly/School Facilities CIP & Maintenance Team]

Assemblymembers then discussed the Assembly Rules of Procedure Resolution which sets out the types of Assembly Standing Committees (ASC) as well as the charge for each ASC. They also discussed the fact that much of the work of the Assembly is done in its standing committees before it moves onto the Assembly for final action.

Mr. Watt said that from his perspective, what has happened is that as the city has grown and evolved, the committee structure hasn't necessarily evolved with those issues over time. He gave examples of changes seen over the last few decades in the LC as well as the PWFC. He said that when they look at the Assembly goals and that they don't necessarily line up easily to the ASC structure and sometimes some of the goals are shoe horned into a particular ASC. He said that from a staffing point of view, it would be helpful for the Assembly to look at its goals and decide which ASCs a particular goal might be assigned to. He then also spoke to the way the Assemblymembers interact with the committees. They are structured such that if an ASC has a particular item on its agenda that is of interest to an individual Assemblymember, hopefully that Assemblymember is attending the meeting or following it. Even if they aren't a member of that committee, when that item comes before the Assembly for action, the member has already had a

chance to ask questions or hear the discussion related to the item or trusts the work of the committee and is ready when it is before the full body to be acted upon.

Mayor Weldon explained that she and Ms. Gladziszewski were trying to better align the work of the ASCs with the Assembly goals and one of the main reasons they brought this topic forward for consideration. Mayor Weldon said that there was some proposed language that Ms. Gladziszewski provided on the handout that they would suggest adding to the Lands and Resources Committee.

Additional discussion took place related to whether they wanted to restructure the ASCs or how the goals might best be accomplished through the work of the committees as well as the current workload and how the committee process may be made more efficient without overwhelming Assemblymembers and staff.

It was decided that each ASC would look at the Assembly goals and decide which ones would best fit within the scope of their regular committee work. They also discussed the purpose and role of the committee reports at the end of each regular Assembly meetings and how that might help inform the Assemblymembers and the public what might be coming up at future meetings in case they are interested in attending the next meeting. They also discussed the roles of the Assembly liaisons to various committees and for the Assemblymembers reporting what was discussed or what happened at that board/committee back at the regular Assembly meetings as well.

IV. OTHER BUSINESS

Mayor Weldon noted that there were a few housekeeping items to be addressed and asked the Clerk to provide that information.

Ms. McEwen stated that she distributed copies of the Committee of the Whole meeting packet to each of the members. She noted that the COW packet contained a resolution amending the Assembly Rules of Procedure resolution as it had been initially amended in the spring due to COVID and that expiration date was coming up and Mr. Palmer thought it would be important to extend the expiration date. Ms. McEwen also explained that the proposed 2021 Assembly calendar was included in the packet. Ms. McEwen asked the Assembly to let staff know if they had any meeting time changes or dates that they wanted to make before the final calendar is loaded up online. Assemblymembers discussed ASC meeting time as well as the start time of regular Assembly meetings at 7:00p.m. It was decided to leave the times as they were scheduled with Ms. Triem noting the time for Assembly Finance Committee would begin at 6p.m. for most of the year but during the AFC budget cycle meetings will begin at 5:30p.m.

They also discussed the format in which to hold Assembly meetings in the future with the following three options:

- 1) To continue to hold meetings virtually via Zoom webinar, or
- 2) Transition to In Person meetings in the Assembly Chambers, or

3) A hybrid of virtual and in person meetings.

They discussed the pros/cons of the three options and the possibility of trying a hybrid method on a trial basis later in November and possibly start out with one of the ASC meetings. Mayor Weldon said that she will discuss that with staff and committee chairs and will provide direction closer to the middle of the month.

V. ADJOURNMENT

With no further business to come before the Assembly, the meeting was adjourned at 4:15p.m.

Signed: _____
Elizabeth J. McEwen
Municipal Clerk

Signed: _____
Beth A. Weldon
Mayor

THE CITY AND BOROUGH OF JUNEAU, ALASKA
SPECIAL ASSEMBLY MEETING

DRAFT Meeting Minutes – January 12, 2021

MEETING NO. 2021-02: The Special Meeting of the City and Borough of Juneau Assembly held virtually via Zoom webinar, was called to order at 9:00 a.m. by Mayor Beth Weldon.

I. ROLL CALL

Assembly Members Present: Mayor Beth Weldon, Maria Gladziszewski, Loren Jones, Wade Bryson, Carole Triem, Michelle Hale, Alicia Hughes-Skandijs, Greg Smith, and Christine Woll

Assembly Absent: None.

Special Guests Present: Senator Jesse Kiehl, Representatives Andi Story and Sara Hannan, Katie Kachel, Richard Sherman, Kevin Jardell

City and Delegation Staff Present: City Manager Rorie Watt, Deputy City Manager/Incident Commander Mila Cosgrove, City Attorney Robert Palmer, Assistant Attorney Teresa Bowen, Municipal Clerk Beth McEwen, Deputy Clerk Diane Cathcart, Library Director and EOC/PC Robert Barr, Finance Director Jeff Rogers, Engineering/Public Works Director Katie Koester, Community Development Director Jill Maclean, Port Director Carl Uchytel, Lands Manager Dan Bleidorn, Airport Manager Patty Wahto, Senators Murkowski and Sullivan representative Dana Herndon, Senator Kiehl's staff members Cathy Schlingheyde and Edric Carrillo.

II. APPROVAL OF AGENDA

The agenda was adopted as presented.

III. AGENDA TOPICS

A. Updates from Senator Kiehl and Representatives Hannan and Story

Senator Jesse Kiehl provided an overview followed by Representative Sara Hannan and Representative Andi Story.

Sen. Kiehl explained that neither body of the legislature have chosen their presiding officer, nor have they organized any caucuses at this time. He believed that the prominent issues for this upcoming legislative session will be related to budget and revenue. Sen. Kiehl spoke to the possibility of increasing existing taxes to produce new state revenues. He anticipated that there will be a tremendous amount of discussion, particularly regarding the future of the Permanent Fund Dividend.

Rep. Hannan discussed the Governor's proposed budget as it pertains to Juneau, which included potential cost shifting to local governments. She said that she had pre-filed an income tax bill for introduction. She briefly commented on how she believed an income tax would be more effective than a sales tax in terms of producing broad-based revenue. Rep. Hannan also mentioned her

proposed tax on nicotine and vaping products, which are currently not taxed in the State of Alaska. She said that taxing these products could act as a potential disincentive for younger users, as well as a revenue generating measure.

Rep. Story commended the Assembly for their hard work on the bond proposals and the establishment of the Systemic Racism Review Committee. She spoke to the importance of engaging in civil conversation and bipartisanship. She hoped that this legislative session would bring stability and certainty to Alaska. Rep. Story spoke in favor of the statute that would require the Governor to develop a ten-year plan for the state budget. She shared that she is open to revenue measures, and looks forward to the long conversations surrounding legislative options. She also supported the proposed Public Works Bond, and believes that it would help Alaska's infrastructure needs and capital improvement projects.

Ms. Hughes-Skandijs brought attention to the amount of State jobs that have been relocated out of Juneau to Anchorage, and encouraged the Legislative Delegation to continue monitoring that situation.

Sen. Kiehl expressed his strong concern towards jobs moving out of Juneau, and in some cases out of state entirely. He would like to see state government remain headquartered in a centralized location. He spoke to the importance of making Juneau an attractive place for employees to live, and how the Assembly is achieving this through their efforts to support local education, the arts community, and affordable housing.

Rep. Story added that everyone at the Capitol is against moving jobs out of Juneau, and acknowledged the 53 job positions that have been moved out of Juneau within the last two years.

Rep. Hannan mentioned the closure of the Haines DMV from the proposed Governor's budget, and the services and jobs that would be at risk as a result.

Mr. Bryson described Zoom as the single greatest threat towards Juneau's capital status. He encouraged the delegation to consider ways to limit Zoom use and to transition back to in-person meetings. Mr. Bryson asked Sen. Kiehl for an update on his bill for law enforcement to be able to remove themselves from tax rolls and property registries, similar to victims of domestic violence.

Sen. Kiehl explained that particular bill has been redrafted and will be reintroduced once a presiding officer has been assigned. He clarified that victims of domestic violence or stalking are not able to have an unlisted, private mailing address that would not be accessible to the general public. Victims' advocates have alerted the delegation of instances in which an abuser or stalker has waited for their victims at the post office. Sen. Kiehl said that this bill would provide similar protection to public safety and correctional officers by having a secure, centralized registry for officers. Mr. Bryson tried to ask a follow-up question, but his Zoom connection froze.

Ms. Triem commented that she does not think the Assembly would be able to construct our way out of a recession through Public Works projects. She opined that the result might be good, but it would not be an end-all/be-all solution. Ms. Triem asked for more information to be provided regarding the redistricting of Southeast Alaska, and the potential effect that may have on smaller coastal communities.

Rep. Story explained that there is currently not much information regarding redistricting at the moment, as the board just had their first meeting last week and are still in the process of getting started. Sen. Kiehl echoed that the redistricting board has been established, and has hired an Executive Director. He said that the general expectation is that there will be significant changes, however the assumption is that there will be relatively few adjustments in Southeast Alaska.

Ms. Gladziszewski spoke to the centralization at Alaska Fish & Game, and noticed that many of the leadership positions have gradually moved from Juneau to Anchorage within the past decade.

Rep. Hannan said that ADFG is an example that she is using to illustrate an out of state employee who has never been to Alaska and has not been required to move to Alaska to perform their job. She stressed the importance of the Fish and Game Manager for Dillingham, never having lived in the state, needing to have experience in the community/area which they are managing.

Mr. Jones spoke about the potential bond package that the Governor has put in his budget package. He spoke in favor of local control of capital improvement projects, and advocated for local control rather than have 60 members in the legislature trying to decide what goes to various projects across the state. Sen. Kiehl appreciated Mr. Jones comments about this, and agreed on the importance of receiving local input before the Governor puts together bond proposals. He supported the principle of working with the priorities of locally elected officials before the legislature. Rep. Hannan asked local governments to provide their priority lists to their legislators, and encouraged their constituents to tell them what projects to introduce to the legislature.

Mayor Weldon asked if there had been any further discussion regarding redistricting the school districts. Rep. Hannan explained no bills have been pre-filed at this time to consolidate the school districts. Some of the legislators who strongly advocated for that did not run for reelection. She described school district consolidation as a complex, political and legal issue, and found it unlikely for the legislation to push that forward in the near future. Rep. Story added that this issue coincides with local control, as there have been some districts that have voluntarily consolidated. She shared that there have also been conversations amongst school board members from smaller regions regarding how consolidating could result in cost savings.

Mayor Weldon shared that Southeast Alaska Mayors met with the Governor last week, and they discussed his proposal to take \$5 billion out of the ERA for the Capital Budget and the Bond Package.

Sen. Kiehl addressed the principle of the PFD and the Earnings Reserve Account (ERA), which amounts to about \$10 billion. That is a lot more than 5% of the fund, and potentially risks putting the next generation in the position of paying for services or dividends. The ERA of the PFD provides a greater amount of revenue than oil. The earnings from the PFD and the total value of the fund are critical to Alaska's future. If we had to fill the amounts needed with just an income tax, it would be a much higher income tax than anyone would want to have to pay.

Mayor Weldon thanked the Legislative Delegation their efforts in working with their colleagues to reconvene in Juneau for this year's Legislative Session. She expressed optimism about the testing measures in place and the upcoming vaccine rollout.

Ms. Hale asked the Assembly and the delegation to consider writing a letter to the Congressional delegation requesting that they ensure the safety of the general public during the transition to the new Presidential Administration. Mayor Weldon noted that JPD, Alaska State Troopers, and the FBI are all on high alert during this time.

Rep. Hannan spoke to the overall sense of community felt by legislators visiting Juneau. She noted that they believe that the vitriolic protests at the January 6th Washington D.C. capitol riots will not be present in Juneau, and spoke to the assuredness they feel towards the security and police presence. Rep. Hannan also thanked CBJ and the EOC for their efforts in distributing the COVID-19 vaccine as smooth as possible.

B. Update from CBJ State Lobbyist Kevin Jardell

Mr. Kevin Jardell commended the Juneau Legislative Delegation and their staff, and referenced the longstanding, positive working relationship CBJ's state lobbyists have cultivated with the legislative delegation. Mr. Jardell shared that COVID-19 has been a significant issue that has left a lot of unknowns, particularly regarding the legislative organization. The Juneau EOC team has been working with the Legislative Affairs Agency and the Legislative Council to implement risk mitigation measures to ensure the safety of visiting legislators.

Mr. Jardell explained that interaction amongst legislators will be considerably different this term, as they have yet to fully organize. He said that the newer legislators have strong opinions about the PFD and the budget. He also said that he and others will be relying on the Juneau delegation and their staff a lot more since the general public will not be allowed in the building.

He explained that DOT has a Request for Proposal (RFP) which could change the way DOT reimburses for utilities in the Right of Way, which would shift costs to local communities and residents. He added that they will be monitoring the Governor's proposed \$3 million cut in funding towards the ferry system. Mr. Jardell also mentioned that there have been at least three bills introduced in the Senate regarding police brutality: police officer de-escalation training, a ban on chokeholds, and prohibiting an officer to shoot at a moving vehicle.

There is an Open Meetings Act penalty bill that comes from Anchorage but would apply to all municipalities, however he does not feel that it will pass.

Mr. Jardell explained that an extra \$3 billion overdraw is taking an extra two years will result \$160M dollars in lost revenue in perpetuity due to how the POMB is established. He explained how the State would manage the POMB and the impact it would have on state revenues.

Mr. Smith asked Mr. Jardell if there was any indication that the legislature might be considering new revenues. Mr. Jardell shared that he was not optimistic that they will see a broad based tax passed. There are three pre-filed bills that would raise significant impacts but he does not anticipate that it will pass this year.

Sen. Kiehl thanked CBJ and the EOC for establishing the PCR machine at BRH, and commended them for their vaccine distribution efforts. He recalled that every time the Juneau Legislative

delegation, the Governor's Office or other entity are in need of something, CBJ raises to the challenge to get the work done.

Rep. Story acknowledged the importance of Juneau residents in the budget conversation, and she encouraged the Assembly to educate the citizens about the fiscal situation. She discussed the long term and short term decisions that need to be made and that the citizens need be part of the conversation on how to generate more revenue.

Mayor Weldon appreciated Sen. Kiehl's sentiments, and she recognized the citizens of Juneau for working together as a community to keep the COVID-19 case numbers at a minimum.

C. Update from CBJ D.C. Lobbyists Katie Kachel and Richard Sherman

Katie Kachel and Richard Sherman introduced themselves to the Assembly, and described the work that they do in Washington D.C. on behalf of CBJ. She explained that Juneau and Alaska as a whole have a large number of ties to federal agencies (Coast Guard, TSA, Forest Service, FAA, etc.). Ms. Kachel said that their firm maintains a relationship with the Alaska Congressional delegation and advocates for Juneau when directed.

Ms. Kachel provided a Washington D.C. update, she said that President Biden is expected to reveal his plan for the Economic Stimulus Package on January 14. There is also a large infrastructure bill expected to be introduced on January 14, although it is debated whether it will be a deficit bill or an emergency bill.

Ms. Kachel also explained that airports could receive \$2 billion from transportation funding from the most recent COVID-19 bill that passed on December 27. Overall, there is \$14 billion that could go towards transportation funding. The State of Alaska could allocate \$55 million to be distributed to local government transit agencies. There was no COVID-19 related funding for ports, however parts were able to receive regular funding through a competitive grant program. Highways received COVID-19 funding for the first time, although the Federal Highways Association has not yet disclosed the official amount that the state of Alaska received.

Regarding vaccines, the former presidential administration recommended that states allow for all who are over the age of 65 and high-risk adults be eligible to receive the vaccine.

The COVID-19 bill also allocated \$8.75 billion towards vaccine development and distribution. Manufacturers have said that there may be a shortage in the supplies and that the Defense Production Act may be invoked in the future.

The Rural Community Hospital Demonstration Program had expired June 2020 for BRH, but was extended by this most recent bill for another five years. BRH had budgeted receiving \$3.7 million from those funds. Ms. Kachel said that she will be looking at trying to make this permanent and will be working with other stakeholders to try to make it permanent.

The Department of Interior Fee to Trust Policies have been established as a trust program, and operations are likely to revert back to how the program was during the Obama administration. Mayor Weldon asked Ms. Kachel to explain the Interior Fee to Trust policies for the newer Assemblymembers. Ms. Kachel explained that the Interior Fee to Trust program is a process by which local government and Native American tribes can transfer land into reservation status. Mr. Watt explained that the Tlingit and Haida Central Council began the process of putting some of their lands into trust a few years ago but that has not been completed. This process would effectively exempt those lands from CBJ's local laws and rules. He described it as a complicated issue that will be closely monitored.

Ms. Kachel mentioned that they are tracking the CDC guidelines for the cruise ship industry for Juneau, and spoke to the community concern surrounding the uncertainty about the upcoming cruise ship season. Mayor Weldon mentioned that at her meeting with the Governor, she advocated for him to reach out to the federal government and ask CDC for further clarification regarding cruise ships.

Sen. Kiehl asked for clarification regarding Canada's Jones' Act, which prohibits cruise ships from docking in Canada ports. He asked if there would be a chance to come to an agreement with Canada, or to find a way to avoid ships docking in Canada, as the cruise ship season for Southeast Alaska depends on it. Ms. Kachel said that issue would probably be a state issue, but advised proceeding with caution when dealing with the Jones' Act, which she described as a "political hot potato."

Rep. Hannan asked Ms. Kachel if the federal transportation money is going to include the Alaska Marine Highway system. Ms. Kachel explained that this money is being funded through the Surface Transportation Block Grant, and she will review it to see if it might include the Alaska Marine Highway System.

Mr. Jones spoke to local control of federal funds going direct to communities as well as towards other infrastructure projects. Regarding the Lands to Trust issue, he said they previously worked with the THCC and that the 30-day timeline involved was not enough time to work on all those issues. Mr. Jones advocated for the guidelines to be rewritten to allow more time to work out all those issues. He thanked the lobbyists for being able to boil down what is happening at the national level into terms of how that translates at the local Juneau level.

Ms. Hale thanked the lobbyists for all their work on the Rural Demonstration Project for BRH.

Mayor Weldon thanked the lobbyists for their work in keeping track of all of the COVID-19 relief funds.

Ms. Herdon spoke to the potential funding for the Alaska Marine Highway System. She explained that normally the FHWA is for capital improvements only, but in this particular case the language allows for temporary flexibility. She said that some of those funds could be used for the Alaska Marine Highway, but that will be ultimately up to the state to decide.

Mr. Watt said that CBJ has a great team to work with, and despite the myriad of issues that CBJ presents, the lobbyists are always available to give guidance and advice. He thanked them all for their efforts and their insight.

XIII. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

None.

XIV. ADJOURNMENT

There being no further business to come before the Assembly, the meeting was adjourned at 10:52a.m.

Signed: _____

Elizabeth J. McEwen
Municipal Clerk

Signed: _____

Beth A. Weldon
Mayor

THE CITY AND BOROUGH OF JUNEAU, ALASKA
REGULAR ASSEMBLY MEETING
DRAFT Meeting Minutes - March 1, 2021

MEETING NO. 2021-06: The Regular Meeting of the City and Borough of Juneau Assembly held virtually via Zoom webinar, was called to order at 7:00 p.m. by Mayor Beth Weldon.

I. FLAG SALUTE

Ms. Hughes-Skandijs led the Assembly in the flag salute.

Ms. Triem acknowledge that we are on Tlingit land and honor the A'akw Kwáan and T'aaku Kwáan, the indigenous people of this land for their stewardship of the area from time immemorial. That we are grateful to be in this place, a part of this community and to honor the culture, traditions, and resilience of the Tlingit people. *Gunalchéesh!*

II. ROLL CALL

Assembly Members Present: Mayor Beth Weldon, Maria Gladziszewski, Loren Jones, Wade Bryson, Carole Triem, Michelle Hale, Alicia Hughes-Skandijs, Greg Smith, and Christine Woll.

Assembly Absent: None.

Staff Present: City Manager Rorie Watt, Deputy City Manager/Incident Commander Mila Cosgrove, City Attorney Robert Palmer, Assistant Attorney Sherri Layne, Municipal Clerk Beth McEwen, Deputy Clerk Diane Cathcart, Library Director and EOC/PC Robert Barr, Finance Director Jeff Rogers, Engineering/Public Works Director Katie Koester, Community Development Director Jill Maclean, Parks and Recreation Director George Schaaf, Zach Gordon Director Jorden Nigro, Port Director Carl Uchytel, Lands Manager Dan Bleidorn, BRH CFO Kevin Benson, Chief Housing Officer Scott Ciambor

III. SPECIAL ORDER OF BUSINESS

A. Recognition of Coeur Alaska Kensington Mine and Redpath USA Corporation

Mayor Weldon acknowledged that as the COVID-19 pandemic progressed over the past year, many members and businesses stepped up to assist the community. She noted that the CBJ Emergency Operations Center identified Centennial Hall as a potential quarantine and isolation shelter but the building's lack of shower facilities posed a major problem. With the entire country facing similar problems, there were no portable showers available to buy or rent. When the staff from Kensington Mine and Redpath USA learned of this need, they immediately loaned the EOC two mobile showers. She said that while they were only needed for a few weeks during 2020, the loan of those showers was invaluable and she commended them for their assistance.

In attendance on behalf of Coeur Alaska Kensington Mine and Redpath USA Corporation were Mark Kiessling, Pete Strow, Rochelle Lindley, Chris Collum, and Jason Morrison. Mr. Kiessling

thanked the Mayor for the recognition and said that 2020 was a challenging year and there was no play book for this pandemic and it was a year for action and they were happy to help the community out in this way. Mr. Morrison said that he thought CBJ has done an amazing job in handling the pandemic and that it was very easy to work with George Schaaf and the EOC staff to make this happen.

B. Instructions for Public Participation

Municipal Clerk McEwen provided instruction to the listening public on how to participate in the meeting via the Zoom platform.

IV. APPROVAL OF MINUTES – None.

V. MANAGER’S REQUEST FOR AGENDA CHANGES – None.

VI. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None.

VII. CONSENT AGENDA

A. Public Requests for Consent Agenda Changes, Other Than Ordinances for Introduction – None.

B. Assembly Requests for Consent Agenda Changes – None.

C. Assembly Action

Mayor Weldon recused herself from voting on Consent Agenda item “c. Ord. 2020-09(AO)” and noted that when she was voting on the Consent Agenda, she would be doing so on all items except Ordinance 2020-09(AO).

MOTION by Deputy Mayor Jones to approve the Consent Agenda and asked for unanimous consent. *Hearing no objection, the motion passed.*

1. Ordinances for Introduction

a. Ordinance 2020-10(B) An Ordinance Appropriating \$302,929 from the Treasury for FY21 School District Operations.

The Juneau School District’s (JSD) projected student enrollment has decreased by 570 students in FY21. This decrease in enrollment has triggered the Hold Harmless provision of the Alaska Department of Education and Early Development’s Foundation Formula. As a result, JSD anticipates an additional \$245,620 in foundation funding and a slight increase to Quality Schools Grant program funding of \$663, for total additional state support of \$246,283. As a result of this increase in funding, CBJ may choose to provide an additional \$56,646 from the General Fund’s fund balance for general school operations.

This request was reviewed by the JSD Board on January 12, 2021. This request will be reviewed by the Assembly Finance Committee at the March 3, 2021 meeting.

The City Manager recommends the Assembly introduce this ordinance and set it for public hearing at the next regular Assembly meeting.

b. Ordinance 2020-09(AM) An Ordinance Appropriating \$2,500,000 to the Manager as Funding for the Purchase of a Building at 3225 Hospital Drive; Funding Provided by Bartlett Regional Hospital Fund's Fund Balance.

This ordinance would appropriate \$2,500,000 for the purchase of a building at 3225 Hospital Drive. The Bartlett Surgical & Specialty Clinic occupies approximately half of the space in the building and pays

\$181,000 in rent annually. Bartlett Regional Hospital (BRH) has grown its operations over the years and available space for continued growth is short and at a premium. The purchase of the building would save BRH leasing costs with the opportunity for tenant rental income, with an estimated return on investment of ten years. The proposed building purchase price is below an appraised value of \$3,100,000.

Funding for this request would be provided by Bartlett Regional Hospital Fund's fund balance.

This request was reviewed by the BRH Board on January 26 and February 23, 2021. This request was reviewed by the Lands, Housing, and Economic Development Committee at its February 1, 2021 meeting.

The City Manager recommends the Assembly introduce this ordinance and set it for public hearing at the next regular Assembly meeting.

c. Ordinance 2020-09(AO) An Ordinance Appropriating \$2,399,725 to the Manager as Funding for the Valley Transit Center Capital Improvement Project; Grant Funding Provided by the Alaska Department of Transportation and Public Facilities.

This ordinance would appropriate \$2,399,725 to the Valley Transit Center CIP. Grant funding is comprised of Federal Transit Administration funds passed through the Alaska Department of Transportation and Public Facilities. The local match requirement of \$599,931 is being met by an in-kind match from the land purchase funded by previously appropriated capital improvement project funding from the Valley Transit Center CIP (D71-089).

The Public Works and Facilities Committee reviewed this request at the January 7, 2021 meeting.

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

d. Ordinance 2020-09(AP) An Ordinance Appropriating \$92,000 to the Manager as Funding for Snow Removal Equipment for Capital Transit; Grant Funding Provided by the Alaska Department of Transportation and Public Facilities, with Local Match Funding Provided by the Equipment Replacement Reserve Fund's Fund Balance.

This ordinance would appropriate \$92,000 for the purchase of snow removal equipment for Capital Transit to maintain access to bus shelters. Grant funding in the amount of \$73,600 is

comprised of Federal Transit Administration funds passed through the Alaska Department of Transportation and Public Facilities. The local match requirement of

\$18,400 is provided by the Equipment Replacement Reserve Fund's fund balance. This funding will purchase two snow removal equipment trailers and replace a truck that has exceeded its useful life and is scheduled for replacement.

The Public Works and Facilities Committee reviewed this request at the January 7, 2021 meeting.

The City Manager recommends the Assembly introduce this ordinance and set it for public hearing at the next regular Assembly meeting.

e. Ordinance 2020-09(AQ) An Ordinance Transferring \$1,275,193 from Various Capital Improvement Projects to CIP D14-051 Pederson Hill Land Survey & Plan, CIP R72-151 Robbie Rd., Ling Ct. & Laurie Ln., CIP R72-156 Harris St. Reconstruction, CIP R72-149 Meadow Lane Improvements, CIP R72-137 Gold Creek Flume Repairs, and CIP R72- 154 4th St. Drainage/F-I & Side Streets.

This ordinance transferring \$1,275,193 would accommodate current priority project needs of Streets and Lands and Resources. Nearly all of the proposed transfers are reallocating funds from completed projects to ongoing work in need of additional funding. Additional funding for construction will be prioritized and funded by the FY22 CIP request. This transfer consists of \$1,105,634 sales tax and \$169,559 Lands Fund funding.

The Public Works and Facilities Committee reviewed this request at the February 1, 2021 meeting.

The City Manager recommends the Assembly introduce this ordinance and set it for public hearing at the next regular Assembly meeting.

2. Liquor License

a. Liquor License Renewals for Licenses: 644 & 1081

These liquor license actions are before the Assembly to either protest or waive its right to protest the license action.

Liquor License Renewals

License Type: Beverage Dispensary, License #644

Licensee: Wolfpack Ventures, LLC d/b/a: Salt Alaska

Location: 200 Seward Street, Juneau

License Type: Beverage Dispensary, License #1081

Licensee: Shayz, LLC d/b/a Squirez

Location: 11806 Glacier Highway, Juneau

Staff from the Police, Finance, Fire, Public Works (Utilities), and Community Development departments have reviewed the above licenses and recommend the Assembly waive its right to protest the renewals.

Copies of the documents associated with these licenses are available in hardcopy upon request to the Clerk's office.

The City Manager recommends the Assembly waive its right to protest the above-listed liquor license renewals.

VIII. PUBLIC HEARING

A. Ordinance 2020-09(AN) An Ordinance Appropriating \$75,000 to the Manager to Operate a Youth Shelter and Rapid Rehousing Facility; Grant Funding Provided by the Alaska Mental Health Trust Authority.

This ordinance would appropriate \$75,000 to operate a youth shelter and rapid rehousing facility at the Hurlock Street property. The Zach Gordon Youth Center (ZGYC) and Tlingit Haida Regional Housing Authority (THRHA) are partnering to help address the community need for emergency sheltering and rapid rehousing for runaway and homeless youth. This initiative is endorsed by the CBJ Assembly Taskforce on Homelessness.

Grant funding for this request would be provided by the Alaska Mental Health Trust Authority.

The Committee of the Whole reviewed this request at the November 9, 2020 meeting. The Assembly Finance Committee reviewed this request at the January 6, 2021 meeting.

The City Manager recommends the Assembly adopt this ordinance.

Public Comment

None.

Assembly Action

MOTION by Ms. Woll to adopt Ordinance 2020-09 (AN) and asked for unanimous consent. *Hearing no objection, the motion passed by unanimous consent.*

B. Ordinance 2021-01(c) An Ordinance Providing for a Property Tax Abatement Program to Incentivize the Development of Housing in Downtown Juneau.

To qualify for this tax abatement program, at least four new residential units would need to be added to a parcel in the downtown Juneau area. Any condemned dwelling unit that is renovated up to current code would also qualify as a new unit. For the purposes of this ordinance, the downtown Juneau area is the same as the Title 49 Fee in Lieu of Parking map.

This topic has been reviewed by numerous Assembly committees since the spring of 2018. Most recently, the Lands and Resources Committee reviewed this topic on August 10 and December 7, 2020, and January 11, 2021. Version (c) of this ordinance corrects a reference in the first whereas clause.

The City Manager recommends the Assembly adopt this ordinance.

Public Comment

Betsy Brenneman, a resident of highlands in Downtown Juneau, thanked Mr. Palmer for answering many of her questions regarding this ordinance. She spoke in support of the ordinance and she supports the time to allow this to be in effect for 12 years and she thinks this is a good first step. She said that she wants to encourage the Assembly to take it further to eventually include assistance with the refurbishing in some of the older housing in town.

Dave Hanna, a resident of the Back Loop Road, said he sent an email to the Assembly with all his concerns about this ordinance. He said that there are some serious issues with this ordinance and that it would benefit individuals who have not been responsible landlords in the past and would be in direct competition with those individuals who have been responsible landlords. He said that there appears to be quite a few vacancies in housing downtown and that the problem isn't that there isn't housing available but rather that people don't want to live downtown. He said another concern he has is that there are millions and millions of dollars coming off the tax rolls and to couple this with a decrease in sales tax revenue, it increases a significant revenue shortfall. He strongly urged the Assembly not to pass this ordinance citing the creation of another revenue shortfall along with the inequities this causes.

Mr. Bryson asked Mr. Hanna if this tax abatement only applied to new property and not applied towards refurbishing, if that would be more agreeable to him.

Mr. Hanna said that if this was just applicable to new construction, we would ultimately be receiving revenue on something that had not previously existed and it is creating something new for the community. He compared this to the new subdivision ordinance which was creating something new and not in direct competition with something else already out there and it wasn't rewarding somebody who had been derelict of their responsibilities. He said he wasn't in favor of the twelve year period and while other communities have used that benchmark, it doesn't mean it is necessarily responsible. He said he would be cautiously approving of any new construction but he wasn't in favor of rewarding owners who have not been taking care of their properties.

Ms. Gladziszewski thanked Mr. Hanna for his testimony. She noted that the ordinance is targeted to new construction and that the only time it would apply to existing property is if it was condemned or uninhabitable and it is not eligible for renovating property that was currently in use. She asked Mr. Hanna if he would be in favor of the ordinance if it retained the language enabling it for use on condemned buildings.

Mr. Hanna said he wasn't even much in favor of it being used for condemned buildings. He said that his understanding was that it would be eligible for the conversion of current properties, which he was not in favor of, but said that he may be mistaken about that. Ms. Gladziszewski said that he was mistaken and it is was not for use in the conversion of current properties and read the definition from the ordinance.

Assembly Action

MOTION by Mr. Smith to approve Ordinance 2021-01(c) and objected for purposes of an amendment.

AMENDMENT #1 by Mr. Smith as found on page 43 of the packet and included below:

Intent: Make new residential units available for workforce housing and long-term rentals instead of short-term rentals.

Amend Section 2 as follows (Smith Amendment depicted with underlining):

69.10.23 Property tax incentives for economic development property.

(a) Purpose.

...

(2) At least four new residential units in the Downtown Juneau Residential Tax Abatement Map, dated January 20, 2021. Such units must not be used as short term rentals during the property tax abatement period.

...

(d) Application.

...

(9) Application requirements specific to the Downtown Juneau Residential Tax Abatement. In an application for CBJC 69.10.023(a)(2), the property owner must agree not to rent any new residential units as short term rentals while receiving the tax abatement. A property owner who breaches this provision forfeits the remaining property tax abatement and must reimburse the City and Borough of Juneau for the property tax abatement received since first granted plus interest at the legal maximum rate of interest allowed by state law. If the property owner does not reimburse the City and Borough within 30 calendar days of notice being mailed or served, a lien shall be recorded against the property with the new residential units.

(n) Definitions. In this section, the following definitions apply:

...

Short Term Rental means a dwelling unit that is rented, leased, or otherwise advertised for occupancy for a period of less than 30 days.

Mr. Smith, in speaking to his amendment, explained that this clarifies that the intent of this property tax abatement program is to provide housing opportunities for people who are living in the in community vs. a short term rental such as AirBnBs.

Additional discussion took place related to the definition of short term rentals and Mr. Bryson wanted to be sure that the amendment wasn't prohibiting seasonal rentals such as those needed for legislative or tourist season staff housing. Mr. Smith clarified that the definition of short term rental in this context was specifically for periods less than 30 days for things such as VRBO's or AirBnB. He said that while people may choose to create those types of VRBO and AirBnB options, he did not feel it was appropriate for the tax abatement program to be using public funds to fund the construction of those short term units.

Mr. Jones objected to the amendment. Mr. Jones said that he feels this overly complicates the issue. He said that while he agrees with the intent, it creates a lot of room for interpretation and a lot of work on the assessor's part and he provided a number of scenarios that would make it very questionable.

Ms. Gladziszewski spoke in favor of the amendment.

Roll Call Vote on Amendment #1:

Ayes: Smith, Woll, Hughes-Skandijs, Bryson, Hale, Triem, Gladziszewski, Weldon

Nays: Jones

Amendment #1 passed. Eight (8) Ayes, One (1) Nay.

Mayor passed the virtual gavel to Mr. Jones so she could propose an amendment.

AMENDMENT #2 by Mayor Weldon to amend the map to include 6th Street as shown on the screen by Mr. Palmer and asked for unanimous consent.

Ms. Gladziszewski asked Mayor Weldon what the reasoning was for her amendment and why she is proposing to change this from what has traditionally been considered in the "downtown" area. Mayor Weldon explained that she was informed by the Catholic Diocese that they have property they may be interested in renovating into housing units but that property is located outside the current coverage area so she is offering up this amendment to allow that property to be included at their request.

Mr. Smith said that this may be one of those instances in which lines must clearly be drawn but asked the attorney if this would be something they might be able to delegate authority to the manager to determine.

Mr. Palmer noted that Mr. Smith was correct in his initial understanding that there does need to be clear lines drawn somewhere for this and that there needs to be a rational basis for setting the particular lines. He noted that Mayor Weldon's explanation to Ms. Gladziszewski does provide the rational basis for her amendment if the Assembly agrees with that.

Mr. Watt noted that CDD Director Jill Maclean has advised him that the Planning Commission has been looking at the revised map included in this amendment as they look at the downtown parking issues so they see development potential in this area as well.

Hearing no objection, Amendment #2 passed by unanimous consent.

Mr. Jones turned the virtual gavel back over to Mayor Weldon.

Objection by Mr. Bryson for purposes of a question. Mr. Bryson asked Mr. Palmer to assure the Assembly that the language of this ordinance did not allow for a legal loophole in which someone could convert an existing building for tax abatement. Mr. Palmer explained that CBJ is

obligated to follow Alaska statute. This statute requires that any time CBJ grants an exemption or an abatement, it must be for an economic development property. CBJ has identified that those who build four or more new units would presumptively qualify as an economic development property; however, the property owner has to describe how their property qualifies as an economic development property in their application. Mr. Palmer said that the application process is tailored for new development, however there is a possibility that someone could convert their commercial space into enough housing to qualify for this tax abatement program; although they would still be subject to the application process, which would assess the economic development of the property.

Mr. Bryson asked Mr. Palmer to clarify who would be responsible for assessing the property. Mr. Palmer answered that the Assessor would be the one who would evaluate the applications and the properties. Mr. Bryson removed his objection.

Objection by Mr. Jones. Mr. Jones spoke to his objection, saying that it has been difficult to find tax abatement research specific to this issue. He mentioned that he felt this was too limited to Downtown residential areas, and does not perceive that this would result in a significant loss of revenue. Mr. Jones was not convinced that this ordinance would cause any significant change in the Downtown housing over the next few years.

Ms. Gladyszewski spoke in favor of the ordinance and the tax abatement program.

Mayor Weldon stated that she also objected to the ordinance.

Roll Call Vote on Ordinance 2021-01(c) as amended:

Ayes: Smith, Woll, Hughes-Skandijs, Bryson, Hale, Triem, Gladyszewski

Nays: Jones, Weldon

Ordinance 2021-01(c) was adopted. Seven (7) Ayes: Two (2) Nays.

C. Ordinance 2021-02 An Ordinance Providing for the Issuance and Sale of General Obligation Bonds in One or More Series to Provide Not to Exceed \$22,000,000 in Net Proceeds; and Providing for the Form and Terms of the Bonds and for Unlimited Tax Levies to Pay the Bonds.

In 2020, voters approved a \$15 million bond for maintenance and repair of schools, parks, streets, and other public infrastructure. In 2019, voters approved a \$7 million bond for improvements to Centennial Hall. This ordinance authorizes these two general obligation bonds to be sold as one \$22 million bond through a competitive public offering. This ordinance specifies a 15-year repayment plan with interest- only payments for the first three years. Due to ongoing legal issues with the Alaska Municipal Bond Bank Authority, these bonds will be sold directly by the Borough without using the Bond Bank as a conduit.

The Assembly Finance Committee reviewed this ordinance at the February 3, 2021 meeting.

The City Manager recommends the Assembly adopt this ordinance.

Public Comment:

None.

Assembly Action:

MOTION by Ms. Hughes-Skandijs to adopt Ordinance 2021-02 and asked for unanimous consent.

Mayor Weldon objected for purposes of a question. Mayor Weldon asked Mr. Watt to explain how the bonds would be sold, and to provide additional detail on the bond process. Mr. Watt invited Mr. Rogers to explain the bond process.

Mr. Rogers explained that CBJ would offer these bonds through a public offering, and described it as a process similar to the bond bank. CBJ would not work with a bond bank and instead seek an independent credit rating and work with a credit rating agency. This agency will independently rate CBJ's credit, separate from the way it is typically done through the State's credit rating. Mr. Rogers anticipates that CBJ's credit rating will be roughly equivalent to the State's credit rating. He clarified that the city will not lose anything by going through the process this way. CBJ would then issue it like a typical bond by pricing the bond through an underwriter, and then closing on the bond. He also mentioned that this will be offered to the public after the process is completed.

Mr. Rogers noted the interest amongst those who live in Juneau to get involved on a bond such as this. This interest had led the Finance Department to establish a program in which local stockbrokers will be able to work with clients and get involved with this bond early on. He said that this is a way for residents to buy a piece of Juneau's debt if they are interested in doing so. He added that the Finance Department will try to make a public notice informing the community on how participate in this program.

Mayor Weldon thanked Mr. Rogers for providing exactly the information she was interested in, specifically on how local residents could buy bonds if they were interested in doing so. She added that CBJ will advertise that information when the time comes. Mayor Weldon withdrew her objection.

Hearing no further objection, Ordinance 2021-02 was adopted by unanimous consent.

D. Ordinance 2021-04 An Ordinance Related to CBJ Marijuana Licenses.

CBJ has a business license for marijuana businesses in Title 49. This ordinance would give the Community Development Department director the authority to suspend or revoke a marijuana business license for the same reasons that the CBJ Assembly can protest the issuance of a State marijuana license, which would include taking corrective action when a marijuana business falls behind in remitting sales tax.

On January 25, 2021, the Assembly Human Resources Committee recommended the Assembly introduce this ordinance without review by the Planning Commission.

The City Manager recommends the Assembly adopt this ordinance.

Public Comment:

None.

Assembly Action:

MOTION by Mr. Bryson to adopt Ordinance 2021-04 and asked for unanimous consent.

Ms. Hale objected for purposes of a question. Ms. Hale asked what the reason was for singling this type of license out for this specific legislation. Mr. Palmer explained the unique legal limitations that marijuana regulations do not permit CBJ from placing a lien like it can on other businesses, and it is not an issue that can be resolved in a reasonable amount of time. Ms. Hale removed her objection.

Ms. Gladziszewski explained that during her time on the Marijuana Committee, this was the exact intent so that they would not have to genuflect to the State's Marijuana Board, and that CBJ could handle the issue themselves.

Hearing no further objection, Ordinance 2021-04 was adopted by unanimous consent.

E. Emergency Ordinance 2021-07 An Emergency Ordinance Amending the COVID-19 Travel Mandates in Emergency Ordinance 2021-05.

The local CBJ Travel Mandates were adopted on February 11. Three days later, the State issued a Health Advisory. Consistent with the State's Health Advisory, this emergency ordinance would eliminate the \$250 COVID-19 testing fee for non- residents and clarify the procedures for fully vaccinated travelers arriving in the City and Borough of Juneau.

The City Manager recommends the Assembly adopt this emergency ordinance.

Public Comment:

Mr. Grantley Moore, a Juneau resident and owner of Moore Charters, encouraged the Assembly to remove the five-day social distancing requirement as soon as it is safe to do so. He shared that he has lost thousands of dollars in business in cancelled bookings due to this requirement. He emphasized that he would like to see this requirement removed once the safety of the community has been ensured, as it would help return to business as usual.

Mr. Smith asked if Mr. Moore had been able to file a travel protocol plan for an exemption from the city's requirements. Mr. Moore explained that the five-day social distancing requirement has prevented potential customers from booking with his company.

Ms. Sarah Lowell, a Douglas resident and Tour and Marketing Manager for Coastal Helicopters, spoke against extending this ordinance until May 26. She explained that this requirement is causing cancellations in booking for their independent customers, and has resulted in issuing

refunds to travelers who have decided to travel elsewhere. She feels that extending this ordinance to May 26 will hinder the development of her business, and could be detrimental to other businesses in town.

Ms. Hale mentioned to Ms. Lowell that this current emergency ordinance would alter the travel mandate, changing the requirements to state that those who are fully vaccinated will not have to adhere to strict social distancing. She asked if that adjustment would help the clients she is working with to know that those requirements have been lifted. They would still need to test, but they would not need to socially distance. Ms. Lowell said that if the clients were fully vaccinated then that might work, but it would depend on the vaccination rate from the state they are travelling from. She added that there are people who are not able to get a vaccine as of right now, but are still wanting to travel.

Mr. Bryson asked Ms. Lowell if changing the date to May 1 would make a difference or potentially stop those cancellations. Ms. Lowell said that May 1 would give her business some time to capture some of this business, but it would still impact reservations.

Ms. Gladziszewski said that the ordinance as it stands will last until May 26, and would not affect any potential bookings made after May 26. She said that this ordinance would not harm her business for the entire summer, it would only restrict business until May 26.

Ms. Lowell claimed that this restriction could potentially harm her entire summer, as people are already planning their trips at this time.

Assembly Action:

MOTION by Ms. Hale to adopt Emergency Ordinance 2021-07 and asked for unanimous consent.

Objection by Mr. Bryson for purposes of an amendment.

AMENDMENT #1 by Mr. Bryson to change the sunset date of Emergency Ordinance 2021-05 to be May 1, 2021 rather than May 26, 2021.

Mr. Bryson in speaking to his amendment, said that three weeks is a significant amount of time for a business, as May is the beginning of the summer season. He believes if Juneau starts the summer season remaining closed while other Alaska cities are open, it will lead to independent travelers choosing to visit those cities over Juneau. He added that those first three weeks will have a significant impact on businesses as well as sales tax revenue. Mr. Bryson encouraged the Assembly to start the summer season off on the right foot, in anticipation for an already dismal tourism season. He spoke to the safety measures that have kept Juneau and our community protected so far.

Ms. Gladziszewski shared that the Assembly could always change the date to be earlier, though it would be more difficult to make the date later. She would be more comfortable with leaving the date at May 26 for now, and adapting it to an early date if need be at a later time when the

variables are more present and they have more information. She advised against opening up too soon and potentially harming the progress Juneau has made so far.

Ms. Triem supported Mr. Bryson's amendment, and said the restriction could lead travelers to write off Juneau for the entire summer, regardless of the fact that the restriction would only last through May.

Ms. Hale spoke against Mr. Bryson's amendment, and was concerned that relaxing the requirements could result in Juneau being put in a high-risk situation. Considering the effort it took to maintain a low COVID case count, she said that we do not understand the risks involved at this time.

Mr. Watt clarified that the EOC and the Legislature will indicate to the Assembly how COVID levels are shifting in the community, regardless of which date the Assembly chooses.

Mr. Smith asked for clarification on Anchorage's travel and safety restrictions. Mr. Watt shared that he is not aware of any other communities in Alaska that have an ordinance like this in place, and it is possible that Juneau is one of the only larger communities that has an ordinance such as this.

Ms. Woll spoke in favor of Mr. Bryson's amendment, adding that if they decide on this it could send an optimistic message to travelers to Juneau.

Mayor Weldon spoke in support of Mr. Bryson's amendment, and said that if they decide not to change it now but retroactively change it later, travelers will only be aware of the initial date put in place. She added that if they change it to May 1, they can continue to watch Juneau's COVID levels and change it to a later date if necessary. She echoed Ms. Woll's sentiments of being optimistic, and would not hesitate to make changes if the risk mitigation measures called for the Assembly to do so.

Roll Call vote on Amendment #1:

Yeas: Bryson, Hughes-Skandijs, Woll, Triem, Weldon

Nays: Smith, Hale, Gladziszewski, Jones

Amendment #1 passed. Five (5) Ayes, Four (4) Nays.

Mr. Jones asked for clarification on the number of votes required to pass an emergency ordinance. Mr. Palmer clarified that any amendment may on pass on a 5:4 majority vote, but the emergency ordinance itself requires six votes to pass.

Mr. Smith asked for clarification as to why they are opting to remove the \$250 for a nonresident to receive a test result, and also asked if the vaccination requirement was supported by CDC guidance.

Ms. Cosgrove explained that the \$250 fee for testing has not been collected by the State or the testing providers, and the city has no way to enforce collection of that fee. Additionally, CBJ is not paying for airport testing, so Juneau will cease collecting that fee for practical purposes. Ms. Cosgrove also explained that there is no absolute guidance from the CDC at this point that vaccination would be an antidote to strict social distancing. However, the EOC had a health consultant speak with Alaska DHSS Epidemiology staff that identified being vaccinated as posing less of an overall risk.

Ms. Woll asked for clarification on the difference between the procedures for fully vaccinated travelers and non-vaccinated travelers. Ms. Cosgrove explained if a non-vaccinated visitor was to travel under our current ordinance, they would be required to test and strictly social distance for up to five days. The State DHSS includes an exemption clause for those who are travelling at least two weeks after their second vaccine dosage: this exemption **advises** these travelers to test, and they are **not required** to strictly social distance. This guidance has not been directed by the CDC.

Objection by Ms. Woll for purposes of making an amendment.

AMENDMENT #2 by Ms. Woll to remove the sections of this ordinance that provides exemptions for fully vaccinated individuals: Section 2(E), Section 3(H), and Section 4(G). She spoke to her amendment, saying that she does not agree with the assumption that fully vaccinated individuals cannot spread COVID-19 to the community.

Objection by Mr. Bryson.

Objection by Ms. Gladziszewski. While she agreed with Ms. Woll that scientific data does not definitively conclude that fully vaccinated individuals cannot spread COVID-19, she said that public health officials in Alaska have decided to agree with that side of the argument. Ms. Gladziszewski said that throughout this pandemic, the Assembly has sided with public health officials, and will continue to do so.

Roll Call Vote on Amendment #2:

Ayes: Woll.

Nays: Smith, Hughes-Skandijs, Bryson, Hale, Triem, Gladziszewski, Jones, Weldon.

Amendment #2 Motion failed. Eight (8) Ayes, One (1) Nay.

There being no further amendments and hearing no objections, Emergency Ordinance 2021-07 was adopted as amended by unanimous consent.

IX. UNFINISHED BUSINESS

None.

X. NEW BUSINESS

A. Regulation Title 05 Chapter 10 Waterfront Sales Permit

This regulation change will amend the definition of “B Zone vehicle” managed by Docks & Harbors. Previously tour buses which carried fewer than 18 passengers were designated “B Zone vehicles”. With the new waterfront staging facility purposely constructed for larger, airporter-sized vehicles capable of carrying greater than 18 passengers, the need to redefine “B Zone vehicles” is necessary to be consistent with intended purpose and regulation consistency. The largest vehicle modelled in the design of the new waterfront staging facility was 27 feet overall.

The Docks & Harbors Board held a public hearing on February 25 with no negative comments after the requisite public notification.

The Assembly’s review is guided by CBJC 01.60.260. Notably, the Assembly cannot amend the regulations tonight. However, the Assembly may do one of the following:

1. Not take up consideration of the regulations by moving the regulations with orders of the day, which means the regulations are approved;
2. Discuss the regulations and move to adopt the regulations;
3. Discuss the regulations and direct the Manager to consider reasons to review the regulations again; or
4. Direct the Attorney to prepare an ordinance or resolution for consideration of the substance of the regulations.

The City Manager recommends the Assembly approve the regulations by moving for orders of the day.

MOTION by Ms. Triem to move orders of the day.

Hearing no objections, the motion carried by unanimous consent.

B. Potential State Bond -- 2021 Legislative Priority List

This memo establishes capital budget priorities for CBJ for the 2021 legislative session. The list expands beyond deferred maintenance and infrastructure repair projects that dominate the Capital Improvement Plan and is a forward-looking vision for Juneau’s future. It contains a variety of project types at different stages that could be chosen for inclusion in a capital budget bill or state bond package. It is not organized in priority order.

The PWFC reviewed this list at the February 1 and February 22, 2021 meetings. Docks and Harbors added their two top projects at the January 29, 2021 meeting. The Planning Commission reviewed the list and added projects from area plans at the February 23, 2021 meeting.

The City Manager recommends the Assembly take public testimony on this recommendation, discuss priorities, amend the project list as desired and approve it for submission to the Legislature.

Mr. Watt noted a Red Folder item sent from Ms. Koester via email earlier in the day which contained a more detailed chart following changes made at the PWFC meeting.

Public Comment:

None.

Assembly Action:

Ms. Gladziszewski had a question and an amendment. She asked about the fact that these are not in any sort of priority order and if they would have enough time to prioritize the list rather than leaving it to the legislature to prioritize. She asked if they should do that later or if they need to do that now. Mr. Watt said he thought the Assembly has some time to prioritize the list. If there is a CIP or Bond bill, the Assembly would see that coming and have time to weigh in on the priorities on the list. Discussions with Sen. Kiehl and Reps Hannan and Story said that it is likely the state is looking for more shovel ready projects.

Ms. Gladziszewski said that there are some things on the list that are just ideas and are not items the Assembly has formally adopted/approved, such as a new museum, while others appear in a formally adopted CBJ plan such as the Lemon Creek bike path. She would like the Assembly to have an opportunity to prioritize at some point in the process. She also noted that when she looked at the list, there was a vast disparity across projects between the amounts in the list vs. the total project cost. She said that for the Lemon Creek bike path, they are only asking for 3% of the project cost, other things like a new waterfront museum that they don't even agree on, they are asking for 8% of the project costs. She'd like to increase the amount for the Lemon Creek bike path as that area is vastly underserved and people went to planning meetings for two years and the plan sits on the shelf and they hardly move anything. Ms. Gladziszewski said she would like to raise that to \$2 million as it is a vital link to do anything in Lemon Creek area without being put in danger and she would like to see it move more quickly.

MOTION by Ms. Gladziszewski to list the Lemon Creek bike path amount at \$2 million which would put it at 25% of the project cost.

Objection by Mr. Jones. He said that the Governor put in a bond package for \$365 million and he put in the legislation a way to spend all of that. Mr. Jones said that there may be a 10% for the Legislature to approval all of that. What the Legislature may approve is how much will go to each house district (divide by 40). If we put all of our money into one priority and it is only in one election district, then it may not go because it is too much money amongst other things. Then it would need to go to a vote of the public and depending on how Juneau or Fairbanks or others will vote across the state.

Mr. Jones said that while he appreciates Ms. Gladziszewski trying to move this project forward, he doesn't think it will pass in a statewide bond package. Ms. Hale said this list might serve more than the legislature and its potential bond package. She said it could serve as a list towards large federal infrastructure packages or other similar packages.

Additional discussion took place regarding the Lemon Creek bike path as well as other projects on the list.

Mr. Watt spoke reasoning behind the numbers that he put in the list for the dollar amounts that are on the list. For the Lemon Creek bike path, he placed it at the \$250,000 for planning and design as those stages have not yet happened but if the Assembly wished to list it at a different amount, he was amenable to that as well. Ms. Gladziszewski advocated that the Assembly do more than just planning, as she feels they need to do something more for that neighborhood.

Mayor Weldon said they would take an informal vote on this and asked if there were any objections to increasing the Lemon Creek bike path at \$2million for more than just planning, Hearing no objection that motion carried.

Mr. Smith pointed out a small correction needed to Bridget Cove Cabin – that the amount needs to say \$85K to indicate the \$85,000 amount as it was missing the (K) in the list.

Ms. Gladziszewski said she would like to make sure the Assembly has the ability to prioritize the list at a future time.

MOTION by Ms. Gladziszewski to move forward the list as amended with an opportunity to prioritize at a later date. *Hearing no objection, that motion carried.*

XI. STAFF REPORTS

None.

XII. ASSEMBLY REPORTS

A. Mayor's Report

Mayor Weldon reported that Southeast Conference met virtually and most of the Assemblymembers attended the conference. They continue to meet with the Southeast regional cruise ship ports but they haven't been making any headway on that. They have reached out to try to get Canada to change its mind on no sail orders and they've also reached out to the CDC to try to get updated guidelines to allow for cruise ship travel.

Mayor Weldon said that she met with Sen. Murkowski when she was here in Juneau. Sen. Murkowski is a wealth of knowledge and she understands the importance of tourism and having the cruise ships here in Juneau and S.E. Alaska.

Mayor Weldon said that they all worked very hard on the Systemic Racism Review Committee (SRRC) formation but she will defer to Mr. Bryson to report on that during committee reports.

B. Committee Reports, Liaison Reports, Assembly Comments and Questions
Committee of the Whole (COW) Chair Jones reported that the COW met on February 22, with the first hour meeting with Airport Board and the second hour discussing Solid Waste Update. The next COW meeting is March 15.

Assembly Finance Committee (AFC) Chair Triem reported that they have not had an AFC meeting since the last Assembly meeting. The next scheduled AFC meeting will be held on Wednesday March 3 and they will be hearing from the auditor and the investment guidance folks.

Lands, Housing, and Economic Development Committee (LHEDC) Chair Gladziszewski reported that the LHEDC last meet had been cancelled and the next meeting is scheduled for March 15.

Human Resources Committee (HRC) Chair Bryson shared that the HRC met earlier in the evening and were forwarding the following nominations for appointments to boards and committees:

Jensen-Olson Arboretum Advisory Board: appointments of Katherine Evans, Patricia Harris, Ed Buyarski to terms beginning immediately and ending January 31, 2024 and the appointment of Sarah Dolan to a term beginning immediately and ending January 31, 2022.

Juneau Commission on Aging: appointments of Jennifer Carson, Janet Beauchamp, and Carole Ende terms beginning immediately and ending January 31, 2022

Sister Cities Committee: reappointment of Junnie Chup to a term beginning immediately and ending January 31, 2022.

Douglas Advisory Board: appointment of Ed Shoenfeld to a term beginning immediately and ending September 30, 2023. *Hearing no objections, those appointments were approved by unanimous consent.*

Mr. Bryson also reported that there are two Board Training sessions for Advisory Board Chairs and board members with the first one on March 18 from 6-8pm and the second opportunity on March 20 from 9am-11am; members need only attend one session as the same training is being held twice to enable greater participation.

Mr. Bryson also noted that the HRC reviewed the resolution to remove the sunset date from the Juneau Commission on Aging and that will be coming forward to the Assembly for adoption.

1. PWFC Report to the Assembly

Public Works and Facilities Committee (PWFC) Chair Hale shared that the PWFC last met on February 22 and they were provided with an update on Jordan Creek flooding which is quite complex and DOT is scoping out culvert changes. PWFC also talked about the possibility of a JCOS liaison sitting with the PWFC in the future. The committee also received an update on the waste water treatment plants. Ms. Hale provided a report in the packet with respect to the priorities and goals set by the Assembly.

Liaison reports:

Ms. Woll said that the Juneau Commission on Aging was working on the senior survey still. They wanted to get rid of sunset date and that topic was discussed at the HRC meeting.

Ms. Woll reported that the Downtown Business Association will be meeting tomorrow. Travel Juneau had a regular meeting and then an annual retreat. She said that she didn't get to go to the TJ annual retreat but she'll be meeting with Ms. Perry to discuss what was covered at the retreat. At the TJ meeting she attended, they received an update from Eaglecrest on their winter tourism.

Mr. Smith reported that there were no Local Emergency Planning Committee meetings since the last Assembly meeting. He said that he attended the Airport Board meeting and the Airport Board also met with Assembly during the COW. He said that he is looking forward to tour with Ms. Wahto out at the airport.

Ms. Hughes-Skandijs reported that the Juneau Campus Advisory Council met earlier in the day and received an update on enrollment. She said the Chancellor will be meeting with Pat Pitney discussing overall enrollment forecasts. She said they are expecting to have a full offering of classes and housing but will still be having to deal with COVID.

Ms. Hughes-Skandijs reported that the Docks and Harbors Board met February 25 and discussed the B Zone regulations that were moved at this meeting. She said they also had a good discussion regarding the harbor rates with CPI index that will be five cents cheaper since it is based on the Anchorage CPI. They received a presentation on Whale Sense and talked about the recommendations of the Tourism Review Board and how that fits with the Whale Sense piece.

Ms. Hughes-Skandijs said that it feels like a long time but the last time the Juneau Commission on Sustainability met, they got an update on a Solid Waste report that is being put together, they went over priorities, and they installed new officers.

Mr. Bryson reported that the Parks and Recreation Advisory Committee (PRAC) meets tomorrow night and the Eaglecrest Board meets on Thursday and he'll be attending both those meetings. He said that during the break, he received a call from the president of Alaska Tourism Adventures which is the largest tour operator in the state and because of the decision to back the sunset date to May 1 allowed them to make their decision to start hiring people for the tourist season.

Ms. Hale said that the Alaska Municipal League met on February 19 with Sen. Murkowski who is very concerned about the Federal COVID aide package not providing enough for Alaska and she is trying to get more sent here.

Ms. Hale said on February 1 and 22 she met with the BRH PCR testing group and the machine is up and working. They are projecting by March 10, they will be taking over the testing that CCFR is doing and by March 11, they will be taking over testing for the Legislature but they are somewhat limited in the actual test kits they have so they are working on securing the supplies needed for testing so may not be able to take over the airport testing right away. She reported that the BRH Board talked about another power surge that was very difficult for equipment. BRH CEO Recruitment has been continuing, and there was a press release about meeting the four finalists and interviews with those finalists March 19 & 20. She said that the Rural Demonstration Project has been renewed for a 5-year period which was very important for BRH. BRH Board voted on potential purchase of a building and that was on the consent agenda for this Assembly meeting.

Ms. Triem reported that the Aquatics Board met and things are changing due to Level 1. She encouraged people to check out the pools website for new protocols and new schedules. Swim lessons and classes will resume when staff is fully vaccinated. Private lessons are taking place currently with vaccinated individuals. She gave a Big Thank You to all the Aquatics staff for all their efforts during the pandemic.

M. Gladziszewski reported that the School Board met on Friday night, and that although they made no decisions, they did talk about priorities and will continue to hold additional meetings. She said that she attended a number of meetings including the NCL and Calhoun Ave. public meetings. She gave a Huge Thank You to Ms. Cosgrove, Mr. Barr, and everyone involved in the POD vaccine clinics and how well they are organized and how it lowers everyone's anxiety. She noted a new part of the website that includes a list who has doses left if they are using the state's system.

Ms. Gladziszewski also gave a big Thank You to Tom Mattice and the Emergency Programs for all their work on avalanche forecasting. She said that Mr. Mattice knocked on 39 doors to ensure people were safe and he and Michelle Brown and dozens of Red Cross Volunteers were at Centennial Hall. She said that she stopped by there and when she was there, there were more volunteers than community members using the shelter. She extended her thanks for the continued monitoring of the avalanche dangers.

Mr. Jones reported that the Planning Commission (PC) met twice. On February 9 they reviewed the FEMA rules re: Flood Maps and on February 23 they reviewed part of the CIP List and out of that came the two letters that the Assembly reviewed tonight. He said the Title 49 Committee met about parking and its next meeting is on April 1. He said that CDD is short on staff with some people out. He said the next PC meeting is on March 9.

Mr. Jones said he attended the BRH meeting, the Downtown Blueprint Committee and also the JEDC Visitor Product Cluster where they met and discussed USFS permits and fees. They talked

about sending a letter of support re: PPP extensions and also a possible letter to the Alaska congressional delegation for a Yukon/AK travel corridor. He said that there was also a cluster meeting related to a Winter Tourism Workshop on March 4 or 5. The next JEDC is meeting March 16. He said that the small cruise lines are looking at preparing for an actual which they hope to start when all their crew members are fully vaccinated. He said they may be trying to run their cruises such that all of their passengers are also vaccinated as well.

C. Presiding Officer Reports

1. Wille and Weldon v. Planning Commission and CCTHITA

This appeal relates to a Planning Commission decision granting a conditional use permit for transitional housing at 6205 Alaway Avenue (Lemon Creek/Midtown) for the Central Council of the Tlingit and Haida Indian Tribes of Alaska. The Assembly referred this appeal to a Hearing Officer, who is conducting the public hearing on March 8 at 5:30 p.m. via Zoom.

No action needed.

Mr. Palmer provided an update that the Hearing Officer on this appeal will be conducting the hearing on this appeal. He said the public is welcome to listen/watch the public hearing but there will not be any opportunity for public comment. He then provided the timelines for draft written decision and final draft to go to Assembly around April 15ish.

XIV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

None.

XIV. ADJOURNMENT

There being no further business to come before the Assembly, the meeting was adjourned at 9:41p.m.

Signed: _____

Elizabeth J. McEwen
Municipal Clerk

Signed: _____

Beth A. Weldon
Mayor

THE CITY AND BOROUGH OF JUNEAU, ALASKA
REGULAR ASSEMBLY MEETING
DRAFT Meeting Minutes – April 5, 2021

MEETING NO. 2021-08: The Regular Assembly Meeting of the City and Borough of Juneau Assembly was held virtually via Zoom webinar, and called into order by Mayor Beth Weldon at 7:00p.m.

I. ROLL CALL

Assemblymembers Present: Maria Gladziszewski, Loren Jones, Wade Bryson, Carole Triem, Alicia Hughes-Skandijs, Michelle Hale, Christine Woll, Greg Smith, and Mayor Beth Weldon.

Assemblymembers Absent: None.

Staff Present: City Manager Rorie Watt, Deputy City Manager Mila Cosgrove, City Attorney Robert Palmer, Municipal Clerk Beth McEwen, Deputy City Clerk Diane Cathcart, Library Director EOC/PC Robert Barr, Finance Director Jeff Rogers, Lands Manager Dan Bleidorn, Parks and Recreation Director George Schaaf, Assistant City Attorney Sherri Layne

II. SPECIAL ORDER OF BUSINESS

A. Introduction of Exchange Student

Amelia Jenkins noted that usually we have 7-8 exchange students each year that she has the honor of introducing but this past year, we have had one exchange student in Juneau for the entire school year so far. She asked Friederike “Rike” Brandt to introduce herself and to share with the Assembly where she is from and where she attends school. Ms. Brandt said that she is from Berlin, Germany and she is currently a junior attending Juneau-Douglas High School. Mayor Weldon welcomed Ms. Brandt and asked her to share one thing that surprised her about Juneau. Ms. Brandt said that one thing she was surprised by was for a town the size of Juneau how there were so many people from all of the world in the community. Assemblymembers asked Ms. Brandt about her Juneau experience and Ms. Brandt said that she loves Juneau’s snow and skied for the first time when she came here. She thanked the Assembly for having her participate in this meeting.

B. Robert Barr - American Library Association’s Ernest A. DiMattia Award for Innovation and Service to Community and Profession

Mayor Weldon recognized current Library Director, EOC Planning Chief, and soon to be Deputy Manager Robert Barr for receiving the American Library Association’s Ernest A. DiMattia Award for Innovation and Service to Community and Profession. She said that those of us who know Mr. Barr well, know how much he deserves this award and that it is an award equivalent to the Nobel Prize in the Library profession. She recognized that the vaccination clinics are thanks in large part to Mr. Barr’s efforts and the community has had an outpouring of thanks and appreciation for his work in putting these together.

Mr. Barr thanked the Mayor for her kind words and gave recognition to the ECO team and volunteers responsible for putting on the vaccine clinics. He said that after a very trying past year, it is gratifying to be part of this effort and seeing the light at the end of the tunnel.

Mr. Watt thanked Mr. Barr and also thanked the Barr family for sharing Robert so much over the past year. Mr. Watt noted that in addition to the many hats he is currently wearing, Mr. Barr also stepped in and served as interim Engineering/Public Works Director at the end of 2019/beginning of 2020 and has also lead the efforts in Juneau ramping up COVID testing equipment at Bartlett Regional Hospital which was a huge lift.

Ms. Hale shared that she was on a call earlier in the day and she wanted to repeat what had been said on that call. She said that big thanks was expressed for everyone who has been part of the vaccination roll out and that especially to Mr. Barr. She said that Juneau has been setting the standard for the rest of the state in terms of vaccinations and for the country so in terms of vaccination clinics, Juneau is held up as a shining example by many people.

C. Instruction for Public Participation

Municipal Clerk McEwen provided instruction to the listening public on how to participate in the meeting via the Zoom platform.

III. APPROVAL OF MINUTES

A. November 7, 2020 Special Assembly/Retreat Meeting 2020-45 Draft Minutes

B. January 21, 2021 Special Assembly Meeting 2021-03 Draft Minutes

C. February 11, 2021 Regular Assembly Meeting 2021-05 Draft Minutes

MOTION by Ms. Hughes-Skandijs to delay approval of the November 7, 2020 retreat minutes as she has some items that she wanted to discuss with the Clerk. *Hearing no objections, the November 7, 2020 minutes were removed from consideration at this time.*

MOTION by Ms. Hale for the Assembly to approve of the minutes of the January 21, 2021 and February 11, 2021 meetings and asked for unanimous consent. *Hearing no objections, the January 21, 2021 and February 11, 2021 minutes were approved by unanimous consent.*

IV. MANAGER'S REQUEST FOR AGENDA CHANGES

Mr. Watt asked that Resolution 2943 be removed from the agenda and be placed on the April 7, 2021 Special Assembly meeting agenda. It is item 2(c) on the Consent Agenda and it is a resolution providing for interest rates and there is a technical problem with the resolution's title. He said it is in their intent to hold a Special Assembly meeting on Wednesday, April 7 to cure that technical problem. *Hearing no objection, Resolution 2943 was removed from the Consent Agenda and rescheduled to the April 7, 2021 Special Assembly meeting.*

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Kirby Day, a resident of Tarn Court, wearing his Tourism Best Management Practices (TBMP) hat said that TBMP is celebrating its 25 year in addressing community concerns in Juneau. He said they are very proud of the progress they have made over the past 25 years and they are still very committed to their mission in making Juneau a wonderful place to visit and to live. He said that Ketchikan, Skagway, Wrangell, and Icy Straight Point are now working on implementing TBMP in their communities which he feels demonstrates the value of the program and the great work that has been done here in Juneau. TBMP will be operating this summer, regardless of how many visitors we have. For tour businesses which choose to open as well as the community, the hotline will be active and they will be responding to calls, emails, and community concerns. He said they have the revised 2021 TBMP guidelines finished and published. TBMP has made a difference in this community over the past 25 years and they are committed to continuing that tradition and they support the work of the Visitor Industry Task Force. He thanked the Assembly for its continued support and the thanked the community as well.

Starr Parmley, a Captain out of Douglas Harbor and Auke Bay as well as other locations not in Juneau spoke on the proposed Harbor rate increases that may come forward from the Docks and Harbors Board. He said that this is of particular importance to him as he does live in the harbor and is a young professional making ends meet without a problem but a lot of his neighbors aren't quite as lucky as he is. He said that many people find themselves living pay check to pay check and many of the harbor patrons are now being faced with a 100% rate increase and while it may not seem like much to some, for some of the harbor patrons, that is a living expense during a really bad time for such a raise in fees. Mr. Parmley said he would like to have live-a-board members have a more active role in the work of the Docks and Harbors Board and management.

Mr. Smith asked Mr. Parmley if he had a chance to attend the Docks and Harbors Board and provide testimony to them similar to what he spoke on tonight. Mr. Parmley said that he was able to read the minutes of the meeting in March but he was unfortunately out of service when the meeting was held. He said that the testimony that was provided seemed like it did represent some of the points across the spectrum of the rate increase, it didn't seem to really address anything related to the live-a-board situation.

Caitlyn Fleischman, a live-a-board at Fisherman's Bend in Auke Bay, said she was just made aware of the proposed changes to the live-a-board fees and increase in harbor rates. She said that she has lived in Downtown, Statter, and Douglas Harbors and in seeing the differences in the management between the two harbors, she posed a hypothetical question on how this will actually generate much revenue for the proposed purchase of UAS. She said that Statter Harbor management is very much on top of things with respect to managing live-a-boards but Downtown and Douglas are not so she is wondering if they will be hiring more dock workers to enforce that live-a-boards are in fact living aboard their vessels. She said that she also sees that amongst the community of boaters, live-a-boards are a very small percentage of the user group so she doesn't see how that will generate much revenue. She suggested one idea to possibly raise more revenue is to mirror the parking permit fees in Downtown and Douglas that are currently in effect for Statter Harbor, especially in the summer. Increasing revenue that way may be a more

dependable way to raise more money. She said that if they do raise the fees for live-a-boards, it may cause a situation similar to what happened at Aurora where live-a-boards weren't able to pay those fees and ultimately the vessels were abandoned causing even more problems for the Harbors Department.

Mr. Smith asked if Ms. Fleischman was familiar with how CBJ live-a-board fees might compare with those charged in other Southeast communities. Ms. Fleischman said she is only aware of how CBJ compares to Sitka. She said that Eliason Harbor in Sitka was comparable with Downtown and Douglas Harbor fees of approximately \$150/month and Statter Harbor, with electrical costs, gets closer to \$300/month.

Mr. Smith asked for clarification that the rates Ms. Fleischman related were the current live-a-board rates and not the proposed doubling of the rates. Ms. Fleischman said that was correct and that with the proposed rate increase, she would anticipate the Statter Harbor rate to be \$400/month, excluding electrical costs, and \$300/month in Downtown and Douglas whereas Eliason in Sitka would still be charging \$150/month.

Mayor Weldon asked Ms. Fleischman if she has contacted the Docks and Harbors Board with her suggestions regarding the parking. Ms. Fleischman said she had not. She just learned about these changes yesterday and started getting motivated about it today.

VI. CONSENT AGENDA

A. Public Requests for Consent Agenda Changes, Other Than Ordinances for Introduction
None.

B. Assembly Requests for Consent Agenda Changes
None.

C. Assembly Action

Mr. Smith declared a conflict of interest as he periodically does some contract work for the Tree Logic, LLC so when voting on the Consent Agenda, he recused himself from voting on the matter of the Marijuana License #27531 Tree Logic, LLC d/b/a Stoned Salmon Farms.

MOTION by Mr. Jones for the Assembly to approve the Consent Agenda as amended with the removal of Resolution 2943, and asked for unanimous consent. *Hearing no objections, the Consent Agenda was approved as amended by unanimous consent.*

1. Ordinances for Introduction

a. Ordinance 2020-09(AU) An Ordinance Appropriating \$425,000 to the Manager as Partial Funding for the Bartlett Regional Hospital Emergency Department Addition

Capital Improvement Project; Funding Provided by Bartlett Regional Hospital Fund's Fund Balance.

This ordinance would appropriate \$425,000 to begin design for the Bartlett Regional Hospital Emergency Department Addition CIP (B55- 083). The project will expand the Emergency Department and perform ventilation and related improvements in adjacent areas of the hospital. The entire project is estimated at \$7 million and is part of Bartlett's long-range plan of improvements to the hospital campus.

Funding for this request is provided by Bartlett Regional Hospital Fund's fund balance.

The Bartlett Regional Hospital Board reviewed and unanimously approved this request at its February 23, 2021 meeting. The Public Works and Facilities Committee reviewed this request at its March 15, 2021 meeting.

The City Manager recommends the Assembly introduce this ordinance and set it for public hearing at the next regular Assembly meeting.

b. Ordinance 2021-06 An Ordinance Amending the Land Use Code Relating to Floodplain Regulations.

For private property owners to participate in the National Flood Insurance Program, the CBJ must adopt and enforce a floodplain management ordinance, which includes updated floodplain maps. The CBJ recently adopted the updated floodplain maps with Ordinance 2020-42. This ordinance would update the Title 49 provisions to be consistent with the floodplain maps and policies of the National Flood Insurance Program.

The Community Development Department conducted extensive public review for the flood map revision and associated Title 49 language since 2018. The Planning Commission has received updates and reviewed this matter multiple times.

The City Manager recommends the Assembly introduce this ordinance and refer it to the Lands, Housing, and Economic Development Committee.

c. Ordinance 2021-15 An Ordinance Amending Ordinance Serial No. 2020- 21 Regarding the Proposed Refinancings by the Alaska Municipal Bond Bank of Various General Obligation and Revenue Bonds of the City and Borough Authorized Thereunder.

This ordinance amends Ordinance 2020-21 (adopted May 2020), which authorized CBJ's participation in the Alaska Municipal Bond Bank's (AMBBA) refunding of multiple bond issues: 2013 Bartlett Hospital Refunding, 2013 GO CIP, and 2015 Cruise Ship Dock Expansion bonds. The refundings authorized by Ordinance 2020-21 were not completed prior to AMBBA discontinuing services in 2020. However, now that AMBBA has reestablished their services, the refundings can move forward by amending the original ordinance.

The current remaining debt service payments (bonds + interest) total approximately \$47.5 million dollars. AMBBA is proposing a partial Exchange refunding based on various scheduled maturities that show substantial cost savings. Approximately \$18.4 million in debt principal will be refinanced. In March 2021, AMBBA has estimated savings to CBJ of approximately \$1.4 million in a partial Exchange refunding.

The bond refunding transaction will not extend the term of the bonds.

The City Manager recommends the Assembly introduce this ordinance and set it for public hearing at the next regular Assembly meeting.

d. Ordinance 2021-08 An Ordinance Appropriating Funds from the Treasury for FY22 City and Borough Operations.

This ordinance appropriates \$419,156,600 in expenditure authority for the City and Borough of Juneau's FY22 operating budget, excluding the School District. This ordinance appropriates all transfers between funds that support operations, debt service and capital projects as well as the associated expenditures within the funds themselves.

This ordinance also recognizes \$393,024,400 of forecast revenue and transfers-in and decreases fund balances, across all funds, by \$22,987,500. The forecast revenue and draw from fund balance are sufficient to fund the budgeted expenditures. Budgeted expenditures and revenues will be reviewed in detail with the Finance Committee during the budget process in April and May.

The Charter requires that a public hearing be held on the FY22 operating budget by May 1, 2021, and the ordinance be adopted by June 15, 2021.

The City Manager recommends the Assembly introduce this ordinance, refer it to the Assembly Finance Committee for further review, and set it for public hearing at the Special Assembly Meeting scheduled for April 21, 2021.

e. Ordinance 2021-09 An Ordinance Appropriating Funds from the Treasury for FY22 School District Operations.

This ordinance will appropriate to the School District an FY22 operating budget of \$92,396,600. This is an overall increase in the budget of \$838,500 from the FY21 Amended Budget. The FY22 school budget is supported with a combination of funding sources including CBJ local funding of \$29,336,100 and state and federal funding of \$55,506,800. The local funding consists of \$27,264,600 for general operations and \$2,071,500 for programs and activities not subject to the state funding cap.

State statute requires the Assembly to determine the total amount of local educational funding support to be provided and provide notification of the support to the School Board within 30 days of the School District's budget submission. The district's budget was submitted April 1, 2021.

To meet this timing provision, it is necessary for the Assembly to determine the amount of funding and provide notice in the month of April. This amount cannot subsequently be reduced, unless the amount exceeds the State funding cap, but it can be increased. If the Assembly does not set the amount and furnish the School Board with notice within 30 days, the amount requested by the School District is automatically approved.

By Charter, the Assembly is required to appropriate the School District's budget no later than May 31, 2021.

On April 21, 2021, a meeting is scheduled for the Assembly to state, by motion, the amount of local funding to be provided to the School District.

The City Manager recommends the Assembly introduce this ordinance, refer it to the Assembly Finance Committee for further review, and set it for public hearing at the Special Assembly Meeting scheduled for April 21, 2021.

f. Ordinance 2021-10 An Ordinance Establishing the Rate of Levy for Property Taxes for Calendar Year 2021 Based Upon the Proposed Budget for Fiscal Year 2022.

This ordinance establishes the mill rates for property taxes for 2021, which funds a significant portion of the City and Borough of Juneau's FY22 operating budget. The Charter requires the Assembly to adopt, by ordinance, the tax levies necessary to fund the budget before June 15.

The mill levies presented in this ordinance support the Manager's FY22 Revised Budget as amended by the Assembly Finance Committee (AFC). As part of the budget review process, the AFC reviews, amends and recommends to the Assembly the final mill levies. For FY22, the Manager has followed prior direction from the Assembly Finance Committee to implement a 0.20 increase in mill rate from the FY21 Adopted Budget, resulting in a total mill levy of 10.86 mills; the components of which are:

Operating Mill Rate by Service Area	Millage	Change from FY21 Adopted
Roaded Service Area	2.45	-
Fire Service Area	0.31	-
Areawide	6.90	0.20
Operating Total	9.66	-

Debt Service	1.20	-
Total	10.86	0.20

The City Manager recommends the Assembly introduce this ordinance, refer it to the Assembly Finance Committee for further review, and set it for public hearing at the Special Assembly meeting scheduled for April 21, 2021.

2. Resolutions

a. Resolution 2937 A Resolution Adopting the City and Borough Capital Improvement Program for Fiscal Years 2022 through 2027, and Establishing the Capital Improvement Project Priorities for Fiscal Year 2022.

This resolution would adopt the Capital Improvement Program (CIP) for Fiscal Years 2022 through 2027, as required by Charter Section 9.4, and lists the capital projects that will be initially appropriated by ordinance in FY22.

The Planning Commission reviewed the preliminary CIP at its February 23, 2021 meeting. The Public Works and Facilities Committee (PWFC) reviewed the preliminary CIP at its March 15, 2021 meeting and forwarded the plan to the Assembly.

The City Manager recommends the Assembly introduce this resolution, refer it to the Assembly Finance Committee for further review, and set it for public hearing at the special Assembly meeting scheduled for April 21, 2021.

b. Resolution 2945 A Resolution Approving the Annual Export Manufacturing Tax Exemptions.

The CBJ provides a property tax exemption for real and business personal property of certain export manufacturing businesses. Consistent with CBJC 69.10.020(10), three businesses applied for this exemption for 2021. See Exhibit A to Resolution 2945.

On March 10, 2021, the Assembly Finance Committee reviewed and recommended the Assembly approve the three applications consistent with the CBJ Assessor's analysis in Exhibit A.

The City Manager recommends the Assembly adopt this resolution.

c. Resolution 2943 A Resolution Providing For Interest Rates For The General Obligation Bond Being Issued By the City and Borough of Juneau.

On or about April 14, 2021 CBJ is scheduled to sell approximately \$17.6 million in general obligation bonds approved by voters in the October 1, 2019 and October 6, 2020 municipal elections.

The issuance of bonds was authorized by the Assembly in Ordinance 2021-02 adopted March 1, 2021. The final Assembly action, per CBJ Charter, related to these bonds is to “prescribe” (set/accept) by resolution the interest rates and annual principal maturity payment dollar amounts.

CBJ legal counsel, K&L Gates, has prepared Resolution 2943 to adopt the interest rates, via delegation to the City Manager, and set other final bond sale terms. Schedule A of the resolution list the years and amounts when the bonds will mature and sets the maximum interest rates authorized. The aggregate interest cost for all the bonds is estimated to be near 2.0%.

The City Manager recommends the Assembly adopt this resolution.

[Clerk’s Note: Resolution 2943 was pulled from the agenda under Manager’s Request for Agenda changes and rescheduled for public hearing at the April 7, 2021 Special Assembly Meeting.]

3. Liquor License

a. Liquor License Renewals for Licenses: 313, 662, 4543, 3720 & 5524

These liquor license actions are before the Assembly to either protest or waive its right to protest the license action.

Liquor License Renewal

License Type: Beverage Dispensary-Tourism, License #313

Licensee: Juneau Hospitality LLC, d/b/a Ramada by Wyndham Juneau & TK Maguires

Location: 375 Whittier St., Juneau

License Type: Package Store, License #662

Licensee: Breeze-In Corporation d/b/a Douglas Island Breeze-In

Location: 3370 Douglas Highway, Juneau

License Type: Package Store, License #4543

Licensee: Breeze-In Corporation d/b/a Breeze-In

Location: 5711 Concrete Way, Juneau

License Type: Beverage Dispensary-Seasonal, License #3720

Licensee: Goldbelt Aerial Tramway LLC, d/b/a Timberline Bar & Grill

Location: 490 S. Franklin St 1800 ft. level, Juneau

License Type: Brewery, License #5524

Licensee: Barnaby Brewing Company LLC, d/b/a Barnaby Brewing Company

Location: 165 Shattuck Way, Juneau

Staff from the Police, Finance, Fire, Public Works/Utilities and Community Development departments have reviewed the above licenses and recommend the Assembly waive its right to protest the applications. Copies of the documents associated with these licenses are available upon request to the Clerk's Office.

The City Manager recommends the Assembly waive its right to protest the above listed liquor license renewals.

4. Other Items for consent

a. CSP2021-0001 Capital School Park

At its regular meeting on March 23, 2021 the Planning Commission recommended approval of “Capital School Park: Retaining structure replacement, site grading, and new equipment.”

Additional landscape and electrical work is possible if funding is available. One public commenter recommended providing an electric vehicle (EV) charging station at the park. That proposal was not supported for two reasons. One: The priority for the two spaces is to provide ADA access to what is otherwise a walkable neighborhood park. Two: Engineering and Public Works is working on a systemic plan for EV charging, and is expected to brief the Assembly’s Public Works and Facilities Committee in April or May. The March 23 Planning Commission meeting materials are located at: <https://packet.cbjak.org/CoverSheet.aspx?ItemID=9669&MeetingID=1462>

The City Manager recommends the Assembly adopt the Planning Commission's recommendation related to Capital School Park.

b. New Standard Marijuana Cultivation Facility License #27531

CBJ received notice of the following new Alcohol Marijuana Control Office (AMCO) marijuana license application *[Copies of all documents relating to a license are available upon request from the Municipal Clerk's Office]:*

New Marijuana License

License Type: Standard Marijuana Cultivation Facility License: #27531

Licensee: Tree Logic LLC, d/b/a Stoned Salmon Farms

Location: 5763 Glacier Highway, Juneau

(60-day comment period for local governing body action expires Tuesday, May 4, 2021)

CBJ staff from the Police, Fire, Finance, Public Works/Utilities and Community Development departments reviewed this application for compliance with CBJ laws and regulations and recommends the Assembly waive its right to protest the issuance of this license.

As noted by Community Development Department staff during review, although Tree Logic LLC, d/b/a Stoned Salmon Farms, does not yet have a local CBJ license or conditional use

permit, CDD recommends allowing the applicant to move forward to obtain a state license. However, the licensee will not be allowed to operate in the borough until city requirements are met.

The City Manager recommends the Assembly waive its right to protest the issuance of marijuana license 27531.

VII. PUBLIC HEARING

A. Ordinance 2021-12 An Ordinance Amending the Uniform Alaska Remote Seller Sales Tax Code.

The Alaska Remote Seller Sales Tax Commission adopted revisions to the Uniform Remote Seller Sales Tax Code at its February 24, 2021 meeting. In accordance with the intergovernmental agreement that established the Commission, all member municipalities must adopt the revised Uniform Code within 120 days to remain a member in good standing. This ordinance implements a number of clerical and technical clarifications to the Uniform Code, and it also clarifies that all services are subject to sales tax at their destination jurisdiction. This change to the Uniform Code will induce a corresponding adjustment to Juneau's local sales tax code in a separate forthcoming ordinance.

The Assembly Finance Committee reviewed this request at the February 23, 2021 meeting.

The City Manager recommends the Assembly adopt this ordinance.

Public Comment:

None.

Assembly Action:

MOTION by Ms. Woll to adopt Ordinance 2021-12 and asked for unanimous consent. *Hearing no objection, the motion passed by unanimous consent.*

B. Ordinance 2020-09(AR) An Ordinance Appropriating \$17,000 to the Manager as Funding for a COVID-19 Economic Impacts and Recovery Plan; Funding Provided by the General Fund's Fund Balance.

This ordinance would appropriate \$17,000 for a COVID-19 Economic Impacts and Recovery Plan, as proposed by McKinley Research Group, LLC. This plan would provide an overview of economic impacts in Juneau as a result of the pandemic, outlook for economic recovery by sector, and recommendations for pandemic- related economic recovery initiatives.

Funding for this request would be provided by the General Fund's fund balance.

The Assembly Finance Committee reviewed this request at the March 3, 2021 meeting.

The City Manager recommends the Assembly adopt this ordinance.

Public Comment:

None.

Assembly Action:

MOTION by Mr. Smith to adopt Ordinance 2020-09(AR) and asked for unanimous consent.

Objection by Ms. Hughes-Skandijs and by Ms. Gladziszewski.

Ms. Hughes-Skandijs said that she objected to this at the Finance Committee meeting and she is objecting now for the same reasons. She said that she doesn't think this is a bad idea but she does think that now is not the right time. She said that she didn't expect that we would be where we are now with the pandemic and situations continue to change at a rapid pace. She said that given we currently have an Economic Plan, she would like to wait until the pandemic has stabilized more before coming up with this type of plan review.

Ms. Gladziszewski said she objected for reasons similar to Ms. Hughes-Skandijs. She said she feels the scope of work is ill defined and it is not the right time to do this. She said that while it is not a lot of money, normally they don't listen to a consultant and ask them if they should do this type of review, naturally they would say yes because they would be the ones doing it.

Mr. Bryson said that he supports this ordinance and for the small amount of money involved, the more information the Assembly can receive to accurately tell us what is happening in Juneau's economy can help inform them when making decisions. He said it is important to know where the community is hurting and where it is doing well.

Mayor Weldon agreed with Mr. Bryson's comments and that while it is still a dynamic situation, she would prefer to get out in front of the issues of concern rather than chasing after them and this will help identify those area of concern.

Roll call vote on Ordinance 2020-09(AR)

Yeas: Woll, Bryson, Hale, Triem, Jones, Weldon

Nays: Smith, Hughes-Skandijs, Gladziszewski

Motion passed 6 Yeas: 3 Nays

C. Ordinance 2020-09(AS) An Ordinance Appropriating \$203,028 to the Manager as Funding for the Taxiway A&E Rehabilitation Capital Improvement Project; Funding Provided by Airport CARES Act Funding.

This ordinance would appropriate \$203,028 to the Taxiway A&E Rehabilitation CIP (A50-098). This funding will be used for airfield lighting regulator upgrades. These upgrades are considered maintenance-related and are therefore eligible under the Airport's CARES Act grant.

The Airport Board approved this request at the March 17, 2021 special meeting.

The City Manager recommends the Assembly adopt this ordinance.

Public Comment:

None.

Mayor Weldon noted that Ms. Wahto was available to answer any questions the Assembly may have.

Assembly Action:

MOTION by Mr. Bryson to adopt Ordinance 2020-09(AS) and asked for unanimous consent. *Hearing no objection, the motion passed by unanimous consent.*

D. Ordinance 2020-09(AT) An Ordinance Appropriating \$21,624,000 to the Manager as Funding for the Planning, Design, and Construction of Bond-Funded Capital Improvement Projects; Funding Provided by General Obligation Bond Proceeds.

This ordinance would appropriate \$21,624,000 for the planning, design, and construction of bond-funded capital improvement projects.

This appropriation of project funding is consistent with the intent of the \$15 million general obligation bond package approved by voters in the October 6, 2020 municipal election and the \$7 million general obligation bond package approved by voters in the October 1, 2019 municipal election.

Funding for this request would be provided by General Obligation Bond Proceeds.

The Public Works & Facilities Committee reviewed this request at its November 9, 2020 meeting. The Assembly Finance Committee reviewed this request at its December 9, 2020 meeting.

The City Manager recommends the Assembly adopt this ordinance.

Public Comment:

None.

Assembly Action:

MOTION by Ms. Hughes-Skandijs to adopt Ordinance 2020-09(AT) and asked for unanimous consent.

Ms. Gladziszewski objected for purposes of a question. Ms. Gladziszewski said that she went back to the Assembly Finance Committee meeting on the 9th to refresh her memory on this list and the minutes are not very robust for that meeting. She said that she doesn't recall discussing the \$500,000 for the Eagle Valley Center and she asked if someone could tell her how that project ranked high enough to make into the \$5,000,000 amount for Parks.

Mr. Watt said he would answer but also call on Ms. Koester or Mr. Schaaf if more information was needed. He said that the recommended approach for the bond projects was to have Parks projects, School roof projects, and they were looking to do energy efficiency upgrades. The Eagle Valley Center is replacing the heating system with heat pumps, adding insulation, replacing some of the windows and rot towards the energy efficiency focus. He said there was a second category which also qualified and that was work on drainage and site work for the expanding the parking lot so that is how those two parts got included in this ordinance for the nearly \$500,000 amount.

Ms. Gladziszewski, said that during the priority based budgeting, the Eagle Valley Center got ranked towards the bottom. She said that there was mention that it may be paying for itself so she asked if they could share how much use it gets and how much it is rented out, etc...

Mr. Watt said that when they took over the Eagle Valley Center, it was with the understanding that over time, they would be able to cover operating costs with the rental charges. He said that it is an old building and that likely none of our facilities would be able to cover building maintenance costs. He said that it did rank low on the priority budget discussion but they have never decided to stop running the facility. He asked Mr. Schaaf might be able to provide additional details on how it made the list and that Ms. Hale may also be able to provide additional information from the discussion during PWFC.

Mr. Schaaf said that Mr. Watt summarized it very well. He said that they do have a process by which they evaluate all city facilities for building maintenance concerns as well as energy efficiencies and those are two factors that figure highly into their building maintenance review. The Eagle Valley Center scored high for both those criteria. He said that while nothing Parks and Recreation does has a full cost recovery or break even proposition. The Eagle Valley Center has a high cost recovery compared to other Parks and Recreation operations. He said that they have seen a dramatic increase in use of the facility and the entire month of August has been completely booked as well as every weekend this summer. Given that there is a fairly low overhead with a part-time employee who takes care of reservations and site work, the operation as a whole is very economically sustainable. He said that the capital costs and long term repair costs are not able to be budgeted for on an annual basis and they do rely on the CIP process to pay for those large improvements and repairs which is what this project is.

Ms. Gladziszewski thanked staff for the additional information and she removed her objection.

Hearing no objection, the motion passed by unanimous consent.

VIII. UNFINISHED BUSINESS

None.

IX. NEW BUSINESS

None.

X. STAFF REPORTS

None.

XI. ASSEMBLY REPORTS

A. Mayor's Report

Mayor Weldon said that she hoped everyone had a great Easter weekend. She said that she received her second vaccine shot on Friday and the only side effect she experienced was a slight headache on Saturday. She reminded everyone that there is a monetary drawing for those who sign up to receive their first vaccines at either the Centennial Hall clinic, Ron's Apothecary, or Fred Meyer, they will be entered into a drawing with first prize \$500 and second prize of \$250 courtesy of the Juneau Emergency Medical Associates (JEMA). She thanked JEMA for donating the prize money for that vaccine incentive.

Mayor Weldon reported that she was able to cut the ribbon at the Lovely Loo at the Jensen-Olsen Arboretum. She said that was the first time she'd been out to the arboretum but now that there is a lovely loo, she will likely be visiting more often.

Mayor Weldon said she welcomed the first meeting of the Systemic Racism Review Committee. She also gave a shout out to the Finance and other CBJ staff for CBJ's AA+ credit rating which was better than the state's credit rating right now. She gave kudos to past and present staff for working so hard to achieve that credit rating.

B. Committee Reports, Liaison Reports, Assembly Comments and Questions

Committee of the Whole (COW) Chair Jones shared that the COW has not met since the last Assembly meeting. The next COW meeting is scheduled for next Monday, April 12.

Assembly Finance Committee (AFC) Chair Triem reported that the Finance Committee has not met since their last Assembly meeting but the next AFC meeting will be held on Wednesday, April 7, right after the Special Assembly meeting. Mayor Weldon noted that April 7 AFC meeting will be the beginning of the budget season/review cycle.

Lands, Housing, and Economic Development Committee (LHEDC) Chair Gladziszewski reported that the LHEDC has not met since the Assembly meeting two weeks ago and the next meeting of the committee will be held on Monday, April 12.

Public Works and Facilities Committee (PWFC) Chair Hale reported that the PWFC has also not met since the last Assembly meeting and will meet next on Monday, April 12.

Human Resources Committee (HRC) Chair Bryson shared that the HRC due to only having one agenda item, they cancelled the HRC meeting originally scheduled for this evening and their next meeting will be held just prior to the next regular Assembly meeting.

Mayor Weldon asked members to provide their Liaison Reports, Comments, and Questions.

Ms. Woll reported that Travel Juneau and Downtown Business Association have not met since the last Assembly meeting. The Juneau Commission on Aging met and are working on the final touches on their senior survey report and they plan on presenting it to an upcoming Assembly COW meeting. Ms. Woll reported that the Systemic Racism Review Committee (SRRC) met for the first time and they elected a Lisa Worl as Chair and Grace Lee as Vice Chair. She said that the SRRC's first task will be to develop criteria by which to review legislation. She said they will be working on those with the goal to have those developed by June so they are ready to meet with the Assembly about what those criteria are prior to the committee beginning its work reviewing legislation. She said they have set up an aggressive schedule to meet those deadlines. She also reported that the SRRC will be assigning committee members to sit in on the various Assembly Standing Committees to follow along while any legislation is going through the various committee cycles.

Mr. Smith reported that the Juneau Chamber of Commerce, Airport Board, and Local Emergency Planning Committee have not met since the last Assembly meeting. They will be meeting over the next week or two. He said that he will be getting his second vaccine shot later in the week which is very exciting. Mr. Smith wanted to alert the community to the following items coming up: The Juneau Off-Road Association has proposed a trail out at Montana Creek and it is on State land but the public can comment on it until April 21. He said the Glacier Valley Rotary Club is selling bricks at the 9-11 Memorial and is a chance for people to be a part of that. He said that he appreciated those who called in to testify about the live-a-board fees. He said that Docks & Harbors has some hard decisions to make and live-a-boards provide a housing option in town and he plans on looking further into that issue. He wished Happy Easter, Happy Passover, and Happy Ramadan to everyone who celebrates those holidays.

Ms. Hughes-Skandijs said she received her second vaccine shot on Saturday and it was exciting as they had a blue grass band playing while she was at Centennial Hall and she said that was the closest thing she'll be able to get to Folk Fest this year so she was very excited. She said that Folk Fest will be happening virtually and people can experience it by going to AKFolkFest.org to check out the details. She echoed Mr. Smith's wishes for happy belated Easter and Passover and Happy Ramadan upcoming.

Ms. Hughes-Skandijs reported that the Docks and Harbors Board met and as heard from the public testimony, the vast amount of public testimony at that meeting was from live-a-board

patrons. The Docks and Harbors Board did vote to raise the rates by 100% after receiving a presentation from the staff. She said that when the Assembly Finance Committee looks at the Docks and Harbors Budget, the board has a lot of moving pieces so the Assemblymembers should be looking closely at those. She noted that the regulations should be coming to the Assembly in the future and they are in a similar position to where the Utility Advisory Board (UAB) was at a while ago in that their rates had not been raised in many years. She said whether or not that is the right thing to do, the Assembly can look at that when it come up in the AFC.

Ms. Hughes-Skandijs reported that the University Campus Council met at noon and 14 of the 50 applicants moved onto the next stage in the search for the next Arts and Sciences Dean. She said there was a flood in the MRS building. She said that it seems like every time they meet, there is another flood they are dealing with. She noted that this time it wasn't as bad as the previous flood. Summer registration is up across the board which is good news. She said that the Alumni Association will be doing an online silent auction April 21-23 and then a live auction will be held on April 24. Ms. Hughes-Skandijs said that the Juneau Commission will not be meeting on Wednesday as they do not have any agenda items and that concludes her report.

Mr. Bryson reported that the Eaglecrest Board met and they were talking about ways in which they might honor long-time volunteer Craig Lindh who was one of the founders of Eaglecrest. There was discussion about winter tourism. Their Planning Committee is exploring a public development company so Eaglecrest can have a public/private partnership so Eaglecrest can pursue some private investment into Eaglecrest for various activities.

Mr. Bryson reported that he participated in a study from the university that is being conducted by Jim Powell encompassing five cities to try to get a matrix of tourism impacts on cities. *Mr. Bryson's internet froze at this point and he was not able to make the remainder of his report.*

Ms. Hale reported that Bartlett Regional Hospital Board met on March 23 and discussed recruitment in the mental health unit which has seen a lot of increase in the need and use of the behavioral health unit over the past year. Ms. Hale noted that Rose Lawhorne has begun her work as the new BRH CEO. Ms. Hale said that the most recent BRH newsletter had a good picture of Senator Murkowski visiting the new testing lab and a good article about it. She said that in reference to the testing lab, they have been ramping up and reaching out to increase private clients such as the mines, the schools, and others. She said that as of today, at least 46% of Juneau residents have had at least one dose of the vaccine which is a really good rate considering that none of our children are able to get a vaccine yet. She said that is where the glowing comment about Mr. Barr came up that Juneau is leading the charge for Alaska on vaccinations.

Ms. Triem said she has had a very busy two weeks since we are running out of time with Mr. Jones on the Assembly, she has been attending a lot of meetings so she can be like him when she grows up. She attended the Docks and Harbors meeting where they discussed the fee increases. She said that since that is something that is going to be coming to the Assembly in the form of regulations and is more controversial than the usual regulation changes, she encouraged

members to go back and review the minutes and/or watch the meeting recording. Ms. Triem reported that she attended the March Alaska Municipal Climate Action Cohort where they heard about Anchorage's CPACE (Commercial Property Assessed Clean Energy) financing program. She said that they also had an expert on grants and network building. It was mostly focused on how municipalities could pursue grant funding for those issues.

Ms. Triem reported that she listed to the Utility Advisory Board (UAB) meeting on March 31 and she said she feels the UAB is the most underrated board CBJ has. They received a presentation on water and wastewater and the history of the UAB and discussed their annual report.

Ms. Triem said that she also participated in one of Jim Powell's focus groups on the cruise ship study. She noted that as Mr. Bryson mentioned, Juneau is one of five cities across the world that they are looking at the impacts from tourism in this study.

Ms. Triem reported that the Aquatics Board met last Tuesday. They began talking about the commercial use regulations which had begun about a year ago but it had become derailed due to the pandemic. They took comment on those regulations and discussed them but they have not yet made any decisions. It is likely they will be modifying what the staff's recommended changes are. They will be discussing those again at their next meeting next month.

Ms. Gladziszewski said that the committees she follows have not met since the last Assembly meeting. She wished everyone happy spring holidays. She said she celebrated Easter yesterday and hosted her first fully vaccinated human being party yesterday which is the first time she has had other human beings at her home outside of her usual family pod since COVID began. She gave thanks to all the vaccination clinics for making this possible. She had a question of the City Manager about the errors that occurred in the assessment mailing that she saw in the press release yesterday and asked how those errors happened.

Mr. Watt explained that was a good question and he wanted to answer two essential questions: 1) what happened, and 2) given the enormity of tasks involved, is there a good system in place for catching and correcting errors and disputes about values.

- 1) What happened is that they have a mass appraisal system. The Assessor, by state law, has to put out notices to everyone an assessed value as of January 1 of each year. They are compiling data throughout the fall trying to figure out adjustments to make trying to stay current with the market. He said that in one particular neighborhood, one of those adjustments was miss-keyed so there were approximately 105 homes that should be assessed somewhere in the range of \$290,000-\$300,000 that received assessment notices that showed their value at \$1.5-\$1.7 million. He said that in essence, it was an error that magnified greatly. He said that not surprisingly, a lot of people immediately let CBJ know upon receiving their cards and so the press release was sent out on Saturday and posted to social media.

- 2) Do we have a good system in place? He said that he thinks we do have a good system in place. The public communicated very quickly with staff about the error and it was fixed and there is also a process in which individual property owners can contest that their assessments are off and approximately 90% of those get resolved at the consultation stage with Assessor staff. After that, there is the Board of Equalization (BOE) process if it has to raise to that level. He said that we have approximately 8,000 properties in the borough and last year only about three of them ended up going to the BOE. He said that he thinks that shows they do have a good system in place and sometimes errors do happen but overall, they get caught and resolved and the system works as it was intended.

Ms. Gladziszewski asked to clarify that the error occurred due to a parameter that had been entered for a specific neighborhood. So anyone within that neighborhood's assessment was affected. Mr. Watt said that was correct for one particular neighborhood.

Mr. Bryson asked if it would be possible to get a presentation on what the assessor does to determine assessments. Mr. Watt said that was a good suggestion and they could definitely give a presentation on that information, likely in a Finance Committee meeting after the budget cycle. He said that it is a core function of what we do and is important for the Assembly to understand and it would be a good way to inform the public as well since the public often watches those meetings.

Mr. Jones reported that the Planning Commission met on March 23 and the Assembly took up the Capital Park item the PC discussed on tonight's Consent Agenda. He said that the Title 49 Committee met on April 1 and is in the final stages of reviewing the parking portions of Title 49. He said that will be scheduled for a PC public hearing and then a worksession with the PC so the Assembly will not be seeing it for at least another month or month and half. Their next meeting is on April 13. There will be a PC COW meeting at 6pm and a regular PC meeting at 7pm that night. Mr. Jones said that he also attended the Downtown Blueprint meeting last week and they are wordsmithing and rearranging chapters and it will take a couple of more months before they are ready to finalize and take it to the PC.

He said that on March 23, he attended the BRH Board meeting but left early to be able to attend the PC meeting. He said he will be attending the official ceremony for the electric bus at noon on Thursday, April 8 and he said that he hopes everyone has signed up for one of the time slots. He said that there are two other conflicting appointments that same time – Juneau Chamber Off-Road Association presentation to the Juneau Chamber of Commerce, and Tlingit Haida Central Council will be holding a Native Issues Forum on State recognition of tribes.

Mayor Weldon noted that there were no Presiding Officer reports. She also stated that in reference to the Board of Equalization that Mr. Watt mentioned, there are currently vacant seats that need volunteers to serve and she encouraged any public members who may be interested to go to our website and submit an application to serve on the BOE.

XII. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Ms. Monika Kunnat, a Douglas resident said that she has called some of the Assemblymembers about this issue and she was directed to JCOS. She said she feels that it is important, as a community, that we start working on banning single use plastics. She said that it is something that requires immediate action and the only way to solve the problem is not through individual actions but through regulation and that the people who have power to make laws and regulations because it doesn't work on an individual level. She referenced a recent John Oliver show that highlighted this issue. She shared that it is important that since they are on Tlingit land and the land of the Aak'w Kw'aan that we be good stewards and not trash this land. She asked that the Assembly look at imposing bans and look into offering compostable resources because there are alternative materials out there that aren't that much more expensive.

XIII. ADJOURNMENT

There being no further business to come before the Assembly, the meeting was adjourned at 8:14p.m.

Signed: _____
 Elizabeth J. McEwen
 Municipal Clerk

Signed: _____
 Beth A. Weldon
 Mayor

Presented by: The Manager
Introduced: April 26, 2021
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2020-09(AV)

An Ordinance Appropriating up to \$125,000 to the Manager as Partial Funding for the Pile Anodes Installation Capital Improvement Project; Grant Funding Provided by the Alaska Department of Transportation and Public Facilities.

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

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of up to \$125,000 as funding for the Pile Anodes Installation Capital Improvement Project (H51-121).

Section 3. Source of Funds

Alaska Department of Transportation and Public Facilities	\$125,000
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Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2021.

Beth A. Weldon, Mayor

Attest:

Elizabeth A. McEwen, Municipal Clerk

Presented by: The Manager
Introduced: April 26, 2021
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2020-09(AW)

An Ordinance Appropriating \$109,500 to the Manager as Funding for Security Camera Equipment for Capital Transit; Grant Funding Provided by the Alaska Department of Transportation and Public Facilities, with Local Match Funding Provided by the Equipment Replacement Reserve Fund's Fund Balance.

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

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$109,500 as funding for security camera equipment for Capital Transit.

Section 3. Source of Funds

Alaska Department of Transportation and Public Facilities	\$87,600
Equipment Replacement Reserve Fund's Fund Balance	\$21,900

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2021.

Beth A. Weldon, Mayor

Attest:

Elizabeth A. McEwen, Municipal Clerk

MEMORANDUM

CITY/BOROUGH OF JUNEAU

155 SOUTH SEWARD STREET, JUNEAU, ALASKA 99801

TO: Rorie Watt
City and Borough Manager

DATE:

FROM: Greg Smith
Contract Administrator

FILE:

SUBJ: BID RESULTS:
4th Street Douglas Utilities and Drainage
CBJ Contract No. BE21-215

Bids were opened on the subject project on April 13, 2021. The bid protest period expired at 4:30 p.m. on April 16, 2021. Results of the bid opening are as follows:

RESPONSIVE BIDDERS	TOTAL BID
Glacier State Contractors	\$1,639,211.00
North40 Construction Corp.	\$1,850,456.00
Henricksen Construction, Inc.	\$1,888,641.00
Admiralty Construction, Inc	\$2,086,655.00
Architect's or Engineer's Estimate	\$1,738,235.00

Project Manager: Alan Steffert, P.E.

Project Description: Replacement of multiple underground water transmission and distribution pipe networks (three different pressure zones) with new 10" and 14" HDPE pipe, water services, hydrants. WORK will include installation of temporary water systems to maintain service to the high pressure transmission network between PRVs, and temporary water systems to maintain service to affected residents; Replacement of the existing the sewer systems with new manholes, 8" PVC sewer pipe, and 6" services with cleanouts; Replacement of the existing Bear Creek CMP culvert(s) and concrete headwalls with a new 84" diameter x 130' long SRPE pipe culvert and new concrete headwalls, armor rock, and chainlink fencing; New underground storm drain system consisting of 12" and 18" CPP, area drains, and manhole with oil/water separator; Excavation, grading and shaping of the existing unpaved roads' surface, and resurfacing with RAP material; and miscellaneous other improvements necessary for a complete project.

Funding Source: Sales tax - \$400,000; Water Utility Contribution - \$850,000; Wastewater Utility Contribution \$800,000.

Total Project Funds: \$2,050,000.00

CIP No. R72-154

Construction Encumbrance: \$1,639,211.00

Construction Contingency: \$164,000

Design: \$80,000

Contract Administration/Inspection: \$120,000

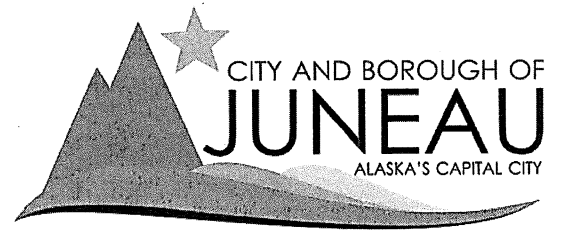
CBJ Administrative costs: \$45,000

Staff recommends award of this project to Glacier State Contractors for the total amount bid of \$1,639,211.00.

Approved: _____
Duncan Rorie Watt
City & Borough Manager

Date of Assembly Approval: _____

c: CBJ Purchasing





THE STATE
of **ALASKA**
GOVERNOR MICHAEL J. DUNLEAVY

**Department of Commerce, Community,
and Economic Development**

ALCOHOL & MARIJUANA CONTROL OFFICE
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

March 19, 2021

City and Borough of Juneau

Via Email: beth.mcewen@juneau.org ; city.clerk@juneau.org

Re: Notice of Liquor License Renewal Applications

License Number	DBA	Type	City	Borough	Community Council
4034	Loyal Order of Moose #700	Club	Juneau	Juneau	NONE
4859	Southern Glazer's of AK	Wholesale General	Juneau	Juneau	NONE

We have received a completed renewal application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under AS 04.11.480.

A local governing body may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of receipt of this notice, and by allowing the applicant a reasonable opportunity to defend the application before a meeting of the local governing body, as required by 3 AAC 304.145(d). If a protest is filed, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

To protest the application referenced above, please submit your written protest within 60 days, and show proof of service upon the applicant and proof that the applicant has had a reasonable opportunity to defend the application before a meeting of the local governing body.

Sincerely,

Glen Klinkhart, Director
amco.localgovernmentonly@alaska.gov

Presented by: The Manager
Introduced: April 5, 2021
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2020-09(AU)

An Ordinance Appropriating \$425,000 to the Manager as Partial Funding for the Bartlett Regional Hospital Emergency Department Addition Capital Improvement Project; Funding Provided by Bartlett Regional Hospital Fund's Fund Balance.

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

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$425,000 as partial funding for the Bartlett Regional Hospital Emergency Department Addition Capital Improvement Project (B55-083).

Section 3. Source of Funds:

Bartlett Regional Hospital Fund's Fund Balance	\$425,000
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Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2021.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

REFUNDING BONDS

Serial No. 2021-15

AN ORDINANCE AMENDING ORDINANCE SERIAL NO. 2020-21 REGARDING THE PROPOSED REFINANCINGS BY THE ALASKA MUNICIPAL BOND BANK OF VARIOUS GENERAL OBLIGATION AND REVENUE BONDS OF THE CITY AND BOROUGH AUTHORIZED THEREUNDER.

Approved: April 26, 2021

Prepared by:

K&L GATES LLP
Seattle, Washington

City and Borough of Juneau, Alaska
Ordinance Serial No. 2021-15
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* This Table of Contents and the cover page are provided for convenience only and are not a part of this ordinance.

Presented by: The Manager
Introduced: 04/05/21
Drafted by: Bond Counsel

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2021-15

An Ordinance Amending Ordinance Serial No. 2020-21 Regarding the Proposed Refinancings by the Alaska Municipal Bond Bank of Various General Obligation and Revenue Bonds of the City and Borough Authorized Thereunder.

WHEREAS, the Assembly of the City and Borough of Juneau (the “City and Borough”) adopted Ordinance Serial No. 2020-21 (the “Ordinance”), authorizing the City and Borough’s participation in proposed refinancings of the Alaska Municipal Bond Bank that provided funds to purchase various general obligation and revenue bonds of the City and Borough on May 18, 2020; and

WHEREAS, the Alaska Municipal Bond Bank was delayed in issuing its bonds for the refinancing from 2020 to 2021; and

WHEREAS, the Assembly intends to amend the Ordinance to provide updated parameters relating to the refinancings authorized thereunder; and

WHEREAS, the Finance Director will hold a public hearing on the issuance of any series of the refinancings herein authorized that will be private activity bonds as required by Section 147(f) of the Internal Revenue Code of 1986, as amended;

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

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Amendment of Section 2(a). Section 2(a) of Ordinance Serial No. 2020-21 is hereby amended to read as follows (additions are underscored, and deletions are shown with the text stricken through):

(a) *2013 Hospital Bond.* The revised schedule of debt service on the 2013 Hospital Bond and other provisions as may be required by the Bond Bank will be set forth in an amendatory loan agreement and a refunding bond to be issued in exchange for the 2013 Hospital Bond. The refunding bond shall come due on the dates set forth in such amendatory loan agreement of the following years in the following estimated principal installments:

Maturity Year	Amount
2021	\$ <u>75,000</u> 265,000
2022	145,000
2023	<u>150,000</u> 145,000
2024	150,000
2025	<u>155,000</u> 150,000
2026	<u>1,205,000</u> 1,230,000
2027	<u>1,240,000</u> 565,000
2028	<u>1,265,000</u> 940,000
2029	<u>1,290,000</u> 1,320,000
2030	<u>1,325,000</u> 1,350,000
2031	<u>1,360,000</u> 1,380,000
2032	<u>1,115,000</u> 1,120,000
2033	0
2034	<u>670,000</u> 665,000
2035	<u>600,000</u> 585,000

At the time of sale, the principal maturities in the foregoing schedule may be increased or decreased by the City Manager or his/her designee for any year by 25%.

Section 3. Amendment of Section 2(b). Section 2(b) of Ordinance Serial No. 2020-21 is hereby amended to read as follows (additions are underscored, and deletions are shown with the text stricken through):

(b) *2013 GO Bond.* The revised schedule of debt service on the 2013 GO Bond and other provisions as may be required by the Bond Bank will be set forth in an amendatory loan agreement and a refunding bond to be issued in exchange for the 2013 GO Bond. The refunding bond shall come due on the dates set forth in such amendatory loan agreement of the following years in the following estimated principal installments:

Maturity Year	Amount
2021	\$ <u>15,000</u> 35,000
2022	<u>30,000</u> 20,000
2023	<u>30,000</u> 20,000
2024	<u>150,000</u> 20,000
2025	<u>155,000</u> 20,000
2026	160,000
2027	160,000
2028	160,000
2029	<u>165,000</u> 170,000
2030	175,000
2031	175,000
2032	180,000
2033	<u>185,000</u> 0

At the time of sale, the principal maturities in the foregoing schedule may be increased or decreased by the City Manager or his/her designee for any year by 15%.

Section 4. Amendment of Section 2(e). Section 2(e) of Ordinance Serial No. 2020-21 is hereby amended to read as follows (additions are underscored, and deletions are shown with the text stricken through):

(e) *2015 Port Bond.* The revised schedule of debt service on the 2015 Port Bond and other provisions as may be required by the Bond Bank will be set forth in an amendatory loan agreement and a refunding bond to be issued in exchange for the 2015 Port Bond. The refunding bond shall come due on the dates set forth in such amendatory loan agreement of the following years in the following estimated principal installments:

Maturity Year	Amount
2021	<u>0</u> \$ 155,000
2022	<u>0</u> 60,000
2023	<u>0</u> 60,000
2024	<u>0</u> 65,000
2025	<u>0</u> 65,000
2026	<u>0</u> 65,000
2027	<u>0</u> 65,000
2028	<u>0</u> 65,000
2029	<u>0</u> 70,000
2030	<u>\$1,175,000</u> 1,405,000
2031	<u>1,235,000</u> 1,440,000
2032	<u>1,290,000</u> 1,470,000
2033	<u>1,360,000</u> 1,510,000
2034	<u>1,095,000</u> 1,210,000

At the time of sale, the principal maturities in the foregoing schedule may be increased or decreased by the City Manager or his/her designee for any year by 25%.

Section 5. Ratification of Ordinance. As amended by this ordinance, the Ordinance is hereby ratified approved and confirmed.

Section 6. Effective Date. This ordinance shall become effective thirty days after adoption.

ADOPTED this 26th day of April, 2021.

Beth A. Weldon, Mayor

ATTEST:

Elizabeth J. McEwen, Clerk

CERTIFICATE

I, the undersigned, Clerk of the City and Borough of Juneau, Alaska (the “City and Borough”), Do HEREBY CERTIFY:

1. That the attached ordinance is a true and correct copy of Ordinance Serial No. 2021-15 (the “Ordinance”) of the City and Borough as finally passed at a regular meeting of the Assembly of the City and Borough (the “Assembly”) held on the 26th day of April 2021, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such special meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Assembly voted in the proper manner for the passage of the Ordinance; that all other requirements and proceedings incident to the proper passage of the Ordinance have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of April, 2021.

Elizabeth J. McEwen, Clerk
City and Borough of Juneau

Presented by: Planning Commission
Presented: 04/05/2021
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2021-06

An Ordinance Amending the Land Use Code Relating to Floodplain Regulations.

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 49.70.400 Floodplain, is amended to read:
49.70.400 Floodplain.

...

(b) *Interpretation.*

(1) In the interpretation and application of this article, all provisions ~~shall be~~ are considered ~~as~~ minimum requirements and ~~shall be~~ are liberally construed in favor of the governing body.

(2) This article is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. ~~However, w~~Where the provisions of this article and another ordinance, ~~easement, covenant or deed restriction~~ conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(3) This article shall apply to all areas of ~~special flood hazard areas~~ Special Flood Hazard Areas (SFHAs) within the jurisdiction of the City and Borough of Juneau.

(4) The ~~special flood hazard areas~~ Special Flood Hazard Areas identified by the Federal Insurance Administrator (FIA) in a scientific and engineering report entitled the “Flood Insurance Study” (FIS) and the ~~flood insurance rate maps~~ Flood Insurance Rate Maps (FIRMs) dated September 18, 2020 for the City and Borough of Juneau, Alaska are adopted. The ~~flood insurance study~~ FIS and ~~flood insurance rate maps~~ FIRMs shall be on file with the Community Development Department and available to the public at 155 South Seward Street, Juneau, Alaska.

(c) Implementation.

The director is responsible for administering and implementing the provisions of this chapter and is responsible for maintaining for public use and inspection appropriate records and information relevant to implementation of this chapter. Such records and information must include:

(1) Actual elevations, in relation to Mean Lower Low Water, of the lowest floor, including basement, of all new or substantially improved structures located in the Special Flood Hazard Area (SFHA), and whether or not such structures have basements;

(2) Actual elevations, in relation to Mean Lower Low Water, of all new and substantially improved flood-proofed structures and the required flood-proofing certifications;

(3) Flood Insurance Studies (FISs);

(4) Flood Insurance Rate Maps (FIRMs);

(5) Any reports or studies on flood hazards in the community, such as written reports by the U.S. Army Corps of Engineers, U.S. Geological Survey, or private firms provided to the director; and

(6) A file of all floodplain permit applications, permits, exceptions, and supporting documentation.

(d) Enforcement. Enforcement of this chapter is per CBJ 49.10.600-660.

(e) Floodplain Development Permit Required.

A Floodplain Development Permit is required for any development or industrial uses located within a Special Flood Hazard Area, including placement of manufactured homes. The director must ~~shall~~:

(1) Review all Floodplain Development Permit applications for development in the Special Flood Hazard Area for compliance with the provisions of this chapter, and to determine if other permits ~~if other~~ may be necessary from local, state, or federal governmental agencies.

(2) Interpret the ~~exact~~ locations of the Special Flood Hazard Area boundaries of the areas of special flood hazard and regulatory floodway. If there appears to be a conflict between a mapped boundary and actual field conditions, the ~~d~~Director ~~shall~~ must determine and interpret the documents. When base flood elevation data has not been provided, the ~~d~~Director shall obtain, review, and reasonably utilize ~~any~~ base flood

elevation and floodway data available from any federal, state, municipal, or any other source to ~~administer~~ implement the provisions of this chapter.

(13) If the director ~~building official~~ determines that a proposed development is within a Special Flood Hazard Area, a permit fee ~~shall~~ must be collected and the following information ~~shall~~ must be provided before processing a Floodplain Development Permit:

(A) Elevation of the lowest floor, including a basement, of all structures;

(B) Elevation to which any structure has been floodproofed;

(C) Certification by an engineer or architect that the floodproofing methods for any nonresidential structure meet generally accepted floodproofing standards;

(D) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development;

(E) Description of the plan for maintenance of the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished; and

(F) When base flood elevation data have not been provided, the director shall obtain, review and reasonably apply any base flood elevation and floodway data available from federal, state or other sources.

(ef) *Methods of reducing losses.* In order to accomplish its purpose, this article includes methods and provisions ~~for to~~ to:

(1) ~~Restricting or prohibiting~~ uses ~~that which~~ are dangerous to health, safety, and property due to water or erosion hazards, or ~~that which~~ result in damaging increases in erosion or flood heights or velocities;

- (2) ~~Requireing~~ that uses vulnerable to floods, including facilities ~~that which~~ serve such uses, be protected against flood damage at the time of initial construction;
- (3) ~~Controlling~~ the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;
- (4) ~~Controlling~~ filling, grading, dredging and other development ~~that which~~ may increase flood damage; and
- (5) ~~Preventing~~ or ~~regulateing~~ the construction of flood barriers ~~that which~~ will unnaturally divert floodwaters or ~~that which~~ may increase flood hazards in other areas.

(dg) *General standards for flood hazard protection.* In Special Flood Hazard Areas the following standards ~~apply shall be met~~:

- (1) Anchoring.
 - (A) Design, modify, and anchor new construction and substantial improvements to prevent flotation, collapse, or lateral movement of the structure(s). ~~All new construction and substantial improvements shall be designed, modified, and adequately anchored, to prevent flotation, collapse, or lateral movement of the structure.~~
 - (B) A ~~All~~ manufactured home ~~homes~~ must ~~likewise~~ be anchored to prevent flotation, collapse, or lateral movement, and ~~shall~~ be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(C) An alternative method of anchoring may be used if the system is designed to withstand a wind force of 90 miles per hour or greater. Certification must be provided to the director building official that this standard ~~has been~~ is met.

(2) Construction materials and methods.

(A) ~~All Construct~~ new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(B) ~~All Use methods and practices that minimize flood damage for new construction and substantial improvements. shall be constructed using methods and practices that minimize flood damage.~~

(C) Design or locate eElectrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities ~~shall be designed or located~~ so as to prevent water from entering or accumulating within the components during conditions of flooding.

(D) Require adequate drainage paths around structures on slopes to guide floodwaters away from existing and proposed structures for new construction and substantial improvements within ~~Within Zones AH and AO, all new construction and substantial improvements shall require adequate drainage paths around structures on slopes to guide floodwaters around and away from existing and proposed structures.~~

(3) Utilities.

(A) ~~All Design~~ new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

- (B) ~~Design new~~ New and replacement sanitary sewage systems ~~shall be designed~~ to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
 - (C) ~~Locate on-site~~ On-site waste disposal systems ~~shall be located~~ to avoid impairment to them or contamination from them during flooding.
 - (4) Subdivision and development proposals must meet the following criteria shall:
 - (A) Be designed to minimize flood damage;
 - (B) ~~Have public utilities and facilities~~ Locate and construct utilities and facilities, such as sewer, gas, electrical, and water systems ~~located and constructed~~ to minimize flood damage;
 - (C) ~~Have~~ Provide adequate drainage ~~provided~~ to reduce exposure to flood damage; and
 - (D) Include base flood elevation data if the development consists of at least 50 lots or five acres, whichever is the lesser. If base flood elevation data is not available, the proposal must provide the data and backup information for how the base flood elevation data was generated for the proposal.
 - (5) Review of ~~building~~ Floodplain Development Permits ~~permits shall~~ must include:
 - (A) ~~The review~~ Review of the ~~flood insurance rate map~~ Flood Insurance Rate Map and Flood Insurance Study ~~flood insurance study~~ for flood zone determinations for ~~all~~ new or substantially improved structures;
 - (B) For new or substantially improved structures:

(i) Submittal of the proposed and finished lowest floor elevations in ~~In~~ Zones A1-30, AE, AO, and AH, ~~the submittal of the proposed and finished lowest floor elevations.~~

(ii) Submittal of the proposed and finished bottom elevation of the lowest horizontal structural member of the lowest floor and its distance from the mean lower low water mark in ~~In~~ Zones V1-30, and VE, ~~the submittal of the proposed and finished bottom elevation of the lowest horizontal structural member of the lowest floor and its distance from the mean lower low water mark;~~ and Submittal of specific requirements for Zones V and VE as set forth in 49.70.400(i).

(C) In Zones A and V, where elevation data are not available through the ~~flood insurance study~~ Flood Insurance Study or from another authoritative source, applications for Floodplain Development Permit ~~building permits~~ shall be reviewed to ensure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and may be based on historical data, high water marks, photographs of past flooding, and other similar or relevant data. Failure to elevate construction at least two feet above grade in these zones may result in higher insurance rates.

(D) Provision of an elevation certificate to demonstrate that the lowest floor of a structure is at or above base flood elevation. The certification must be provided on a form approved by the National Flood Insurance Program and prepared by a registered land surveyor or professional engineer who is licensed in the State of Alaska and authorized to certify such information. This requirement may be waived

by the director if an approved record elevation demonstrates that the lowest floor is substantially above the base flood elevation due to natural ground level.

(6) Other permits. The applicant must certify that all other necessary permits have been obtained from any federal or state governmental agencies. ~~All Floodplain development permits shall be reviewed to determine that all necessary permits have been obtained from those federal or state governmental agencies from which prior approval is required.~~

(7) ~~Alteration of watercourses.~~ Maintain altered ~~Altered~~ or relocated portions of a Special Flood Hazard Area mapped watercourse ~~shall be maintained~~ so that the flood-carrying capacity is not diminished. ~~Any alteration of a special flood hazard area mapped watercourse shall be submitted to the flood insurance administrator.~~ The Department must notify the state coordinating agency, if any, and the Federal Emergency Management Agency prior to issuance of a Floodplain Development Permit that seeks to alter or relocate any watercourse within a Special Flood Hazard Area.

(eh) *Specific standards for flood hazards protection.* ~~In special flood hazard areas~~ Special Flood Hazard Areas where base flood elevation data ~~has been~~ is provided, the following provisions are required:

(1) New structures or substantial improvements. Fully enclosed areas below the lowest floor of new construction or substantial improvements, that are useable solely for parking of vehicles, building access, or storage in an area other than a basement, ~~shall be designed to~~ must automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be

certified by a registered professional engineer or architect licensed in the State of Alaska or must meet or exceed the following minimum criteria:

(A) Provide a ~~A~~-minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding ~~shall be provided;~~

(B) Height of the ~~The~~ bottom of all openings must ~~shall~~ be no higher than one foot above grade; and

(C) Openings may be equipped with screens, louvers, or other coverings or devices provided that ~~they permit~~ the automatic entry and exit of floodwaters is allowed.

(2) Residential construction. New construction and substantial improvement of any residential structure:

(A) Construct the lowest floor, including basement, elevated to or above the base flood elevation within ~~Within~~ Zones A1-30, AE, or AH, ~~shall have the lowest floor, including basement, elevated to, or above, the base flood elevation; or~~

(B) Construct the lowest floor elevated to the base flood depth number specified on the Flood Insurance Rate Map, or higher, or if no depth number is specified, at least two feet above the highest adjacent natural grade within ~~Within~~ Zone AO, ~~shall have the lowest floor elevated to the base flood depth number specified on the flood insurance rate map, or higher, or if no depth number is specified, at least two feet above the highest adjacent natural grade.~~

(3) Manufactured homes. ~~All new~~ New or substantially improved manufactured homes must:

- (A) Be placed at or above, the base flood elevation, within ~~Within~~ Zones A1-30, AH, or AE, and shall be elevated to, or above, the base flood elevation, and comply with subsection (g~~e~~); or
- (B) Elevate the lowest floor to the depth number specified on the Flood Insurance Rate Map, or higher, or if no depth number is specified, at least two feet above the highest adjacent natural grade within ~~Within~~ Zone AO, ~~shall have the lowest floor elevated to the depth number specified on the flood insurance rate map, or higher, or if no depth number is specified, at least two feet above the highest adjacent natural grade;~~ and meet the provisions of subsection (e~~g~~)(1).
- (4) ~~Recreational vehicles.~~ Recreational vehicles placed within any ~~special flood hazard area~~ Special Flood Hazard Area must be ~~shall~~:
- (A) ~~Be~~ Situated on the site for fewer than 180 consecutive days;
- (B) ~~Be fully~~ Fully licensed, operational, and approved for road ~~ready for highway~~ use; or
- (C) Meet the requirements of subsection (h~~e~~)(3).
- (5) Nonresidential construction. New construction or substantial improvement of any nonresidential structure must:
- (A) Elevate the lowest floor, including basement, to or above the base flood elevation within ~~Within~~ Zones A1-30, AE, and AH, ~~shall have the lowest floor, including basement, elevated to, or above, the base flood elevation;~~
- (B) Elevate the lowest floor to the depth number specified on the Flood Insurance Rate Map, or higher, or if no depth number is specified, at least two feet above the highest adjacent natural grade within ~~Within~~ Zone AO, ~~shall have the~~

~~lowest floor elevated to the depth number specified on the flood insurance rate map, or higher, or if no depth number is specified, at least two feet above the highest adjacent natural grade; or~~

(C) Floodproof the area below the base flood elevation within ~~Within Zones A1-30, AE, AH₁ and AO, may have the area below the base flood elevation be floodproof~~ so that:

- (i) The structure and utility and sanitary facilities are watertight with walls substantially impermeable to the passage of water;
- (ii) Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(D) A flood-proofed structure ~~shall~~ must be designed by an engineer or architect licensed in the State of Alaska, certifying that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on the engineer's or architect's development or review of the structural design, specifications, and plans. ~~Such certification~~ Certification must ~~shall~~ be provided to the director ~~building official~~;

(E) Applicants proposing to floodproof nonresidential buildings must ~~shall~~ be notified at the time of Floodplain Development Permit ~~building permit~~ application that flood insurance premiums ~~shall be~~ are based on rates that are one foot below the floodproofed level.

(6) Industrial uses. Industrial uses within the Special Flood Hazard Area are subject to the following provisions:

(A) Sand and gravel operations, recreation activities, open space, and parking lots may be allowed in 100-year floodplains ~~only if they do~~ the use does not increase the flood hazard.

(B) Industrial equipment and raw materials stored in 100-year floodplains ~~shall~~ must be adequately bermed or otherwise protected.

(C) Disposal of hazardous materials in 100-year floodplains is prohibited. No new development ~~which will~~ that involves storage of hazardous materials will be permitted in the 100-year floodplain unless there is no feasible and prudent alternative and ~~unless~~ adequate safety measures are provided to prevent accidental discharge.

(D) Establishment of sanitary landfills in floodplains is prohibited.

(7) Increasing water surface elevation in ~~special flood hazard area~~ Special Flood Hazard Area mapped watercourses where floodways are not mapped. Notwithstanding any other provisions of this ~~article section~~, development in Zones A1-30, AE, and AH may increase the water surface elevation of the base flood:

(A) Up to one foot with the submittal of an analysis completed by an engineer licensed in the State of Alaska demonstrating the cumulative effects of the proposed, existing and anticipated, development to the base flood; or

(B) By more than one foot only after a conditional letter of map revision and final letter of map revision is approved by the Federal Emergency Management Agency flood insurance administrator.

(f) *Additional provisions in floodways.* ~~Floodways are areas designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point. Floodways are shown in the flood insurance rate map.~~

(1) Residential and nonresidential ~~buildings~~ structures are prohibited in floodways, no exceptions apply. Culverts and bridges are not subject to this prohibition.

(2) Encroachments, including fill, new construction, ~~substantial improvements~~, and other development, except subdivisions, within a floodway ~~is~~ are prohibited unless an engineer licensed in the State of Alaska submits a hydrologic and hydraulic analyses to the director indicating that the encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. The hydrologic and hydraulic analyses ~~shall~~ must be performed in accordance with standard engineering practice acceptable by the Federal Emergency Management Agency.

(3) Development along a floodway cannot increase the water surface elevation uUnless a conditional letter of map revision and final letter of map revision that revises the floodway ~~is~~ are approved by the Federal Emergency Management Agency, ~~development along a floodway shall not increase the water surface elevation.~~

(g) *Additional provisions in Zones ~~V1-V30~~, VE and V.*

(1) ~~All n~~ New construction and substantial improvements in Zones V1-V30, and VE, and V shall must be elevated on pilings and columns so that:

(A) The bottom of the lowest horizontal structural member of the lowest floor, excluding the pilings or columns, is elevated to or above the base flood elevation;
and

(B) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values ~~shall~~ must each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval). Wind loading values used ~~shall~~ be are those required by applicable state statute and local code. A registered professional engineer or architect licensed in the State of Alaska must ~~shall~~ develop or review the structural design, specifications and plans for the construction and ~~shall~~ must certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsections ~~(g)~~(1)(A) and (B) of this section.

(C) The use of fill for structural support of buildings is prohibited.

(2) In Zones ~~V1-V30~~, VE_r, and V, ~~all~~ new habitable construction ~~shall~~ must be located landward of the reach of mean high tide.

(3) In Zones ~~V1-V30~~, VE_r, and V, ~~all~~ new construction and substantial improvements ~~shall~~ must have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood latticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

(4) Breakaway walls ~~shall~~ must have a design safe loading resistance of not less than ten pounds per square foot and no more than 20 pounds per square foot. Use of breakaway walls that ~~which~~ exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a

registered professional engineer or architect licensed in the State of Alaska certifies that the designs proposed meet the following conditions:

(A) Breakaway wall collapse ~~shall~~ must result from a water load less than that which would occur during the base flood; and

(B) The elevated portion of the building and supporting foundation system ~~shall~~ must not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination ~~shall~~ must each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval). Wind loading values used shall be those required by applicable state statute and local code.

(C) Enclosed space within breakaway walls ~~shall be~~ are limited to parking of vehicles, building access, or storage. Such space ~~shall~~ must not be used for human habitation.

(k) Warning and disclaimer of liability. The degree of flood protection required by this article is intended for minimum regulatory purposes only and is based on general scientific and engineering principles. Floods larger than expected, can and will occur. Flood heights may be increased by human or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the City and Borough, any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision made thereunder.

Section 3. Amendment of Section. CBJ 49.70.410 Exceptions, is amended to read:

49.70.410 Exceptions.

(a) The Planning Commission ~~board of adjustment~~ shall hear all applications for an exception from the provisions of this article, and ~~shall be~~ are limited to the powers granted in this article and those necessarily implied to ensure due process and to implement the policies of this article.

(b) In passing upon such application, the ~~board of adjustment~~ Planning Commission shall must consider all technical evaluations, ~~all~~ relevant factors, standards specified in other sections of this article, and:

- (1) The danger that materials may be swept onto other lands and cause injury to other persons or property;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(c) Exceptions may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (b)(1)—(b)(11) of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the exception increases.

(d) Upon consideration of the factors of subsection (b) of this section and the purposes of this article, the ~~board~~ Commission may deny or grant the application and may attach such conditions to the grant of an exception as it deems necessary to further the purposes of this article.

(e) Exceptions may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this section.

(f) Exceptions ~~shall~~ must not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(g) Exceptions ~~shall~~ must only be issued upon a determination that the exception is the minimum necessary, considering the flood hazard, to afford relief.

(h) Exceptions ~~shall~~ must only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the exception would result in exceptional hardship to the applicant; and

(3) A determination that the granting of an exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances or conflict with existing local laws or ordinances.

(i) Reserved. Submission requirements.

~~(1) If the building official determines that a proposed development lies within a special flood hazard area, a special flood hazard permit fee shall be collected and the following information shall be provided before further processing of a building permit:~~

~~(A) Elevation of the lowest floor, including a basement, of all structures;~~

~~(B) Elevation to which any structure has been floodproofed;~~

~~(C) Certification by an engineer or architect that the floodproofing methods for any nonresidential structure meet generally accepted floodproofing standards;~~

~~(D) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development;~~

~~(E) Description of the plan for maintenance of the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished; and~~

~~(F) When base flood elevation data have not been provided, the building official shall obtain, review and reasonably apply any base flood elevation and floodway data available from federal, state or other sources.~~

~~(j) Warning and disclaimer of liability. The degree of flood protection required by this article is intended for minimum regulatory purposes only and is based on general scientific and engineering principles. Floods larger than expected, can and will occur. Flood heights may be~~

~~increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the City and Borough, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.~~

Section 4. Amendment of Section. CBJ 49.80.120 Definitions, is amended to **delete** the following definitions:

~~*Alaska Coastal Management Program* and *ACMP* mean the state coastal management program which was developed as provided in AS 46.40, 6 AAC 80, and 6 AAC 85, and approved by the Secretary of the United States Department of Commerce under authority of Section 305 of the Coastal Zone Management Act of 1972, as amended, 16 USC 1454.~~

~~*Base flood depth* means the depth shown on the flood insurance rate map for Zone AO that indicates the depth of water above highest adjacent grade resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.~~

~~*Flood hazard factor (FHF)* means the average weighted difference between the ten year and 100 year floodwater multiplied by ten.~~

Section 5. Amendment of Section. CBJ 49.80.120 Definitions, is amended to include the following **new definitions** in alphabetical order:

Area of shallow flooding, for the purposes of Chapter 49.70.400, Flood Hazard Areas, means a designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth

of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Basement, for the purposes of Chapter 49.70. Article IV, Flood Hazard Areas, means any area of a building, including any sunken room or sunken portion of a room, having its floor below ground level on all sides.

Floodplain Development Permit means a permit issued by the Department to allow development that conforms with the standards of Chapter 49.70. Article IV, Flood Hazard Areas.

Lowest floor elevation, for the purposes of Chapter 49.70.400, Flood Hazard Areas, means the measured distance of a building's lowest floor above Mean Lower Low Water specified on the Flood Insurance Rate Map (FIRM) for the City and Borough of Juneau.

New construction, for the purposes of Chapter 49.70, Article IV, Flood Hazard Areas and for flood insurance rates, means structures for which the “start of construction” commenced on or after the effective date of an initial Flood Insurance Rate Map (FIRM) or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Section 6. Amendment of Section. CBJ 49.80.120 Definitions, is **amended** as follows:

Building means any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals, processes, equipment, goods or materials. For the purposes of Chapter 49.70, Article IV, *building* means a structure with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; or a manufactured home; or a travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

Development means any of the following:

...

(11) For the purposes of Chapter 49.70, Article IV, Flood Hazard Areas, means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Fill means a deposit of material placed by artificial means. Berms are classified as fill.

Finished elevation means the proposed elevation of the land surface of a site after completion of all site preparation work.

Floodplain or flood-prone area, means any land area susceptible to being inundated by water from any source. ~~means the channel and the relatively flat area adjoining the channel of a natural stream or river which has been or may be covered by floodwater.~~

Lowest floor, for the purposes of Chapter 49.70, Article IV, Flood Hazard Areas, means the lowest floor of the lowest enclosed area (including a basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area

other than a basement area, is not considered a building's lowest floor provided that it does not violate subsection 49.70.400(eh)(1).

Mobile home means a detached residential dwelling unit designed for transportation, after fabrication, on streets or highways on its own wheels or on a truck or trailer, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like, and includes recreational vehicles used outside of a recreational vehicle park as living quarters, other than as temporary living quarters for recreational, camping, or travel purposes. For the purpose of Chapter 49.70. Article IV, Flood Hazard Areas, a mobile home is the same as a manufactured home.

Ordinary high water mark means ~~a line or mark impressed on the bank or shore of the non-tidal portion of a river, lake or stream; caused by the long-term action of non-tidal water, and indicated by erosion, shelving, changes in soil characteristics, absence of terrestrial vegetation, presence of aquatic vegetation, or other physical characteristics.;~~

(1) In the non-tidal portion of a river, lake, or stream: the portion of the bed(s) and banks up to which the presence and action of the non-tidal water is so common and usual, and so long continued in all ordinary years, as to leave a natural line or “mark” impressed on the bank or shore and indicated by erosion, shelving, changes in soil characteristics, destruction of terrestrial vegetation, or other distinctive physical characteristics;

(2) In a braided river, lake, or stream; the area delimited by the natural line or “mark”, as defined in part 1 above, impressed on the bank or shore of the outside margin of the most distant channels; or

(3) In a tidally influenced portion of a river, lake, or stream, setbacks shall be taken from the mean high water elevation or from the ordinary high water mark, whichever offers greater protection to the water body.

Recreational vehicle means a vehicle primarily designed and intended as temporary living quarters for recreation, camping, or travel uses, which either has its own motive power or is mounted on or drawn by another vehicle for moving from one location to another without a change in structure or design, and identified or required to be identified by a license number, registration number, serial number, or motor number for operation on state highways. For the purposes of Chapter 49.70. Article IV, Flood Hazard Areas, *recreational vehicle* means a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special flood hazard area (SFHA) means the land in the floodplain subject to a one percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR (V, VO, V1-30, VE). “Special Flood Hazard Area” is synonymous in meaning with the phrase “area of special flood hazard”. ~~means an area having special flood, mud flow, or flood-related erosion hazards, and shown on a flood hazard boundary map or flood insurance rate map as Zones A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V1-V30, VE, or V. For the purpose of determining community rating system premium discounts, all AR and A99 zones are treated as non-SFHAs.~~

Start of construction, for the purposes of Chapter 49.70.400, Flood Hazard Areas, includes substantial improvement, and means the date the building permit was issued.

1
2 provided the actual start of construction, repair, reconstruction, rehabilitation, addition
3 placement, or other improvement was within 180 days of the permit date. The actual start
4 means either the first placement of permanent construction of a structure on a site, such as the
5 pouring of slab or footings, the installation of piles, the construction of columns, or any work
6 beyond the stage of excavation; or the placement of a manufactured home on a foundation.
7 Permanent construction does not include land preparation, such as clearing, grading and filling;
8 nor does it include the installation of streets and/or walkways; nor does it include excavation for
9 a basement, footings, piers, or foundations or the erection of temporary forms; nor does it
10 include the installation on the property of accessory buildings, such as garages or sheds not
11 occupied as dwelling units or not part of the main structure. For a substantial improvement,
12 the actual start of construction means the first alteration of any wall, ceiling, floor, or other
13 structural part of a building, whether or not that alteration affects the external dimensions of
14 the building. ~~means for other than new construction or substantial improvements, under the~~
15 ~~Coastal Barrier Resources Act, this is the date the building permit was issued, provided that~~
16 ~~the actual start of construction, repair, rehabilitation, addition, placement, or other~~
17 ~~improvement was within 180 days of the permit date. The actual start means either the first~~
18 ~~placement of permanent construction of a building on site, such as the pouring of a slab or~~
19 ~~footing, the installation of piles, the construction of columns, or any work beyond the stage of~~
20 ~~excavation; or the placement of a manufactured (mobile) home on a foundation. For substantial~~
21 ~~improvement, actual start of construction means the first alteration of any wall, ceiling, floor, or~~
22 ~~other structural part of a building, whether or not that alteration affects the external~~
23 ~~dimensions of the building.~~
24
25

Substantial damage, for the purposes of Chapter 49.70.400, Flood Hazard Areas, means
damage of any origin whereby the cost of restoring the structure to its before damaged condition
would equal or exceed 50 percent of the market value of the structure before the damage
occurred. ~~means the damage of any origin sustained by a building whereby the cost of restoring~~
~~the building to its before damaged condition would equal or exceed 50 percent of the market~~
~~value of the building before the damage occurred.~~

Substantial improvement, for the purposes of Chapter 49.70.400, Flood Hazard Areas,
means any reconstruction, rehabilitation, addition, or other improvement of a structure, the
cost of which equals or exceeds 50 percent of the market value of the structure before the “start
of construction” of the improvement. This term includes structures which have incurred
“substantial damage”, regardless of the actual repair work performed. This term does not
include either:

1. Any project or improvement of a building to correct existing violations of a state or
local health, sanitary, or safety code specifications that have been identified by the
local code enforcement official and which are the minimum necessary to assure safe
living conditions; or
2. Any alteration of a “historic structure”, provided that the alteration will not
preclude the structure’s continued designation as a “historic structure”.

~~means any reconstruction, rehabilitation, addition, or other improvement of a building,~~
~~the cost of which equals or exceeds 50 percent of the market value of the building before the~~
~~"start of construction" of the improvement. Substantial improvement includes buildings that~~
~~have incurred "substantial damage," regardless of the actual repair work performed. The term~~
~~does not, however, include either any project for improvement of a building to correct existing~~

~~state or local code violations or any alteration to a "historic building," provided that the alteration will not preclude the building's continued designation as a "historic building." These violations must have been previously cited by the local code official prior to the damage or improvements.~~

Section 7. Amendment of Section. CBJ 49.85.100 is amended to read:

49.85.100 Generally.

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

...
(8) Special use or area.

...
(H) Floodplain Development Permit

(i) Minor development, no building permit required. \$45.00;

(ii) Major development, building permit required. \$100.00;

(iii) Exception, \$400.00.

...

Section 8. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2021.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk



Planning Commission

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

PLANNING COMMISSION NOTICE OF RECOMMENDATION

Date: June 29, 2020

Case No.: AME2020 0003

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

Proposal: Planning Commission Recommendation to the City and Borough Assembly regarding a text amendment to revise and update Title 49 to adopt flood management regulations, maps, and a flood insurance study to meet Federal Emergency Management Agency requirements

Property Address: Borough-wide

Legal Description: N/A

Parcel Code Number: 0

Hearing Date: June 23, 2020

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated June 15, 2020 as amended, and recommended that the City and Borough Assembly adopt staff's recommendation with revisions as follows:

Findings as Amended:

1. Does the proposed text amendment comply with the Comprehensive Plan and other adopted plans?

Analysis: The proposed amendment balances the Comprehensive Plan and 2016 Housing Action Plan policies, and is generally consistent with the overall vision.

Finding: Yes. Adopting the proposed text amendment conforms to the 2013 Comprehensive Plan and the 2016 Housing Action Plan.

City and Borough Assembly
Case No.: AME2020 0003
June 29, 2020
Page 2 of 2

2. Does the proposed text amendment comply with Title 49 – Land Use Code?

Analysis: The proposed text amendment was drafted with the purpose and intent of Title 49 taken into account. If approved as drafted, it will be consistent with the above purposes, especially sections 49.70.400 and 49.70.410, Flood Hazard Areas.

Finding: Yes. Adopting the proposed text amendment conforms to the purpose and intent of Title 49 land use code. Additionally, adopting the proposed text amendment would not create any inconsistencies within the code.

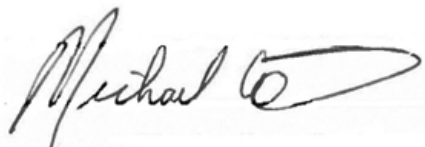
RECOMMENDATION AS AMENDED

The Planning Commission recommends the Assembly adopt an ordinance updating and revising Title 49 and adopting flood management regulations, maps, and a flood insurance study to meet Federal Emergency Management Agency requirements.

Attachments: June 15, 2020 memorandum from Teri Camery, Community Development, to the CBJ Planning Commission regarding AME2020 0003.

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

Project Planner: 
Teri Camery, Senior Planner
Community Development Department


Michael LeVine, Chair
Planning Commission


Filed With Municipal Clerk

7/6/2020
Date

cc: Plan Review

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



PLANNING COMMISSION STAFF REPORT
TEXT AMENDMENT AME2020-0003
HEARING DATE: JUNE 23, 2020

(907) 586-0715

CDD_Admin@juneau.org

www.juneau.org/CDD

155 S. Seward Street • Juneau, AK 99801

STAFF RECOMMENDATION:

Staff recommends the Planning Commission forward the proposed text amendment with a recommendation of **APPROVAL** to the Assembly.

ALTERNATIVE ACTIONS:

1. **Amend:** modify the proposed text amendment and recommend approval to the Assembly.
2. **Deny:** recommend denial of the proposed text amendment to the Assembly. Planning Commission must make its own findings.
3. **Continue:** continue the hearing to a later date if determined that additional information or analysis is needed to make a decision, or if additional testimony is warranted.

ASSEMBLY ACTION REQUIRED:

Assembly action is required for this text amendment. The Commission's recommendation will be forwarded to the assembly for final action.

STANDARD OF REVIEW:

This is a legislative decision and requires five (5) affirmative votes for approval.

DATE: June 15, 2020**TO:** Planning Commission**FROM:** CBJ Community Development Department**BY:** Teri Camery, Senior Planner, CFM

PROPOSAL: A text amendment to revise and update Title 49 to adopt flood management regulations, maps, and a flood insurance study to meet Federal Emergency Management Agency requirements

SUMMARY OF KEY CONSIDERATIONS:

- Adoption of the Revised September 18, 2020 FEMA Flood Insurance Rate Map and Flood Insurance Study
- Adoption of flood management revisions to CBJ Code 49.70.400; 49.70.410; 49.80.120; and 49.85.100, as required by FEMA

GENERAL INFORMATION

Applicant	City and Borough of Juneau
Initiated By	Community Development Department
Property Affected	Borough-wide

LAND USE CODE AMENDED

49.70.400 and 49.70.410	Flood Hazard Areas
49.80.120	Definitions
49.85.100	Fee Schedule

WORK SESSION DATES

Public Meetings	April 4, 2018 August 28, 2019
Assembly Lands Committee	June 1, 2020

49.10.170(d) Planning Commission Duties. *The commission shall make recommendations to the assembly on all proposed amendments to this title, zonings and rezoning, indicating compliance with the provisions of this title and the comprehensive plan.*

ATTACHMENTS

Item	Description
Attachment A	CBJ Assembly Lands Committee memo, May 27, 2020

INTRODUCTION

As a result of new analysis and public comments from the 2018 and 2019 public process, the Federal Emergency Management Agency (FEMA) has released the final pending Flood Insurance Rate Map and Flood Insurance Study. The map link on the CDD website (<https://beta.juneau.org/community-development/special-projects/flood-map-revisions>) provides a comparison between the currently adopted 2013 Flood Insurance Rate Map and the final pending map. The pending map and study are also available through the FEMA Map Service Center at <https://msc.fema.gov/portal/home>. At this link, click “search all products,” enter state, enter Juneau Borough under “county,” enter City and Borough of Juneau for community, and click on “pending product.”

To participate in FEMA’s National Flood Insurance Program (NFIP), CBJ must adopt and enforce specific floodplain management regulations, FEMA’s Flood Insurance Study for the borough, and FEMA’s Flood Insurance Rate Map that delineates different flood zones and base flood elevations. The CBJ land use code Flood Hazard Areas floodplain management text is dictated by FEMA requirements.

Federal requirements establish that the final pending map, study, and regulations will be effective on September 18, 2020, following CBJ Assembly adoption. If CBJ does not adopt these items by ordinance prior to September 18, 2020, CBJ will be suspended from the NFIP. If CBJ does not participate in the NFIP, borough property owners within Special Hazard Areas cannot obtain flood insurance or a federally-backed mortgage within Special Flood Hazard Areas, and the borough will not be eligible for federal disaster relief.

CBJ and FEMA estimate that the improved maps will remove approximately 191 parcels from the Special Flood Hazard Area. These property owners will no longer be required to have flood insurance with a federally-backed mortgage. Approximately 45 parcels will be added to the Special Flood Hazard Area. These owners will be required to obtain flood insurance with a federally-backed mortgage.

BACKGROUND

Mapping Process and Timeline. CBJ joined the NFIP in 1981. The last completed map revision was in 2013. These maps are currently in effect. Issues were identified in the 2013 revision that could not be addressed within federally mandated timelines. Therefore, a second analysis began shortly after to utilize new contour data and other information to develop more accurate flood maps. Highlights of the current map revision include:

- Preliminary Map Release. August 25, 2017.
- Public Meeting and FEMA/CBJ Workshop. April 4, 2018.
 - Approximately 150 people attended.
- First Appeal and Comment Period. April 11 – July 9, 2018.

- o In conjunction with the public meeting and appeal/comment period, CDD sent a postcard mailing to all properties within or adjacent to a flood zone with a website link, map, and comment information.
- Revised Preliminary Map Release. November 30, 2018.
 - o The first appeal/comment period revealed a minor but systematic error in the maps along a stretch of coastline that met FEMA's threshold for a second revision and map release.
 - o FEMA and CBJ held a second public meeting on August 28, 2019 with a second postcard mailing to all flood properties regarding the changes and the second public/comment appeal period. This meeting addressed both the borough-wide flood map revision and the separate Tee Harbor map revision.
- Second Appeal and Comment Period. July 24 – October 22, 2019.
- Letter of Final Determination. May 18, 2020.
 - o This is FEMA's final release of the maps and Flood Insurance Study (the report with supporting data), which starts the federal mandatory timeline of six months for adoption by CBJ.
 - o The final map revision removes approximately 191 parcels from the Special Flood Hazard Area, which eliminates the flood insurance requirement. Approximately 45 parcels will be added to the Special Flood Hazard Area, triggering the flood insurance requirement.
- Maps and Flood Insurance Study Become Effective. September 18, 2020.

Tee Harbor Map Revision. The Tee Harbor area was not within the scope of the new study and map revision. However, in the first appeal/comment period on the draft maps that began in April 2018, Tee Harbor residents sent comments to CBJ and FEMA regarding the extreme inaccuracy of the maps in that area and the high flood insurance costs associated with the error. FEMA agreed, and launched a separate study and timeline specifically for Tee Harbor through the Letter of Map Revision (LOMR) process. Revised Tee Harbor maps were released for public appeal/comment from January 24 – April 23, 2020. CDD sent another postcard mailing, and updated the website. No comments were received. The Tee Harbor LOMR had a separate public process from the borough-wide maps dictated by federal regulations, and LOMRs do not require approval by local ordinance. The Tee Harbor LOMR is final and effective as of May 26, 2020. The Tee Harbor map is available through the FEMA Map Service Center at <https://msc.fema.gov/portal/home>. At this link, click "search all products," enter state, enter Juneau Borough under "county," enter City and Borough of Juneau for community, click on "effective products," click on "LOMC," then "LOMR," then Product ID 19-10-1198P-020009.

TEXT AMENDMENT SUMMARY

The proposed text amendment adopts FEMA's revised Flood Insurance Rate Map and Flood Insurance Study, released on March 18, 2020 and effective on September 18, 2020. In addition, the text amendment would update Title 49 land use code, Sections 49.70.400 and 410, Flood Hazard Areas; Section 49.80.120, Definitions; and Section 49.85.100, Fee Schedule to conform with FEMA requirements. These changes would be effective on September 18, 2020. Highlights of the text amendment to the land use code include the following:

- Adds a disclaimer of liability language to explain that floods may exceed the heights and areas noted on the Flood Insurance Rate Map, as required by FEMA.
- Establishes required record-keeping duties and responsibilities of the Floodplain Administrator (CDD), as required by FEMA.

- Establishes a Floodplain Development Permit to ensure that CBJ regulates development within Special Flood Hazard Areas, as required by FEMA.
 - o The Floodplain Development Permit distinguishes between minor and major development.
 - o Minor development, defined as development that does not require a building permit, would have a fee of \$45.00. Major development, defined as development that does require a building permit, would have a fee of \$100.00.
 - o The proposed fee for a minor development is nominal, and partially covers minimum administrative and staff review costs for minor reviews. The proposed fee for a major development covers approximately 25 percent of estimated administrative and staff review costs.
- Incorporates FEMA definition language into the land use code to ensure that CBJ uses FEMA regulatory definitions in flood reviews.
- Includes other minor revisions to clarify existing review processes required by FEMA, such as the requirement to notify FEMA when a watercourse is moved. These revisions are for clarification and compliance only, and do not add new regulatory requirements.

PUBLIC NOTICE

As noted in the Background Section above, CBJ and FEMA held two public meetings in 2018 and 2019 regarding these revisions. Approximately 150 people attended the 2018 meeting, while 25 attended in 2019. Each public meeting was preceded by public service announcements, news articles, Facebook posts, CDD website updates, and postcard mailings to all property owners within or adjacent to Special Flood Hazard Areas. The postcard mailings included special attention to property owners who were likely to be added to the Special Flood Hazard Area for the first time.

The FEMA review process included two appeal and comment periods, which were emphasized in the public meetings, mailings, and on the CBJ website. No appeals or comments were received during the second period. In addition to the public meetings, CDD staff made a presentation to the Juneau Realtors Association in 2018, and FEMA staff held a workshop with local surveyors in 2019. CDD has maintained the website link with information on the update and a sliding map that allows property owners to compare the existing flood map with the proposed flood map. CDD will send a final mailing to property owners notifying them of the map adoption.

No additional public comments have been received at this writing.

COMPLIANCE WITH TITLE 49 Land Use Code

49.05.100 - Purpose and intent. The purpose and Intent of Title 49 Land Use Code is:

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

TITLE 49: The proposed text amendment complies with CBJ Title 49 Land Use Code. Additionally, the proposed amendment will not create any inconsistencies in Title 49.

Code Reference	Item	Summary
49.05.100	Purpose Statement	The proposed text amendment complies with the purpose and intent of Title 49.

COMPLIANCE WITH ADOPTED PLANS

2013 COMPREHENSIVE PLAN VISION: *The City and Borough of Juneau is a vibrant State Capital that values the diversity and quality of its natural and built environments, creates a safe and satisfying quality of life for its diverse population, provides quality education and employment for its workers, encourages resident participation in community decisions and provides an environment to foster state-wide leadership.*

2013 COMPREHENSIVE PLAN The proposed text amendment is in compliance with the 2013 Comprehensive Plan.

Chapter	Page No.	Item	Summary
7	99	Policy 7.18	<i>Policy 7.18. TO PROHIBIT RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL DEVELOPMENT IN FLOODWAYS, TO REGULATE DEVELOPMENT IN FLOODPLAINS, AND TO MAINTAIN A PROGRAM OF EDUCATION, ASSISTANCE, AND INFORMATION IN ORDER TO MAINTAIN ELIGIBILITY FOR THE NATIONAL FLOOD INSURANCE</i>

2013 COMPREHENSIVE PLAN The proposed text amendment is in compliance with the 2013 Comprehensive Plan.			
			<i>PROGRAM FOR THE BENEFIT OF LOCAL PROPERTY OWNERS AND THE LENDING INDUSTRY.</i> The proposed text amendment supports Policy 7.18 by adopting a new Flood Insurance Rate Map, a new Flood Insurance Study, and an updated flood management regulations to meet the Federal Emergency Management Agency requirements.

2016 HOUSING ACTION PLAN The proposed text amendment complies with the 2016 Housing Action Plan.			
Chapter	Page No.	Item	Summary
Part 2, Solutions	31	Recommendations	The proposed text amendment is in general compliance with Housing Action Plan recommendations because it will allow CBJ to remain in the National Flood Insurance Program. Participation in the National Flood Insurance Program allows purchase of homes within Special Flood Hazard Areas with a federally-backed mortgage. This is because federally-backed mortgages require the purchase of flood insurance within Special Flood Hazard Areas, and federal flood insurance is only available to communities who participate in the National Flood Insurance Program.

FINDINGS

1. Does the proposed text amendment comply with the Comprehensive Plan and other adopted plans?

Analysis: The proposed amendment balances the Comprehensive Plan and 2016 Housing Action Plan policies, and is generally consistent with the overall vision.

Finding: Yes. The proposed text amendment conforms to the 2013 Comprehensive Plan and the 2016 Housing Action Plan.

2. Does the proposed text amendment comply with Title 49 – Land Use Code?

Analysis: The proposed text amendment was drafted with the purpose and intent of Title 49 taken into account. If approved as drafted, it will be consistent with the above purposes, especially sections 49.70.400 and 49.70.410, Flood Hazard Areas.

Finding: Yes. The proposed text amendment conforms to the purpose and intent of Title 49 land use code. Additionally, the proposed text amendment does not create any inconsistencies within the code.

RECOMMENDATION

Staff recommends the Planning Commission adopt the Director's analysis and findings and make a recommendation to the Assembly to APPROVE the proposed text amendment to revise and update Title 49 to adopt flood management regulations, maps, and a flood insurance study to meet Federal Emergency Management Agency requirements.



(907) 586-0757
 Jill.Maclean@juneau.org
 www.juneau.org/CDD
 155 S. Seward Street • Juneau, AK 99801

MEMO

TO: Rob Edwardson, Chair Lands Committee and
 Lands Committee Members

FROM: Jill Maclean, Director, AICP *Jill Maclean*

DATE: May 27, 2020

RE: FEMA Flood Map Adoption Process

This memo provides a brief background of the Federal Emergency Management Agency (FEMA) process regarding the CBJ borough-wide Flood Map Revision that is currently underway.

FEMA and CBJ Authority. To participate in FEMA’s National Flood Insurance Program (NFIP), CBJ must adopt and enforce a floodplain management ordinance utilizing the floodplain maps developed by FEMA that delineate flood zones and base flood elevations. Participation in the program allows property owners to obtain flood insurance, and makes CBJ eligible to receive disaster funding. Flood insurance is necessary for all properties located in Special Flood Hazard Areas seeking to secure federally-backed mortgages.

Mapping Process and Timeline. CBJ first joined the NFIP in 1981. The last completed map revision was 2013. These maps are currently in effect. Issues were identified in the 2013 revision that could not be addressed within federally mandated timelines. Therefore, a second analysis began shortly after in order to utilize new contour data and other information to develop more accurate flood maps—this is the process currently underway. Highlights of the current map revision include:

- Preliminary Map Release. August 25, 2017
- Public Meeting and FEMA/CBJ Workshop. April 4, 2018
 - Approximately 150 people attended.
- First Appeal and Comment Period. April 11-July 9, 2018
 - In conjunction with the public meeting and appeal/comment period, CDD sent a postcard mailing to all properties within or adjacent to a flood zone with a website link, map, and comment information.
- Revised Preliminary Map Release. November 30, 2018
 - The first appeal/comment period revealed a minor, but systematic, error in the maps along a stretch of CBJ coastline that met FEMA’s threshold for a second revision and map release.

- FEMA and CBJ held a second public meeting on August 28, 2019 with a second postcard mailing to all flood properties regarding the changes and the second public/comment appeal period. This meeting addressed both the borough-wide flood map revision and the separate Tee Harbor map revision.
- Second Appeal and Comment Period. July 24-October 22, 2019
- Letter of Final Determination. May 18, 2020
 - This is FEMA's final release of the maps and Flood Insurance Study (the report with supporting data), which starts the federal mandatory timeline of six months for CBJ to adopt the maps and ordinance.
 - The final map revision **removes approximately 191 parcels** from the Special Flood Hazard Area, which eliminates the flood insurance requirement. **Approximately 45 parcels** will be added to the Special Flood Hazard Area.
- ***Maps and Flood Insurance Study Become Effective—if adopted by CBJ. September 18, 2020***
 - ❖ Regardless of the speed at which CBJ moves to adopt the maps and ordinance, the maps go into effect on September 18, 2020 per FEMA—this date is not under CBJ's control.

Tee Harbor Map Revision. The Tee Harbor area was not within the scope of the new study and map revision. However, in the first appeal/comment period on the first draft maps that began in April 2018, Tee Harbor residents sent comments to CBJ and FEMA regarding the extreme inaccuracy of the maps in that area and the high flood insurance costs associated with the error. FEMA agreed, and launched a separate study and timeline specifically for Tee Harbor through the Letter of Map Revision (LOMR) process. Revised Tee Harbor maps were released for public appeal/comment from January 24 through April 23, 2020. CDD sent another postcard mailing, and updated the website. No comments were received. The Tee Harbor LOMR has a separate public process from the borough-wide maps, dictated by federal regulations, and LOMR do not require approval by local ordinance.

- ❖ The Tee Harbor Map Revision is effective as of May 26, 2020.

Next Steps. CDD is drafting an updated floodplain management ordinance, which must be revised to meet minimum federal requirements. The ordinance, maps, and study are tentatively scheduled for a public hearing before the Planning Commission on June 23, 2020. The Assembly must adopt the revised ordinance, with the revised maps and Flood Insurance Study, by September 18, 2020.

Presented by: COW
Presented: 4/26/2021
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2021-11

An Emergency Ordinance Reestablishing the City and Borough of Juneau COVID-19 Mitigation Strategies and Providing for a Penalty.

WHEREAS, CBJ Charter 5.4(a) provides the Assembly may adopt an emergency ordinance to meet a public emergency by an affirmative vote of at least six assembly members; and

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death and is caused by the SARS-Cov-2 virus (“virus”), a new strain of the coronavirus that has not been previously identified in humans and is easily transmittable person to person; and

WHEREAS, on March 11, 2020, the World Health Organization (“WHO”) declared the virus a pandemic; and

WHEREAS, on March 11, 2020, the State of Alaska declared a public health emergency in response to the anticipated outbreak of the virus in Alaska; and

WHEREAS, on March 13, 2020, President Donald J. Trump declared a national emergency in response to the virus pandemic; and

WHEREAS, on March 16, 2020, the Assembly declared a local emergency in response to COVID-19; and

WHEREAS, on March 22, 2020, the City and Borough of Juneau (“CBJ”) received its first positive case of COVID-19; and

WHEREAS, the Juneau International Airport and the Juneau ferry terminal are the primary point-of-entries for persons traveling into Juneau; and

WHEREAS, on February 14, 2021, the State of Alaska identified that non-residents traveling into the State no longer had to pay the \$250 for a COVID-19 test upon arrival and fully vaccinated people did not have to follow strict social distancing requirements while awaiting test results; and

WHEREAS, while more community members are getting vaccinated for COVID, the community has not reached herd immunity, children are not eligible for vaccines, a variant of concern (B.1.1.7) has recently been detected in Juneau, and COVID is interrupting in-person learning; and

WHEREAS, Alaska continues to experience a substantial increase in COVID-19 cases, like the rest of the United States, with multiple regions in Alaska at a high alert level; and

WHEREAS, as of April 21, 2021, there have been more than 1389 confirmed cases in the City and Borough of Juneau, of which a substantial percentage are travel related or attributable to community spread; and

WHEREAS, the updated COVID-19 Mitigation Strategies will help provide better structure and certainty as the community balances the needs to mitigate harm from COVID-19 and keep the economy open.

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

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. COVID-19 Mitigation Strategies.

(a) **Adoption.** The City and Borough of Juneau COVID-19 Mitigation Strategies identified in Exhibit A are adopted.

(b) **Determination of Incident Risk Level.** The Manager is authorized to determine which Incident Risk Level best fits the City and Borough of Juneau based on a comprehensive range of public health factors related to COVID-19.

(c) **Public Notice.** The Manager shall conspicuously identify the Incident Risk Level on the City and Borough of Juneau's webpage and widely distribute public notice when the level changes.

(d) **Exemptions.**

(1) **Exemption Request.** An entity or person may request an exemption from the COVID-19 Mitigation Strategies by submitting a site specific COVID-19 Mitigation Plan to the CBJ Emergency Operations Center by emailing covidquestions@juneau.org. The Emergency Operations Center may issue an exemption if the COVID-19 Mitigation Plan has sufficient measures and policies to mitigate the spread of COVID-19 in light of the Incident Risk Level.

(2) **Public Records.** All exemption requests, communication, and responses are presumptively public records. If an entity or person requests that the City and Borough of Juneau withhold any information contained in your COVID-19 Mitigation Plan from

public release because the information is protected under AS 40.25.120(a), you must submit the following information with the request:

- (A) Identify each set of discrete information that the entity or person asserts is confidential;
- (B) Identify each specific legal authority that the entity or person asserts applies to each such set of information; and
- (C) For each such set of information, explain why the entity or person asserts the information is confidential based on each legal authority the entity or person asserts applies to that information.

Should the City and Borough of Juneau receive a request for records under the Public Records Act applicable to any item marked confidential, the City and Borough of Juneau should notify the person or entity asserting confidentiality as soon as practicable prior to making any disclosure. The person or entity asserting confidentiality acknowledges it has five (5) calendar days after receipt of notice to notify the City and Borough of Juneau of its objection to any disclosure, and to file any action with any competent court to protect its interests. Should the person or entity asserting confidentiality fail to notify the City and Borough of Juneau of its objection or fail to file suit within five (5) calendar days, the CBJ may disclose the records.

(e) **Violation.** A person who violates a mitigation strategy in Exhibit A shall be subject to a civil fine not to exceed \$25.00 per violation, which shall be considered incorporated into CBJC 03.30.070(a); payment of the civil fine shall be accepted in satisfaction of the violation; and the violation shall be subject to CBJC 03.30.070(b)-(c) and CBJC 03.30.075-03.30.085. In addition to a civil fine, the City and Borough of Juneau may use all available civil enforcement options (i.e. injunction, revocation of certificate of occupancy, civil lawsuit, etc.) to assure compliance with this ordinance.

(f) **Amendments.** The Manager shall advise the Assembly if new and relevant information about COVID-19 is discovered that warrant revisions to the COVID-19 Mitigation Strategies in Exhibit A.

(g) **Mask or Face Covering Mandate.**

(1) **Requirement.** All individuals must wear a mask or a face covering over their nose and mouth (i) as provided for in Exhibit A; (ii) when using public transportation, like Capital Transit; and (iii) when entering an area that is posted requiring use of a mask or face covering. This ordinance is subject to the conditions and exceptions stated below.

(2) **Face Shield.** A face shield is generally not permitted in lieu of a mask or face covering because face shields are less effective in stopping the spread of COVID-19. However, a face shield may be permitted in lieu of a mask or face covering for the following

individuals, who must wear a face shield whenever a mask or face covering would be required unless it is impossible to do so:

- (A) Any individual who cannot tolerate a mask due to a physical or mental disability;
- (B) Individuals who are communicating with someone who is deaf or hard of hearing; or
- (C) Individuals performing an activity that cannot be conducted or safely conducted while wearing a mask (for example a driver experiencing foggy glasses, a dental patient receiving care, or an equipment operator where there is a risk of dangerous entanglement).

(3) **Employment.** Employers are responsible to make sure employees who are present in the workplace have access to and wear masks or face coverings as required by this ordinance.

(4) **Exceptions.** This ordinance does not apply to the following categories of people or activities:

- (A) Any child under the age of 2 years. These very young children should not wear a face covering because of the risk of suffocation. Additionally, masks are recommended, but not required for children ages 2-5. Daycare settings that serve preschool children are encouraged but not required to enforce mask usage for children age 2 and older.
- (B) Individuals who are incarcerated, in police custody, or inside a courtroom; these individuals should follow guidance particular to their location or institution.
- (C) Musicians, presenters, ministers, and others communicating to an audience or being recorded, for the duration of their presentation/practice/performance where mask usage impairs communication, and so long as safe physical distancing is maintained.
- (D) Individuals removing their mask or face covering to eat, drink, or briefly scratch an itch.
- (E) Employees within their own fully enclosed office or workspace, and employees within an unenclosed workspace if they are totally alone.
- (F) Individuals doing high intensity exercise outdoors.

(5) **Denial of Service.** A person violating this ordinance is prohibited from entering, occupying, or remaining in the setting in which a mask or face covering is required. Provided, however, that this ordinance shall be applied in a manner consistent with the

Americans with Disabilities Act (ADA) and any other applicable provision of law. Businesses and the City Manager, for City and Borough of Juneau facilities, may choose to allow individuals who request an accommodation under the ADA to wear a face shield, or may consider accommodating these individuals through alternative means of providing goods or services, such as curbside, delivery, or telephonic service.

(6) **Proof of Medical Reason or Disability.** If a person declines to wear a mask or face covering because of a medical condition or disability as described above, this ordinance does not require them to produce medical documentation verifying the stated condition or disability.

(7) **Additional City and Borough of Juneau Facility Provision.**

(A) **Notice.** The City Manager is required to identify and conspicuously post notices for those City and Borough of Juneau public facilities or areas of public facilities in which people are required to wear a mask or face covering. The Manager should post face covering notices in public facilities and areas of public facilities in which maintaining six feet separation between people is difficult or where there are insufficient physical barriers to keep people six feet apart.

(B) **Provision of Face Covering.** For people who cannot afford or locate a face covering, the Manager shall make a face covering available on every Capital Transit bus and at any facility owned by the City and Borough of Juneau that requires a mask or face covering.

(8) **Definitions.**

(A) "Mask" means a medical grade mask (i.e. N95).

(B) "Face covering" means a cloth, polypropylene, paper, or other face covering that covers the nose and the mouth and that rests snugly above the nose, below the mouth, and on the sides of the face. The following are not face coverings because they allow droplets to be released: a covering with a valve designed to facilitate easy exhalation; mesh masks; lace masks; other coverings with openings, holes, or visible gaps in the design or material.

(C) "Face shield" means a clear plastic shield that covers the forehead, extends below the chin, and wraps around the sides of the face.

Section 3. Repeal of Emergency Ordinance 2020-61. Given the updated COVID-19 Mitigation Measures in Exhibit A as provided for in this ordinance and the conflicts with the mask mandate in Emergency Ordinance 2020-61, Emergency Ordinance 2020-61 is repealed. The mask mandate continues as provided for in this ordinance.

Section 4. Effective Date. This ordinance shall be effective immediately after its adoption. This ordinance expires at 12:01 a.m. on October 22, 2021, unless terminated earlier by the Assembly by motion.

Adopted this _____ day of _____, 2021.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk

Community Risk Level	Masks / Social Distancing	Large Gatherings	Restaurants, Bars	Personal Services, Gyms	Travel
Very High	Masks/Face coverings required outside the home. Residents are required to stay at home except as needed for groceries, medical care, and essential workforce needs.	Outdoor gatherings limited to no more than 10 people with proper social distancing. Indoor communal events not allowed.	Restaurants and bars limited to delivery and curbside pickup if allowed by law.	Personal Services and Gyms closed.	Follow State Health Advisories
High	Masks/Face coverings must be worn indoors and outdoors in public areas where 6ft of social distancing cannot be maintained. Keep social bubble contained to family members.	Indoor gatherings should be limited to 20* people with safety measures (masks required). Outdoor gatherings with 6ft distancing recommended.	Bars and Restaurants reduce capacity to ensure at least 6 feet of physical distancing between parties and not to exceed 50% with reservations / contact list required. Delivery/curbside pickup if allowed by law. Bars and restaurants closed at 11:00 pm.	Personal Services by appointment only, one customer per service provider, no waiting areas. Gyms, no group activities, limit capacity to 25%	Follow State Health Advisories
Moderate	Masks/Face coverings must be worn indoors in public areas where 6ft of social distancing cannot be maintained. Masks/face coverings recommended when: outdoors and 6 feet of distance can't be maintained from others. Keep social bubble limited to family members and critical contacts.	Indoor gatherings should be limited to 50* people with safety measures (masks required). Outdoor gatherings with 6ft distancing recommended.	Bars not to exceed 50% indoor capacity. Strongly recommend restaurants reduce capacity to ensure physical distancing between parties, recommend reservations required. Recommend delivery/ curbside pick up if allowed by law.	Personal Services by appointment only, no waiting areas. Gyms, small group activities outdoors, limit capacity to 50%.	Follow State Health Advisories..
Minimal: 1a <50% of total population fully vaccinated	Masks/face coverings must be worn indoors in public areas and outdoors when 6ft of social distancing cannot be maintained.	Indoor gatherings should be limited to 100 people with safety measures in place (masks required). Limit gathering size so minimum distance of 6 feet can be maintained. Outdoor gatherings are recommended.	Maintain 6ft of social distancing and wear masks when not actively eating or drinking	Masking & social distancing protocols appropriate to the level must be observed (See masking and social distancing column).	Follow State Health Advisories
Minimal: 1b 50 – 69.9% of population fully vaccinated	Masks/face coverings must be worn indoors in public areas when unvaccinated individuals may be present and outdoors when 6ft of social distancing cannot be maintained and unvaccinated individuals may be present.	Indoor gatherings should be limited to the number of participants that will allow 6ft of social distancing to be maintained (masks required). Outdoor gatherings are recommended. There are no limits or required safety measures if all individuals at the gathering are fully vaccinated.	Maintain 6ft of social distancing and wear masks when not actively eating or drinking.	Masking & social distancing protocols appropriate to the level must be observed (See masking and social distancing column). There are no limits or required safety measures if all individuals using the facility are fully vaccinated.	Follow State Health Advisories
Minimal: 1c >70% of population fully vaccinated.	Masks/face coverings must be worn when indoors in public areas when children not yet eligible for vaccine by age are present.	No size limitations, however masks must be worn indoors when children not yet eligible for vaccine by age are present. There are no limits or required safety measures if all individuals at the gathering are fully vaccinated.	R: Wear masks when not actively eating or drinking. B: No restrictions.	Masks/face coverings must be worn when indoors in public areas when children not yet eligible for vaccine by age are present. There are no limits or required safety measures if all individuals using the facility are fully vaccinated.	Follow State Health Advisories

Presented by: COW
Presented: 4/26/2021
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2021-16

An Emergency Ordinance Mandating COVID-19 Testing for Travelers Arriving in the City and Borough of Juneau.

WHEREAS, CBJ Charter 5.4(a) provides the Assembly may adopt an emergency ordinance to meet a public emergency by an affirmative vote of at least six assembly members; and

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death and is caused by the SARS-Cov-2 virus ("virus"), a new strain of the coronavirus that has not been previously identified in humans and is easily transmittable person to person; and

WHEREAS, on March 11, 2020, the World Health Organization ("WHO") declared the virus a pandemic; and

WHEREAS, on March 11, 2020, the State of Alaska declared a public health emergency in response to the anticipated outbreak of the virus in Alaska; and

WHEREAS, on March 13, 2020, President Donald J. Trump declared a national emergency in response to the virus pandemic; and

WHEREAS, on March 16, 2020, the Assembly declared a local emergency in response to COVID-19; and

WHEREAS, on March 22, 2020, the City and Borough of Juneau ("CBJ") received its first positive case of COVID-19; and

WHEREAS, the Juneau International Airport and the Juneau ferry terminal are the primary point-of-entries for persons traveling into Juneau; and

WHEREAS, on February 14, 2021, the State of Alaska identified that non-residents traveling into the State no longer had to pay the \$250 for a COVID-19 test upon arrival and fully vaccinated people did not have to follow strict social distancing requirements while awaiting test results; and

WHEREAS, while more community members are getting vaccinated for COVID, the community has not reached herd immunity, children are not eligible for vaccines, a variant of concern (B.1.1.7) has recently been detected in Juneau, and COVID is interrupting in-person learning; and

WHEREAS, Alaska continues to experience a substantial increase in COVID-19 cases, like the rest of the United States, with multiple regions in Alaska at a high alert level; and

WHEREAS, as of April 21, 2021, there have been more than 1389 confirmed cases in the City and Borough of Juneau, of which a substantial percentage are travel related or attributable to community spread; and

WHEREAS, imposing a traveler testing mandate best balances the desire to open the economy while monitoring public health information to protect the health, safety, and welfare of the community from COVID-19.

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

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Travel Testing Mandate.

(A) **Applicability.** This mandate applies to all persons entering the City and Borough of Juneau, whether resident, worker, or visitor. This mandate applies to all forms of travel (land, sea, and air) except people that remain on a vessel.

(B) **Requirements for All Travelers Entering the City and Borough of Juneau:** All travelers, Alaska resident and non-residents alike, who are arriving in the City and Borough of Juneau must comply with one of the following options:

(1) **Pre-travel molecular-based test for SARS-CoV2 with negative results:** The traveler must submit negative test results from a test taken within 72 hours of departure into the Alaska Travel Portal or have proof of a negative test available to show screeners at the airport upon arrival.

(2) **No pre-travel molecular-based test for SARS-CoV2:** The traveler must test upon entering the City and Borough of Juneau.

(3) **Testing Exemptions.**

(a) **Fully Vaccinated Exemption:** Fully-vaccinated travelers are exempt from the testing requirement of this ordinance. Fully-vaccinated is defined as more than two weeks following receipt of the second dose in a two-dose series, or more than two weeks following receipt of one dose of a single-dose vaccine.

- (b) **Children under 10.** Children age 10 and under are exempt from the testing requirement of this ordinance.
- (c) **Travel outside of the State of Alaska for less than 72 hours.** A person from Alaska that travels outside of the State of Alaska for less than 72 hours is exempt from the testing requirement of this ordinance.
- (d) **Prior confirmed positive results within 90 days of departure.** A person is exempt from the testing requirements of this ordinance if all three of the following conditions are met:
 - (i) The traveler provides proof of a previously positive result of a molecular-based test for SARS-CoV2 within 90 days of departure; and
 - (ii) The traveler is currently asymptomatic; and
 - (iii) The traveler can provide documentation of recovery from a medical provider or a public health official indicating the traveler has been released from isolation.
- (e) **Critical Infrastructure Workforce travel:** Critical infrastructure workforce is defined in the Cyber and Infrastructure Security Agency “Guidance on the Essential Critical Infrastructure Workforce.” (Aug. 2018) Critical infrastructure workers must either test pursuant to this ordinance or test pursuant to a Community/Workforce Protective Plan (CWPP).
- (f) **Aircrew.** Arriving or transiting aircrew members employed by interstate or international passenger or cargo air carriers must either follow the testing requirements of this ordinance or follow the procedures in the Federal Aviation Administration (FAA) Safety Alert for Operators (SAFO) 20009, dated 29 Sep 2020, and all future revisions.

Section 3. Severability. If any provision of this ordinance, or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 4. Effective Date. This ordinance shall be effective at 12:01 a.m. on May 1, 2021. This ordinance expires at 12:01 a.m. on October 22, 2021, unless terminated earlier by the Assembly by motion or upon the State of Alaska adopting a superseding order.

Adopted this _____ day of _____, 2021.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk



NOTICE OF APPEAL OF DIRECTOR'S DETERMINATION

See reverse side for more information regarding the permitting process and the materials required for a complete application.

APPELLANT'S CONTACT INFORMATION

TDLH LLC

constellation_dev@hotmail.com

(907) 321-3118

Appellant's Name (please print)

E-mail Address

Phone

10840 Lilac Drive

Juneau

AK

99801

Mailing Address

City

State

Zip

X

Appellant's Signature

DECISION THAT IS BEING APPEALED*

STOP WORK NOTICE

Date of Director's Determination March 10, 2021

Attach a copy of the Director's Decision (E-mail, Notice of Decision, Letter, etc.).

* Notice must be submitted within 20 days of the date of the decision being appealed.

APPEAL SPECIFICS (please fill in all that apply)

Parcel Number 5B2101030001

Zoning District

D15

Case Number BLD20210039

Title 49 Code Section

49.20.110

Current Use of Land or Buildings

Proposed Use of Land or Buildings Bank stabilization of Duck Creek

Other

ALL REQUIRED MATERIALS ATTACHED



Complete Application



Appeal Decision



Narrative including:



Grounds for Appeal



Specific questions you would like the Planning Commission to address

DEPARTMENT USE ONLY BELOW THIS LINE

APPEAL FEES	Fees	Check No.	Receipt	Date
Notice Fees	\$			
Refund (Yes/No)	\$			
Total Fee	\$ <u>200.00</u>			

This form and all documents associated with it are public record once submitted.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

For assistance filling out this form, contact the Permit Center at 586-0770.

Case Number <u>APL21-02</u>	Date Received/Intake Initials <u>3/30/21 - JFM</u>
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Appeal Submittal Information

Appeals of Director's Determination is outlined in CBJ 49.20.110

Notice of Appeal Submittal Date: Review by the Planning Commission of the decision of the Director, may be requested by filing a notice of appeal stating with particularity the grounds therefore with the Community Development Department **within 20 days of the date of the decision appealed.**

Notice of Appeal Submittals: These items are needed for the Planning Commission to make a determination:

1. **Forms:** A completed Notice of Appeal form including the appellant's signature.
2. **Fees:** The fee for an Appeal of Director's Determination is \$200. The fee will be refunded if the applicant prevails.
All fees are subject to change.
3. **Appeal Description:** A detailed letter or narrative describing the findings, issues, concerns, grounds for appeal, and what you want the Planning Commission to specifically address
4. **Submittals:**
 - A. Document stating the date of the Director's Determination
 - B. Copy of the Director's Determination
 - C. Photos/plans relating to the appeal (if applicable)

Document Format: All information submitted shall be either of the following formats:

- A. Electronic copies may be submitted by CD, DVD or E-mail in the following formats: .doc, .txt, .xls, .bmp, .pdf, .jpg, .gif, .xlm, .rtf or other formats pre-approved by the Community Development Department
- B. Paper copies may not be larger than 11" X 17" in size (Unless an alternate paper size is preapproved by the Community Development Department)

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

49.20.110 - Appeals to the Planning Commission.

- (a) Review by the commission of a decision of the director, may be requested by filing a notice of appeal stating with particularity the grounds therefor with the department within 20 days of the date of the decision appealed. The notice shall be considered by the commission at a regular scheduled meeting. The department and any aggrieved person, including the developer, may appear at that meeting and explain to the commission why it should hear the appeal. The appeal shall be heard unless it presents only minor or routine issues and is clear from the notice of appeal and any evidence offered at the consideration thereof, that the decision appealed was supported by substantial evidence and involved no policy error or abuse of discretion.
- (b) If the commission decides to hear the appeal, it shall announce whether it intends to review the entire decision, or merely a portion thereof and whether review shall be de novo or on the record. If the commission decides to hear the appeal, it shall give public notice thereof in a newspaper of general circulation in the municipality. The department shall prepare the record on appeal, which shall consist of the original application and supporting materials, written public comment thereon, and all notes, memoranda, minutes and other department material in relation thereto. The burden of proof in the appeal shall be on the party challenging the decision of the director. In a hearing de novo, proof shall be established by a preponderance of the evidence. If the appeal is heard on the record, argument may be heard, but no evidence outside the record shall be admitted and the decision of the department shall be upheld if there is substantial evidence in support thereof and no policy error or abuse or discretion therein. The commission may confirm, reverse, or modify the director's decision, or change the conditions which the director placed on approval. The commission shall support its action with written findings.
- (c) Upon its own motion, the commission may certify a case directly to the assembly without review, hearing or recommendation.

(Serial No. 87-49, § 2, 1987; Serial No. 92-10, § 3, 1992; Serial No. 95-35, § 4, 1995; Serial No. 97-01, § 6, 1997)

Grounds for Appeal

1. The Stop Work Notice is not supported by substantial evidence;
2. The Stop Work Notice is not supported by adequate written findings or the findings fail to inform the appeal agency of the basis upon which the decision appealed from was made;
3. The Stop Work Notice is unreasonable, not justified by the facts or the law/policy, and an abuse of discretion; and
4. The Stop Work Notice is arbitrary and capricious.

CITY AND BOROUGH OF JUNEAU

NOTICE

Date 3/10/2021

To the Owner, Agent, Contractor, Workers or any other person or person engaged in doing or causing work to be done on this building: Permit Bid 20210039

By authority of Section 19.01.090(b) of the Code of the City and Borough of Juneau, the Building Official has inspected these premises and has found work being carried on in violation of Section 19.01.110 of the Code. Pursuant to Section 19.01.090(d) it is therefore ordered that all parties concerned shall immediately

STOP WORK

Resumption of work and removal of this notice shall be authorized by the Building Official upon full compliance with the Building Codes.

Violation of this order is a misdemeanor punishable by a \$1,000 fine. Repeat offenders may also be punished by 90 days imprisonment. Violators are guilty of a separate offense for each and every day during any portion of which a violation is committed, continued or permitted.

Time of issuance: 11:30 AM

Received by: Ken

Date: 3/10/2021

By Charles Ford
Building Official

Todd Araujo

From: Robert Palmer <Robert.Palmer@juneau.org>
Sent: Wednesday, March 10, 2021 12:17 PM
To: 'kodzoff@alaskan.com'
Cc: Sherri Layne; Todd Araujo
Subject: Constellation/Arndt Stop Work order and email
Attachments: 2021-03-10 Constellation Stop Work Order.pdf

Hi Mr. Cohen,

Thanks for the call this morning. Consistent with your public records request, attached is the formal stop work order/permit revocation and associated email from Monday.

I have included Sherri Layne, who is the attorney in my office that primarily works with the Community Development Department/Planning Commission. I have also included Todd Araujo, who is representing the property owners.

Thanks

Rob

Robert Palmer
CBJ Municipal Attorney
907-586-0909
Robert.Palmer@juneau.org

From: Charlie Ford <Charlie.Ford@juneau.org>
Sent: Monday, March 8, 2021 4:46 PM
To: 'constellation' <dev@hotmail.com>
Cc: Jill Maclean <Jill.Maclean@juneau.org>; Alexandra Pierce <Alexandra.Pierce@juneau.org>; Autumn Sapp <Autumn.Sapp@juneau.org>
Subject: Stop Work Order

Travis,

I have to issue a Stop Work Order for your Grading Permit BLD20210039.

Unfortunately CDD acted in error and applied the incorrect section of code. We are revoking the grading permit for bank stabilization, you can apply for a new grading permit that more accurately covers your current activities. We will refund your fee. In 2011, the Coastal Management Program was repealed and 49.70.950(f) was nullified. 49.70.310 applies, with the 25 foot no disturbance buffer and the 50 foot no development buffer.

Please consider this email a Stop Work Order. I will hand deliver an official order tomorrow.

I apologize for the confusion.

Please contact me with any questions.

Thanks,

Charlie Ford | Building Official

Community Development Department | City & Borough of Juneau, AK

Location: 230 S. Franklin Street, 4th Floor Marine View Building

Office: 907.586.0767



CITY AND BOROUGH OF JUNEAU

NOTICE

Date 3/10/2021

To the Owner, Agent, Contractor, Workers or any other person or person engaged in doing or causing work to be done on this building: Permit Bid 20210039

By authority of Section 19.01.090(b) of the Code of the City and Borough of Juneau, the Building Official has inspected these premises and has found work being carried on in violation of Section 19.01.110 of the Code. Pursuant to Section 19.01.090(d) it is therefore ordered that all parties concerned shall immediately

STOP WORK

Resumption of work and removal of this notice shall be authorized by the Building Official upon full compliance with the Building Codes.

Violation of this order is a misdemeanor punishable by a \$1,000 fine. Repeat offenders may also be punished by 90 days imprisonment. Violators are guilty of a separate offense for each and every day during any portion of which a violation is committed, continued or permitted.

Time of issuance: 11:30 AM

Received by: Ken

Date: 3/10/2021

By Charles Ford
Building Official

**BEFORE HEARING OFFICER FOR THE ASSEMBLY OF THE
CITY AND BOROUGH OF JUNEAU**

SHAWN WILLE, and KERI WELDON,

Appellants,

vs.

CITY AND BOROUGH OF JUNEAU
PLANNING COMMISSION, and
CENTRAL COUNCIL OF THE TLINGIT AND
HAIDA INDIAN TRIBES OF ALASKA

Appellees,

Appeal: 2020- 0003

Notice of Decision: August 17, 2020

Appeal Case No. CUP 2020-0017

PROPOSED DECISION ON APPEAL

I. Introduction.

The above captioned appeal from the August 11, 2020 final decision, memorialized in a Notice of Decision August 13, 2020,¹ by the City and Borough of Juneau (“CBJ”) Planning Commission (“Commission”), was timely filed by appellant Shawn Wille on August 31, 2020. On November 16, 2020, and in a revised motion November 30, 2020, appellant Keri Weldon requested to intervene, and was permitted to join as an appellant by Order dated December 8, 2020. On January 6, 2021 the CBJ Assembly assigned the appeal to a hearing officer. This is the hearing officer’s proposed decision in this case.

As discussed in more detail in this decision, in the circumstances of this case, the appellants have not met their burden to prove that there was a procedural error. The findings here are adequate to inform the hearing officer of the basis upon which the decision appealed from was made. The

¹ Record on appeal (R.) at 344-345.

Commission's decision is supported by substantial evidence in the Record as a whole. While the appellants might disagree with the conclusions reached by the Commission, the Record shows that the Commission considered the points and testimony offered by the appellants on the issues in dispute here, and considered testimony of others on the same issues before deciding the matter. The appellants are not entitled to have the Commission agree with their position, and the findings reached by the Commission are supported by substantial evidence.

CBJ Code 01.50.140 provides that the hearing officer shall prepare a proposed decision and shall serve copies of the proposed decision with the municipal clerk and on each party in the appeal or the party's attorney no later than 45 days after the close of the hearing and the filing of all post-hearing briefs, if any. Here, the hearing date was March 8, 2021. Post hearing briefs were filed by all parties as requested by the hearing officer on March 26, 2021.

The CBJ Code also provides that within five days of service of the hearing officer's proposed decision on a party, a party may file a written objection to all or any part of the proposed decision. The objection shall set forth with specificity the parts of the proposed decision to which objection is taken, the basis for the objection, and the action which the objecting party seeks to have the appeal agency take. Within three days of the service on a party of objections, a party may file a written statement in support of the proposed decision. The hearing officer shall reconsider the proposed decision in light of timely filed objections and statements of support and shall promptly prepare any amendments to be made to the proposed decision or shall issue a statement that the objections to and the statements in support of the proposed decision have been considered and that no change in the proposed decision should be made. The hearing officer shall set forth the reason for any amendment or for the rejection of timely filed objections.²

² CBJ Code 01.50.140(c)(1).

II. Procedural Posture.

The underlying decision appealed from was a final appealable decision of the Commission approving the issuance of a Conditional Use Permit (“CUP”) for a proposed transitional housing facility for formerly incarcerated men re-entering the community.³ The Assembly has jurisdiction over the properly raised substantive issues within the scope of the administrative appeal pursuant to CBJ Code 49.20.120 and CBJ Code 01.50.020. The Assembly properly appointed a hearing officer to conduct the hearing in this matter pursuant to CBJ Code 01.50.040 et seq.

The parties on appeal are appellants Shawn Wille (“Wille”) and Keri Weldon (“Weldon”), in their individual capacities,⁴ and appellees are the Commission and the applicant, Central Council for the Tlingit and Haida Indian Tribes of Alaska (“CCTHITA”). Appellants are self-represented. Appellees are each represented by counsel.

Motions to Supplement the Record were filed by appellants on January 11, 2021. Those motions were denied for the reasons set out in the January 27, 2021 Order Denying the Motions to Supplement the Record. The parties filed briefs concerning the issues on appeal, and a hearing was held via Zoom on March 8, 2021. Following the hearing, the Commission filed a Notice of Supplemental Authority on March 9, 2021 identifying a section of the CBJ Code which may be relevant to the issues discussed at the hearing. Appellants filed an objection to appellee’s citation of the supplemental authority on March 10, 2021. The supplementary authority was accepted by Order dated March 17, 2021, and the parties were directed to file supplemental briefing by March

³ R. 11-12.

⁴ The Commission filed a pre-hearing motion to clarify the issues on appeal December 16, 2020 seeking to clarify that appellants were appealing in their individual capacities. No opposition was filed by appellants. No other motion to clarify the issue stated on appeal was timely filed. The clarification is appropriate where the appellants have not sought to be the designated representatives of any other persons, and have not provided any evidence of authority to represent other persons. CBJ Code 01.50.030(b)(3) requires a notarized representative statement if the individual appealing is doing so in a representative capacity. No such statement appears in the Record here.

26, 2021 on the issues of whether the Commission may rely on an applicant's representations as to their program rules here to determine whether the project will materially endanger public health and safety, and if so, whether failure of the applicant to substantially conform with those program rules could result in an enforcement action for violation of terms of the permit.

III. Facts.

On July 2, 2020, Northwind Architects, LLC submitted a completed application for a CUP, case number USE 2020-0017, for property to be developed by CCTHITA.⁵ The application packet included a development permit application for a CUP which included a project narrative and supporting materials.⁶ The project narrative described the material program components, and included the restrictions that this transitional housing program use would be a sober housing program; would not allow persons convicted of sex crimes residency in the housing; that there would be a central monitored entrance; that there would be a resident manager; and that the program would provide case manager services.⁷ These use attributes were also repeated by the applicant representatives at the Planning Commission hearing.⁸ The application also included the pre-application conference report, the site context map, site images, site plans, floor plans and elevations and artistic renderings of the project.⁹

Prior to filing the application, CCTHITA made contact with persons in the area concerning their planned project. Appellant Mr. Wille was individually notified June 1, 2020 and expressed his opposition to the project and intention to oppose the CUP when it came before the Planning Commission.¹⁰ After filing the application, in addition to required notices, CCTHITA conducted

⁵ R. 72.

⁶ R. 75-83.

⁷ R. 11-12.

⁸ R. 393-394, 396, 423 (Presentation of Talia Eames.)

⁹ R. 75-185.

¹⁰ R. 1157-1158.

a neighborhood meeting on July 23, 2020 to provide information regarding the project to owners of surrounding properties and other interested persons. The Commission acknowledged at oral argument that this was not a discretionary neighborhood meeting¹¹ set up by the Planning Director under CBJ Code 49.15.230(7).¹²

After being filed July 2, 2020, the application was advertised by both mailed notice and posted notice in accordance with the notice requirements in the CBJ Code 49.15.230 for a CUP.¹³ Specifically, surrounding property owners were identified by mailing addresses gathered using the CBJ Geographic Information System (“GIS”) database to create an abutter notification mailing list for notice of public meetings in accordance with standard CBJ Community Development Department (“CDD”) procedures.¹⁴ The notices were sent July 9, 2020 to the parties required by the CBJ Code, including appellant Weldon, and explained how to provide input concerning the application and how to participate in the meeting.¹⁵ Notice was posted on the CBJ website and was published in the Juneau Empire for the August 11, 2020 Commission meeting, and the notice included special call-in instructions and a link to the agenda materials.¹⁶

Appellants both submitted comments prior to the August 11, 2020 meeting and testified via Zoom at the August 11, 2020 meeting.¹⁷ Notice of the public hearing was physically posted at the location of the proposed transitional housing facility on July 27, 2020 in accordance with CBJ

¹¹ R. 19. CBJ Code 49.15.230(7) provides the Planning Director discretion to choose to conduct one or more neighborhood meetings to make application materials available and to solicit input regarding the application.

¹² March 8, 2021 hearing at 16:26-17:14.

¹³ R. 44-51.

¹⁴ R. 44-51, 96-97.

¹⁵ R. 44-51, 96-97. Under the COVID modified meeting procedures members of the public were able to participate online and submit comments by e-mail. R. 346.

¹⁶ R. 48-51.

¹⁷ R. 113; 135; 351; 352; 452-454; 466-467; 618-625, 761-767, 917-920; 929-930.

Code 49.15.230.¹⁸ On July 22, 2020 appellant Wille received specific notice of the method to comment and participate in the meeting and how to access materials.¹⁹ The Commission met on August 11, 2020, and held a hearing on the application.²⁰ At the August 11, 2020 public hearing, CCTHITA representatives and CDD staff provided presentation information regarding the project.²¹ Members of the public testified in support of and in opposition to the project.²²

Testimony included testimony from appellant Wille²³ and appellant Weldon²⁴ opposing the project. Ms. Weldon testified that homeowners in the neighborhood were very concerned about the project, that Eagles Edge is a diverse neighborhood, and that they were concerned about safety and the risk of increased criminal activity due to recidivism of persons housed in the project.²⁵ Mr. Wille testified that the problem was not with the plan, but with the location, expressing concern for safety of children in the area.²⁶

Mr. Wille also submitted written comments which he referenced in his testimony.²⁷ Mr. Wille's written comments reflected similar concerns to his verbal testimony.²⁸ The Commission Chair acknowledged that the Commission had received and read those written comments.²⁹ Mr. Wille also submitted a letter addressed from the Eagles Edge Homeowners Association, which

¹⁸ R.51, 97.

¹⁹ R. 919-920.

²⁰ R. 360.

²¹ R. 373- 571

²² R. 374-479.

²³ R. 466-467.

²⁴ R. 452-455.

²⁵ R. 452-455.

²⁶ R. 466-467.

²⁷ R. 113, 236, 761-767, for example.

²⁸ R. 113, 236.

²⁹ R. 467.

was also submitted by several other persons providing comments.³⁰ That letter expressed concern about the risk of increased crime resulting from the facility.³¹

Ms. Weldon submitted written comments on July 27, 2020³² expressing concern about the close proximity to large numbers of children and the high recidivism rates for convicted persons released from jail. Comments from Mr. Wille and Ms. Weldon were also included in summaries of comments provided to the Commission.³³

The comments and testimony presented conflicting views.³⁴ Several persons testified or commented expressing concerns similar to Mr. Wille and Ms. Weldon regarding increased crime, risks to children or neighborhood safety.³⁵ The staff report reflected these concerns expressed by neighbors.³⁶ Other persons testified that sex offenders would not be permitted in the program,³⁷ and would not be allowed on the site.³⁸ Comments also referenced a similar female post-release housing program, Haven House, which was characterized as successfully integrating into the neighborhood in which it is located without increased crime.³⁹ Testimony also indicated that there is no connection between people who are incarcerated and harming children.⁴⁰ Testimony was provided that the recidivism rate was lower and residents of these sorts of facilities do not re-commit while living at the facility in part because of the rules and supervision.⁴¹

³⁰ R. 761-767.

³¹ R. 764-765.

³² R. 929-930

³³ R. 55-57.

³⁴ R. 521-522. Noting competing testimony.

³⁵ R. 107, 109, 117-118, 229, 230, 232, 270-271.

³⁶ R. 65 Noting neighbor concerns.

³⁷ R. 416, 486.

³⁸ R. 424.

³⁹ R. 250, 276, 428, 469-474.

⁴⁰ R. 426-427.

⁴¹ R. 467-471

At the close of the public hearing, the Commission debated the CUP application and considered amendments. Among the amendments considered was a suggestion by Commissioner Winchell to add a condition prohibiting persons convicted of sex offenses from being housed on the premises.⁴² The Commission was advised by Assistant CBJ Attorney Emily Wright that such a condition would not be permitted within the scope of CBJ Code Title 49 review, and Mr. Winchell withdrew the suggestion.⁴³ The Commission recognized that the facility policy was to not permit sex offenders, but Commissioner Winchell expressed concern about whether that might change without public input.⁴⁴ The applicants stated that allowing sex offenders would be a big change in their conditional use permit.⁴⁵ At the March 8, 2021 argument, appellants stated that the Commission was aware that the policy to not permit sex offenders could be changed in the future, but approved the application anyway.⁴⁶

At the March 8, 2021 hearing, appellants asserted that location of the facility in a school zone was a concern as well, but did not identify where this was addressed in the Record. The Record shows comments of a member of the public concerning the facility being next to a school zone,⁴⁷ and a statement from staff that there are school zones and crosswalks in the area.⁴⁸ The Commission argued that the CBJ Code does not define “school zone”. “School zone” is actually defined in CBJ Code 72.28.010 for purposes of traffic regulation.⁴⁹ The Record does reflect that

⁴² R. 354, 497-498.

⁴³ R. 354, 499.

⁴⁴ R. 422-423.

⁴⁵ R. 423.

⁴⁶ March 8, 2021 Hearing at 48:16- 49:22.

⁴⁷ R. 270.

⁴⁸ R. 349.

⁴⁹ “School zone means the territory, including a highway, adjacent to a public or private school or school grounds, or any other area so designated by the state or the City and Borough.”

there is a school nearby, but does not reflect that the subject property is in a “school zone”, nor that such a location would trigger any additional criteria under the CBJ Code.

IV. Issues on Appeal.

In the Notice of Appeal filed August 31, 2020 the appellant stated the issues on appeal as:

- 1) “The Planning Commission approved the request for inappropriate reasons based upon inappropriate and incorrect findings”; and
- 2) “The Planning Commission relied on non-relevant evidence and acted on evidence not visible or proven.”⁵⁰

The Appellants’ Brief stated the issues on appeal as:

- 1) “The CUP for an all-male transitional facility at 6205 Alaway Avenue/Glacier Highway materially endangers the public health and safety of abutting users, especially children;”⁵¹
- 2) “The CUP 2020-0017 decision and the CBJ appeal process are socioeconomically prejudicial and racially discriminatory and do not comply with CBJ Resolution 2899 Section 1(A), (C), and (G) nor the intent of CBJ Ordinance 2020-32(c)(am). A social injustice is being inflicted upon a racially diverse and economically challenged neighborhood. Record at 68, cost burdened households;”⁵²
- 3) “Timely notice of the neighborhood meeting and hearing date was not received as per CBJ 49.15.230(3), nor was adequate notice received. The process of submitting information other than comments or questions was not described nor noticed;”⁵³
- 4) “The Community Development Department (CDD) staff and director did not sufficiently vet information presented by the applicant/developer for accuracy and intentions as per CBJ 49.15.330(d)(1). Misleading and misrepresented information was presented as material fact;”⁵⁴ and
- 5) “The CUP decision is not supported by adequate written findings.

⁵⁰ Notice of appeal.

⁵¹ Appellants’ Brief at 2.

⁵² Appellants’ Brief at 2.

⁵³ Appellants’ Brief at 2.

⁵⁴ Appellants’ Brief at 2.

Misrepresentations were used in written findings.”⁵⁵

Appellee CCTHITA summarized the issues on appeal as:

- 1) Whether the Planning Commission’s decision is supported by substantial evidence in the record as a whole;⁵⁶
- 2) Whether the Planning Commission’s decision is supported by adequate written findings;⁵⁷ and
- 3) Whether the Planning Commission properly followed its own procedures.⁵⁸

Appellee CCTHITA argues that other issues raised by Appellants are outside the scope of review in CBJ Code 1.50.070, and are therefore not appealable.

The initial points on appeal filed August 31, 2020 challenge the sufficiency of the evidence in the Record to support the decision of the Commission. The appellants’ points on appeal as outlined in Appellants’ Brief are not phrased in the terms set out in CBJ Code 1.50.070, but many of them articulate assertions which fall within the scope of CBJ Code 1.50.070.

Specifically, the first issue identified in Appellants’ Brief relates to the degree to which the evidence in the Record is sufficient to support the Commission findings regarding the criteria in CBJ Code 49.15.330(f)(1) and (2). This point is properly evaluated as an allegation of error under CBJ Code 1.50.070(a)(1) regarding whether there is substantial evidence in the Record to support the Commission’s determination. The second issue identified in Appellants’ Brief relates to arguments challenging the adequacy of the CBJ Code in terms of whether the procedures provide sufficient due process protections for neighbors. The third issue identified in Appellants’ Brief relates to adequacy of notice of the Planning Commission hearing. Both these points fall within the scope of whether the Commission properly followed its own procedures under CBJ Code

⁵⁵ Appellants’ Brief at 2.

⁵⁶ Appellee CCTHITA Brief at 1.

⁵⁷ Appellee CCTHITA Brief at 1.

⁵⁸ Appellee CCTHITA Brief at 1.

1.50.070(a)(3). The fourth and fifth issues identified in Appellants' Brief relate to the adequacy of findings and the sufficiency of the evidence to support those findings by the Commission. Both these points fall within the scope of whether the Commission decision was supported by written findings and whether those findings are supported by substantial evidence under CBJ Code 1.50.070(a)(2) and (3). Accordingly, these issues will be discussed in the context of the appeal standards in CBJ Code 1.50.070.

Appellants' Reply Brief raised two new arguments which were not in the points on appeal or addressed in Appellants' Opening Brief. In Appellants' Reply Brief appellants argue that the CUP 2020-0017 should be revoked under AS 36.30.087(a)(1) and (e).⁵⁹ They also argue that the CBJ will be liable if a child suffers injury from a resident of the facility.⁶⁰

V. Standard of Review.

CBJ Code 1.50.070 sets out the standard for review and burden of proof. This Section provides that the burden of proof is on the appellant. The hearing officer may set aside a decision only if: 1) The appellant establishes that the decision is not supported by substantial evidence in light of the whole Record, as supplemented at the hearing; 2) The decision is not supported by adequate written findings or the findings fail to inform the appeal agency or the hearing officer of the basis upon which the decision appealed from was made; or 3) The appeal agency or the hearing officer failed to follow its own procedures or otherwise denied procedural due process to one or more of the parties.

An administrative agency's findings of fact that are within the area of the agency's expertise should be upheld if they are supported by substantial evidence in the Record as a whole.⁶¹

⁵⁹ Appellants' Reply Brief at 8.

⁶⁰ Appellants' Reply Brief at 8.

⁶¹ See *N. Star Alaska Hous. Corp. v. Fairbanks N. Star Borough Bd. of Equal.*, 844 P.2d 1109, 1110 (Alaska 1993).

Substantial evidence is such evidence as a reasonable mind might accept as adequate to support the agency's conclusion.⁶² When applying the substantial evidence test, the review does not independently re-weigh the evidence.⁶³ The review should only determine whether such evidence exists, and not choose between competing inferences.⁶⁴

VI. Discussion.

The form of decision must be in writing, contain findings of fact and a determination as to each issue presented. A decision may affirm, modify, or set aside an agency decision in whole or in part. A decision may be to remand any issue to the agency.⁶⁵ The issues will be addressed in the context of the standards in CBJ Code 01.50.070(a): whether there was a procedural error denying due process to the parties; whether the Commission findings adequately inform the reviewing authority of the basis for the decision to enable review; and whether the Commission's decision to grant the CUP was supported by substantial evidence in the Record as a whole.

A. The Planning Commission Followed its Own Procedures and Provided Due Process to the Parties.

The procedures for the Planning Commission process on a CUP are set out in CBJ Code 49.15.330. The notice and publication procedures for the hearing are prescribed in CBJ Code 49.15.230. As noted above in the recitation of the facts, the Record reflects that the procedures for notice and hearing required by the CBJ Code, as modified by COVID restrictions, were followed in this case.

The appellants argue that the procedures were inadequate for two reasons: 1) more notice

⁶² *Storrs v. State Med. Bd.*, 664 P.2d 547, 554 (Alaska 1983).

⁶³ *Yahara v. Construction & Rigging, Inc.*, 851 P.2d 69, 72 (Alaska 1993).

⁶⁴ *Handley v. State, Dep't of Revenue*, 838 P.2d 1231, 1233 (Alaska 1992); *Interior Paint Co. v. Rodgers*, 522 P.2d 164, 170 (Alaska 1974).

⁶⁵ CBJ Code 01.50.140(a).

should have been provided to neighbors,⁶⁶ and 2) the notice, hearing, and appeal procedures deprive persons of low socioeconomic status or certain ethnicities the opportunity to meaningfully be heard and exercise their rights.⁶⁷ Appellants' arguments that the notice was inadequate fail for at least four reasons: First, appellants did not reasonably raise these procedural issues in their initial points on appeal. Second, the challenge raised does not assert that the Commission failed to follow the applicable ordinances regarding procedure, rather it challenges the adequacy of the procedures. The Record reflects that the ordinances were followed. Third, ordinances are entitled to a presumption of constitutionality,⁶⁸ and appellants have not presented evidence or argument which overcomes that presumption. Fourth, appellants do not identify any factual basis in the Record to support their allegations that the process is discriminatory or inadequate in general, or more specifically that they were prevented from appealing or participating in this case due to socioeconomic or ethnicity reasons. The facts support the conclusion that the appellants were able to fully participate.

Appellants argue in part that the Planning Commission and the Assembly are all wealthy and predominantly Caucasian,⁶⁹ that ethnicity and socioeconomic status is inherently prejudicial in this case,⁷⁰ and that the expense and complexity of the hearing and appeals process make it discriminatory against persons of lower socioeconomic status.⁷¹ This argument is rejected for at least six reasons. 1) Appellants do not identify any evidence in the Record regarding the race or socioeconomic status of the officials alleged to be conducting a discriminatory process; 2) even if such evidence were in the Record, it does not establish bias, and no evidence of bias has been

⁶⁶ Appellants' Brief at 10-11.

⁶⁷ Appellants' Brief at 8-10.

⁶⁸ See *Hagblom v. City of Dillingham*, 191 P.3d 991, 997 (Alaska 2008).

⁶⁹ Appellants' Brief at 8.

⁷⁰ Appellants' Brief at 9.

⁷¹ Appellants' Brief at 9.

identified in the Record; 3) appellants do not represent anyone other than themselves,⁷² and the appellants do not identify any evidence in the Record regarding their ethnicity or socioeconomic status; 4) the appellants do not present any evidence that the appeal filing fee prevented them from filing an appeal or that they have been prejudiced by cost or complexity for representation; 5) the Record does not reflect, and the appellants have not offered, any evidence that ethnicity or socioeconomic status was a material consideration in the decision in this matter; and 6) appellants did not include this argument within their points on appeal.

Appellants argue that the notice of the proceedings and of the application was untimely and inadequate. The appellants object to the sequence of the staff report and public comments with the apparent desire that comments submitted would be taken into account and included in the staff report.⁷³ The notice requirements for the public hearing before the Commission in CBJ Code 49.15.230 address notice for that meeting. They do not address submission of public comments to the staff for preparation of its report. Similarly, the optional neighborhood meetings under CBJ Code 49.15.230(7) are discretionary and need not be held prior to preparation of the staff report. Failure of the CDD to hold a neighborhood meeting is not a defect in the process. The Record reflects that the appellants here had notice of the application well before the Commission hearing, had the opportunity to, and did, submit written comments prior to the hearing and made live comments at the hearing. Appellants have not presented evidence that their opportunity for notice and comment was inadequate. They are not entitled to have the Commission choose their views over those of others, and the fact that the case did not go as they desired does not render the notice

⁷² The Notice of Appeal clearly states that if a person is representing a group there must be a notarized statement that the person is authorized to represent them. Neither Appellant has asserted that they are representing anyone but themselves, and the Record does not contain a notarized statement regarding any group representation.

⁷³ While not required, appellants' comments were among those public comments considered and summarized in the staff report. R. 56-57.

or procedure defective.

In Appellants' Reply Brief, appellants argued that the sign posted on the property as required by CBJ Code 49.15.230(3) was not timely because it would have needed to be posted by 11:59 P.M. on July 27th and was not posted until July 28th. The Record reflects that the sign was posted before sunset on July 27th and a photograph was e-mailed at 12:46 AM on July 28, 2020.⁷⁴ Appellants reason that a day is 24 hours, and the last day (the day of the August 11, 2020 meeting) should not be counted. However, CBJ Code 01.15.010 provides that in the computation of time the last day is included. Thus, a sign posted before midnight July 28 would meet the 14-day requirement for an August 11 meeting. Even if it did not, the facts here show substantial compliance and appellants did not show any prejudice.

I find that the notice of the Planning Commission hearing complied with the requirements of the Code, and that the required procedures were followed. Appellants have not met their burden to prove that the Commission failed to follow its procedures or otherwise denied procedural due process to one or more parties.

B. The Planning Commission's Decision is Supported by Written Findings Which Adequately Inform a Reviewing Body of the Basis Upon Which the Decision Was Made.

CBJ Code 49.15.330(e) requires the Planning Commission to consider the application and review the director's recommendation with respect to: 1) whether the application is complete; 2) whether the requested permit is appropriate according to the table of permissible uses; 3) whether the development as proposed will comply with the other requirements of Title 49; and 4) whether conditions are necessary for approval. The Planning Commission is required to approve the application unless it finds, by a preponderance of the evidence, that one or more of the criteria have not been met.

⁷⁴ R. 51.

The Commission decision adopted the analysis and findings listed in the July 31, 2020 memorandum attached to that decision.⁷⁵ The findings incorporated by reference conclude that the project to be conducted as described in the project description and project drawings submitted with the application satisfies each of these criteria with the adoption of the conditions identified.⁷⁶ The particular findings disputed by appellants are findings number four,⁷⁷ five,⁷⁸ and six.⁷⁹

The appellants argue that the findings are inadequate,⁸⁰ and that they are based upon inadequate analysis and misleading information.⁸¹ The appellants argue that the risks they and other neighbors identified of crime, recidivism, victimization of children, and reduced property values were not recognized by the Commission findings. Appellants argue that the project would have these adverse impacts, and that findings number four and five do not take the testimony on these issues into account and are not supported.⁸² Appellants argue that finding number six is not supported because page 36 of the Lemon Creek plan calls for making it a desirable place to live and the proposed facility would make it less desirable.⁸³

Appellants' arguments focus on the specific wording of the findings on pages 69 and 70 and are critical of the findings for lack of analysis.⁸⁴ However, appellants do not address the analysis in the report which led to those conclusions, and which is incorporated by reference in the

⁷⁵ R. 344; 53.

⁷⁶ R. 69-70.

⁷⁷ "There is no evidence to suggest that with appropriate conditions the requested transitional housing, in a general Commercial Zoning District will materially endanger public health or safety." R. 69.

⁷⁸ "There is no evidence to suggest that with appropriate conditions, the requested Transitional Housing, in a General Commercial Zoning District will substantially decrease the value or be out of harmony with the property in the neighboring area." R. 69.

⁷⁹ "The proposed transitional housing, with the recommended conditions, will be in general conformity with the Comprehensive Plan, Housing Action Plan, Juneau Economic Development Plan, Lemon Creek Area Plan, and the Juneau Wetlands Management Plan." R. 70.

⁸⁰ Appellants' Brief at 14-16, Appellants' Reply Brief at 2-6.

⁸¹ Appellants' Brief at 11-14.

⁸² Appellants' Brief at 15, Appellants' Reply Brief at 2-6.

⁸³ Appellants' Brief at 16, Appellants' Reply at 7.

⁸⁴ Appellants' Brief at 14, Appellants' Reply Brief at 2-6.

Commission's decision, nor do appellants acknowledge or address the project description which is incorporated by reference in the Commission's decision approving the application. The analysis regarding finding number four⁸⁵ starts by recognizing that some neighbors have expressed concerns about safety in the area with families in surrounding neighborhoods. Similarly, the analysis regarding finding number five⁸⁶ recognizes that neighbors have expressed concerns about neighborhood harmony and impacts on property values. The analysis regarding finding number six discusses the various components of the Comprehensive Plan and plan goals which are supported by the project.⁸⁷

The decision adopted by reference the analysis prepared by the staff in the July 31, 2020 memorandum.⁸⁸ That memorandum contained detailed analysis of the criteria which explains the basis of the findings. The decision also specifically stated that the transitional housing was to be conducted as described in the project description and drawings submitted with the application.⁸⁹ While appellants may disagree with the conclusions, the underlying analysis explains the reasoning adopted by the Commission sufficiently to enable review. The appellants' arguments relate not so much to whether a reviewing body can determine the basis for the findings as much as they relate to appellants' disagreement with the conclusions reached. I find that the analysis and the application materials incorporated into the decision adequately explain the basis for the Commission's findings. The dispute as to the adequacy of the evidence to support the findings is addressed separately.

C. The Planning Commission's Decision is Supported by Substantial Evidence in The Record as a Whole.

⁸⁵ R. 65-66.

⁸⁶ R. 66-67.

⁸⁷ R. 67-68.

⁸⁸ R. 344; 53.

⁸⁹ R. 344.

The appellants' primary argument is that the Commission decision is not supported by substantial evidence in the Record. The main thrust of this argument reasons that there were numerous written comments and there was testimony in the Record regarding the adverse public safety impacts of the proposed development placing convicted felons in close proximity to a school, school walking route, school bus stop, and neighborhood with a large concentration of children.⁹⁰ The comments also expressed concern about increased crime and decreased property values. Appellants argue that findings number four and five⁹¹ are not supported by substantial evidence in the Record and that the Commission analysis did not take the adverse impacts testimony into account. Appellants also challenge the conclusions regarding finding number six regarding compatibility with land use plans.

1. The Commission Finding Number Four that the Development Would Not Materially Endanger Public Health or Safety is Supported by Substantial Evidence in the Record.

Appellants' primary focus of their appeal is on the public health and safety impacts on surrounding properties. Analysis of whether the Commission finding that the use will not materially endanger the public health or safety is supported by substantial evidence includes two lines of reasoning. The first assumes that none of the operational procedures described in the project description in the application and described in the staff report are limitations on the use. The second assumes that the operational procedures described in the project description in the application and described in the staff report, both of which are incorporated by reference in the Commission findings, are terms applicable to the use under the permit.

- a. The Commission Finding Number Four that the Development Would Not Materially Endanger Public Health or Safety is Supported by Substantial Evidence in the Record without the Commission's Reliance on the Applicant's Representations of Major Program Components in

⁹⁰ R. 107, 109, 117-118, 229, 230, 232, 270-271.

⁹¹ R. 69.

the Project Description.

Looking at the first line of reasoning, the appellants asserted at the March 8, 2021 hearing that the Commission was aware that the program conditions, including the rule about not permitting sex offenders, could not be made conditions on the permit to be enforced under Title 49, and approved the CUP anyway.⁹² The Record reflects that the Planning Commission was advised that a condition such as prohibiting sex offenders was beyond the authority of the Commission to impose under Title 49.⁹³ When asked about remedies if program conditions such as the prohibition on sex offenders were revised by the permittee, at the March 8, 2021 hearing the Commission representative advised that the condition would be unenforceable, but if the applicant intended to change the operating rules in that manner they advised that they would come back to the CBJ first.⁹⁴ As will be discussed below, the Commission clarified this position later and takes the position that the applicant's material representations as to the use, including major program components, are enforceable terms, even if similar conditions imposed by the Commission's initiative would be unenforceable.

Appellants argue that the reliance on the applicant's representations is not justified because the representations are unenforceable, and the facility materially endangers the public health and safety.⁹⁵ Appellants emphasize the concern that the operating rules described in the application, and which the staff report relied upon for in its analysis and conclusions that the project would not adversely impact public safety, would not be conditions on the project, and could be disregarded

⁹² March 8, 2021 Hearing at 48:16- 49:22.

⁹³ R. 499. The Record does not reflect similar advice regarding other major program components described in the applicant's project description and in testimony at the hearing.

⁹⁴ March 8, 2021 hearing at 23:33-25:53.

⁹⁵ Appellants' Joint Supplemental Post Hearing Brief at 1.

later without neighborhood input. While the on-site manager is a code requirement,⁹⁶ the other material program components described in the project narrative and discussed in the staff analysis are not required by the CBJ Code. The primary focus of appellants' objections is the "no sex offender" policy. Appellants argue that where the property owner has discretion to alter program operations and could begin housing sex offenders at the facility without requiring a new permit, the public safety is placed at risk.

The Record shows that the Commission approved the application knowing that they could not impose a separate condition that no sex offenders be housed at the facility. The Record also shows that the Commission finding that the project would not materially endanger public health or safety was based upon the applicant's representations in the project description. As noted above, the Commission decision adopted the analysis and findings listed in the July 31, 2020 memorandum attached to that decision.⁹⁷ The findings incorporated by reference conclude that the project to be conducted as described in the project description and project drawings submitted with the application satisfies each of these criteria with the adoption of the conditions identified.⁹⁸

In addition, comments received also referenced success of a similar female post-release housing program operating on a similar model without increased crime.⁹⁹ Testimony was provided that the recidivism rate was lower and residents of these sorts of facilities do not re-commit while living at the facility in part because of the rules and supervision.¹⁰⁰ The Commission also inquired about the difference in the size of facility as between Haven House and the proposed facility and was advised that the increased size did not pose any increased risk to public safety. For example,

⁹⁶ CBJ Code 49.25.300 requires the owner or manager be on site as manager for a 1.610 boarding house type use.

⁹⁷ R. 344; 53.

⁹⁸ R. 69-70.

⁹⁹ R. 250, 276, 428, 469-474.

¹⁰⁰ R. 467-471

Member Voelckers inquired of a witness about the difference between male and female prisoners, and the difference in program size as between Haven House and the proposed project.¹⁰¹ The testimony was summarized in the statement that the precautions and the features of the program seem adequate to the number of people who are there.¹⁰²

The Record reflects that the major program components which are essential precautions and features of the program were essential facts upon which the Commission relied in making its finding that the project would not materially endanger public health or safety. Therefore, if one were to take the view advocated by appellants, that the Commission knew the applicant's representations as to the major program components were not enforceable and approved the application anyway, finding number four would not be supported by substantial evidence in the record.

- b. The Commission's Finding Number Four that the Development Would Not Materially Endanger Public Health or Safety, based upon reliance on the Applicant's Project Description and Testimony is Supported by Substantial Evidence in the Record.

Despite the appellants' assertion that the Commission knew the major components in the project description were not enforceable and granted the CUP anyway, I find that the applicant's representations must be considered because the Commission implicitly relied on the applicant's representations to support its findings. Where the Commission relied upon the representations of the applicant to support its finding that the use will not materially endanger the public health or safety, the Commission finding is supported only if those representations upon which its finding relies are enforceable.

The Commission Decision approving the CUP was for the "Conditional Use Permit for

¹⁰¹ R. 472-474.

¹⁰² R. 474.

Transitional Housing located at 6205 Alaway Avenue in a General Commercial Zoning District, to be conducted **as described in the project description** and drawings submitted with the application and with the following conditions...”¹⁰³(Emphasis supplied.) The project description in the application which is incorporated by reference as a limitation on the approval includes the referenced operating conditions.¹⁰⁴ The project narrative described the material program components, and included the restrictions that this transitional housing program use: would be a sober housing program; would not allow persons convicted of sex crimes residency in the housing; that there would be a central monitored entrance; that there would be a resident manager; and that the program would provide case manager services.¹⁰⁵ The analysis and findings adopted by the Commission by reference rely upon the these operational rules as the basis for the conclusion that the project will not materially endanger public safety.¹⁰⁶

Regarding enforceability, the Commission submitted a Notice of Supplemental Authority on this issue March 9, 2021, to which appellants objected. The supplemental authority was a reference to CBJ Code 49.10.620 regarding compliance orders. The CBJ Code section referred to provides in part:

“49.10.620(a) When, in the opinion of the department, a person is violating or is about to violate a provision of this title, or a lawful order of the department, or a permit, or a term or condition of a permit, issued by the department under this section, the department may notify the person of its determination by personal service, or certified mail.”

In the March 26, 2021 supplemental briefing the Commission clarified the issue and

¹⁰³ R. 344.

¹⁰⁴ R. 11-18.

¹⁰⁵ R. 11-12.

¹⁰⁶ See R. 65-66 (noting a live-in manager, prohibition on use of drugs or alcohol, counseling and other elements) and at 69 (citing on-site staff, resident manager, security, and programming, as support for the finding.)

stated that “The program rules were part of the application and part of the detailed presentation at the Commission’s August 11, 2020 meeting and the Commission can rely on that applicant information to make its determination.”¹⁰⁷ The Commission also took the position that the program rules represented by the applicant could be enforced as terms of the CUP by a compliance order under CBJ Code 49.10.620 stating:

“Based upon the language in the written findings, the program rules are enforceable by the City and Borough of Juneau. Although the Commission did not specifically add an additional condition to the CUP, it is an implicit condition of the permit by virtue of the representation in the application, which was then incorporated into the Commission’s written findings.”¹⁰⁸

The CCTHITA supplemental briefing also asserted that the Commission may rely on an applicant’s representations, and that should the applicant change its program rules after the CUP is issued, so that it no longer substantially conforms with what was presented to the Commission, the CBJ Code authorizes the CDD to institute action for a compliance order to correct violations. CCTHITA acknowledges that the CDD has the option of addressing major program changes which deviate from those representations by initiating a compliance order.

This is significant not only as it relates to the enforceability of the representations in the application and at the Commission hearing upon which the Commission relied, but also for the estoppel effect which would restrict the applicant from later arguing that they did not have an obligation to substantially comply with the terms for their transitional housing program use as described in the permit application and at the hearing. This is consistent with the principle recognized in *City of Berkeley v. 1080 Delaware, LLC*,¹⁰⁹ allowing enforcement of a condition which was accepted and not challenged by the applicant despite subsequent legislation

¹⁰⁷ Planning Commission Supplemental Post Hearing Briefing at 4.

¹⁰⁸ Planning Commission Supplemental Post Hearing Briefing at 4.

¹⁰⁹ 234 Cal.App 4th 1144, 184 Cal.Rptr.3d 177 (2015)

preempting the condition.

The Commission's authority to impose an additional condition is also distinguishable from the Commission's acceptance of or reliance upon the terms of use stated in the application or the applicant's representations as to components of their program for use of the property. While the Commission may be constrained in imposing additional conditions, the Commission can reasonably rely on an applicant's characterization of their use¹¹⁰, including the primary attributes of their program as they relate to compliance with the standards for the CUP. Further, a failure to substantially comply with the terms of a permit may, in appropriate circumstances, support action for enforcement under CBJ 49.10.620. Here, it is apparent that the Commission relied upon the representations of the applicant regarding major components in the program description in reaching its conclusion that the project would not materially endanger public health or safety.

While the Commission did not identify the use indicated in the application as an enumerated condition under CBJ Code 49.15.330(g)(2), the decision here specifically stated that the transitional housing was to be conducted as described in the project description and drawings submitted with the application.¹¹¹ As noted by the Commission in its supplemental briefing, the major program elements presented are implicitly incorporated in the Commission findings. If the terms of the permit rely on the applicant complying with their own project description, it is not unreasonable for the Commission to rely on those representations. The Commission considered but did not impose an explicit condition regarding no sex offenders at the facility, but the Record supports the conclusion that it relied upon the applicant's representations on this

¹¹⁰ See CBJ Code 49.15.330(g)(2) which specifically permits the Commission to impose a condition that the use of the development be restricted to that indicated in the application.

¹¹¹ R. 344.

point and the other substantive program components identified in the staff report and the findings adopted by the Commission as a material basis for its approval of the application.

Appellants argue in the supplemental briefing that a “no sex offender” condition is preempted by the Fair Housing Act of 1988.¹¹² Appellants note that the permit and any conditions go with the property and apply to subsequent owners,¹¹³ but argue that the applicant’s representations are too uncertain to be enforceable. Appellants rely on two cases dealing with contract interpretation and whether an obligation exists to support this assertion.¹¹⁴ The cited cases addressing whether the parties to a contract agreed to definite terms are not applicable here.

The question of whether an agreement or obligation exists is separate from the question of whether that obligation has been breached. Here the obligation exists. For example, the requirement in CBJ Code 49.25.300, 1.610 for an on-site manager for this use clearly applies. Similarly, while not in the CBJ Code, the representations as to major program components are clearly described. The issue of enforcement would be determined in the first instance by the CDD, and would be based upon the facts at that time. Where, as here, the relevant program components are objectively observable, I cannot conclude that they are too uncertain for later enforcement.

I find that the Commission both considered and relied upon the representations of the

¹¹² No authority for this assertion is provided. It is also a new argument. Both this and the equal protection argument, which is similarly unsupported by a citation to authority, are rejected as untimely and unsupported.

¹¹³ Appellants cite to *Anza Parking Corp. v. City of Burlingame*, 195 Cal. App. 3d 855 (1987). (*Anza v. Burlingame*, at 859-860, notes the general rule that a permit runs with the land and conditions imposed are concerned with the use, not the ownership.) Notably the property owner was trying to force the City to enforce a condition held invalid against its successor in interest. This case does not address whether a condition limiting occupancy by sex offenders is preempted by the Fair Housing Act, nor did appellants offer authority to support that contention.

¹¹⁴ Citing *Vizel v. Vitale*, a June 2020 NY Supreme Court slip. Op. 03140 and *Stenehjem v. Kyn Jin Cho*, 631 P.2d 482, 485 (Alaska 1981)

applicant to find that the project will not materially endanger the public health or safety, and that the applicant's material representations regarding the program description are terms implicitly incorporated into the Commission's findings and enforceable under CBJ Code 49.10.620. Based upon the Record, I find that the Commission's finding that the proposed use does not materially endanger public safety, was made in reliance on the representations from the applicant in their project description and at the public hearing that the use: 1) would be a sober housing program; 2) would not allow persons convicted of sex crimes residency in the housing; 3) that there would be a central monitored entrance; 4) that there would be a resident manager; and 5) that the program would provide case manager services. Should the use cease to operate with these major program components, such operation would not be in conformity with the material terms of the Commission's approval of the CUP and may require either a subsequent CUP or risk a compliance order. I do not find that any particular recidivism rate was represented. The statements regarding recidivism rates were aspirational, and would be difficult to objectively measure or enforce. Further, the achievement of a particular recidivism rate is not a major program component.

The Record reflects that the Commission received evidence from the staff report and testimony that a similar program had experienced no material public safety risk. The testimony discussed the need for programs of this type to reduce homelessness, victimization of new releasees, employment assistance and re-integration efforts. The testimony discussed success of similar programs in reducing recidivism. While there was also testimony that such programs are not as successful as portrayed, there is substantial evidence supporting the conclusion that the project as described in the application does not materially endanger public safety.

Even if there is evidence in the Record to the contrary, where the Record contains evidence which a reasonable mind might accept as adequate to support the agency's conclusion, then

substantial evidence supports the Commission's findings. Here the Record contains evidence a reasonable mind might accept as adequate to support the Commission's findings that the proposed use, operated substantially as described in the applicant's project narrative and subject to the conditions identified in the Commission's Decision, will not materially endanger the public health or safety.

The Commission's determination was based upon their weighing the evidence presented. The fact that the Commission did not adopt the view advocated by appellants does not render the Commission's decision defective. The review as to whether the Commission's decision is supported by substantial evidence in the Record does not re-weigh the evidence.¹¹⁵ Rather, it looks at the decision reached and whether there is substantial evidence in the Record supporting their conclusions. The applicable standard requires that the challenge to Commission finding number four be rejected.

2. *The Commission Finding Number Five that the Development Would Not Substantially Decrease the Value of or be out of Harmony with Property in the Neighboring Area is Supported by Substantial Evidence in the Record.*

The Appellants argue that finding number five, that the development would not substantially decrease the value of or be out of harmony with property in the neighboring area, is not supported by substantial evidence in the Record. The staff report reflected the concerns expressed by neighbors regarding impacts on property values.¹¹⁶ The Commission had evidence from the Borough Assessor that property values would not be expected to be adversely impacted.¹¹⁷

The proposed use is a residential use. The project is in a commercial zone, with

¹¹⁵ *Yahara v. Construction & Rigging, Inc.*, 851 P.2d 69, 72 (Alaska 1993).

¹¹⁶ R. 67.

¹¹⁷ R. 67.

residentially zoned property nearby. The staff report characterized the area as a mix of multi-family and commercial development.¹¹⁸ This does not appear to be disputed. Beyond the assertion of lower property values, the appellants' concerns relating to harmony in finding number five relate back to the concern about increased crime. This concern was addressed in the context of finding number four. The Commission's conclusion that a rooming house or boarding house is in harmony with a mixed use commercial and residential area which includes multi-family residences is supported by the Record.

The Commission's determination that the project would not substantially decrease the value of surrounding properties is supported by substantial evidence in the Record. The Commission can reasonably rely on the opinion of the Borough Assessor, and contrary evidence and testimony was not demonstrably more credible. Where the evidence is not re-weighed, and there is substantial evidence in the Record to support the Commission's conclusion, it must be upheld.

Similarly, the Commission finding that the development would not be out of harmony with property in the neighboring area, when viewed in relation to the evidence as to the mixed use nature of the area, and compared to other uses which are permitted in the location without a conditional use permit, the Commission finding is both reasonable and is supported by substantial evidence in the Record. The applicable standard requires that the challenge to Commission finding number five be rejected.

3. *The Commission Finding Number Six that the Development Would be in General Conformity with the Land Use Plan, Thoroughfare Plan, or Other Officially Adopted Plans is Supported by Substantial Evidence in the Record.*

¹¹⁸ R. 67.

Appellants also challenge the conclusions regarding finding number six regarding compatibility with land use plans. The staff report¹¹⁹ identifies components of the land use plans which are compatible with this development. Appellants reason that the proposed development makes the Lemon Creek area less attractive or less desirable and therefore the development is not in conformity with land use plans.¹²⁰ Identification of one statement in one of the plans which is arguably not served by the development does not negate the analysis or deprive the finding of support by substantial evidence in the Record.

The analysis set out in the staff report, which was incorporated by reference in the decision, noted that the proposed development was in general conformity with several listed components of the listed land use plans including higher housing density along transit corridors and more affordable housing.¹²¹ This analysis supports the conclusion reached by the Commission. Further, the Lemon Creek Plan element discussed by appellants refers to an aspirational goal¹²² of developing facilities and opportunities which make Lemon Creek more attractive, not a mandatory element for every project. In cherry-picking an item from the Lemon Creek Plan, which is arguably inconsistent with the proposed use, appellant seeks to enforce the Plan as a rigid set of mandates rather than an evolving and flexible long-term planning tool. The appellants have not shown that the Commission ignored land use goals in allowing this conditional use in the General Commercial zone.

Here the Record contains evidence a reasonable mind might accept as adequate to support the Commission's findings that the proposed development serves the Comprehensive Plan, Juneau

¹¹⁹ R. 67-68.

¹²⁰ Appellants' Reply Brief at 7.

¹²¹ R. 68.

¹²² See CBJ Code section 49.05.200(c) providing in part that "The goals and policies set forth in the comprehensive plan are aspirational in nature, and are not intended to commit the City and Borough to a particular action, schedule, or methodology."

Economic Development Plan, and Housing Action Plan goals of increasing affordable housing units and the Lemon Creek Plan goal of designating land along transit corridors for residential use densities that can produce affordable housing for all economic groups. Therefore, this finding is supported by substantial evidence. The review does not independently re-weigh the evidence. The applicable standard requires that the challenge to Commission finding number six be rejected.

D. Issues Waived.

Appellants' Reply Brief raised two new arguments which were not in the points on appeal or addressed in Appellants' Opening Brief. Issues raised for the first time in a reply brief are waived.¹²³ Even if this were not the case, the new issues raised are without merit.

First, in appellants' Reply Brief, appellants argue that the CUP 2020-0017 should be revoked under AS 36.30.087(a)(1) and (e).¹²⁴ This statute does not apply to a CUP process. It deals with state procurement contracts. It has no relevance here. Second, the argument that the CBJ will be liable if a child suffers injury from a resident of the facility,¹²⁵ has no basis in Alaska law. Under AS 09.65.070(d) a municipality and its employees are immune from liability where the property is not municipally owned, and the claim is based upon grant or denial of a permit.

Accordingly, the appellants' arguments on these two points are denied because: 1) appellants failed to timely raise the issues; 2) the arguments are not relevant to the issues relating to whether the Commission properly addressed the CUP here, and 3) because there is no support for appellants' arguments on these issues in the law.

¹²³ See *Crittell v. Bingo*, 83 P.3d 532, 536, n. 19 (Alaska 2004) (holding that a reply brief may raise no contentions not previously raised in either appellant's or appellee's briefs.)

¹²⁴ Appellants' Reply Brief at 8.

¹²⁵ Appellants' Reply Brief at 8.

V. Conclusion

Reviewing the Commission's decision, findings of fact are entitled to deference and will be upheld if they are supported by substantial evidence in the Record. Here the challenged findings numbers four, five and six are supported by substantial evidence in the Record and I see no basis to overturn the Commission's judgment. The primary argument offered by appellants are based upon concerns about safety of children, risk of crime, and concerns about sex offenders being housed at the facility. The Record contained substantial testimony to support the Commission's findings.

The appellants did not meet their burden. Appellants did not establish that there were material procedural defects. The Commission findings are sufficiently detailed to permit meaningful review. The Commission findings are supported by substantial evidence in the Record. Therefore, the Commission decision is upheld, and the appeal is rejected.

DATED this 31st day of March 2021.

HEARING OFFICER

By: 
Scott A. Brandt-Erichsen