

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

June 4, 2018 7:00 PM

City Hall, Assembly Chambers
Regular Meeting 2018-15

Submitted By:

Duncan Rorie Watt
City and Borough Manager

I. FLAG SALUTE

II. ROLL CALL

III. SPECIAL ORDER OF BUSINESS

IV. APPROVAL OF MINUTES

A. May 14, 2018 Regular Assembly Meeting 2018-14

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 2018-32 An Ordinance Amending Title 72 of the City and Borough of Juneau Code Relating to Driving Without a License.**

This is a housekeeping ordinance clarifying that the operation of a vehicle without a license is an offense, not only when one's license has expired, but also when a license has never been obtained. (Consistent with state law, the CBJ code provides for a lesser penalty for operating a motor vehicle when one's license has been expired for less than one year.)

The City Manager recommends this ordinance be introduced and set

for public hearing at the next regular Assembly meeting.

- b. **Ordinance 2018-34 An Ordinance Authorizing the Manager to Execute Utility Permits with the Alaska Department of Transportation and Public Facilities for the Construction, Repair, and Maintenance of City and Borough of Juneau Utilities in State Rights-of-Way.**

This ordinance would allow the Manager to execute utility permits with the Alaska Department of Transportation and Public Facilities to construct, repair, and maintain CBJ utilities, as required by AS 19.25.010, AS 35.10.210, and 17 AAC 15.061.

ADOT&PF's boilerplate utility provision contains an indemnification provision. CBJ Charter 9.13(a) generally prohibits the CBJ from indemnifying others. However, Charter 9.13(c) allows the CBJ to indemnify the State when the CBJ would not otherwise be able to participate. This ordinance would allow the Manager to execute ADOT&PF utility permits required by state law.

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

- c. **Ordinance 2018-35 An Ordinance Authorizing the Manager to Execute Permits for City and Borough of Juneau Road Reconstruction and Maintenance Projects in State Rights-of-Way with the Alaska Department of Transportation and Public Facilities.**

This ordinance would allow the Manager to execute approach road permits that include indemnification provisions with the Alaska Department of Transportation and Public Facilities to allow the CBJ to reconstruct municipal roads and other approaches when the access points are located within the State's rights-of-way as required by 17 AAC 10.020(c).

ADOT&PF's boilerplate access road permits contains an indemnification provision. CBJ Charter 9.13(a) generally prohibits the CBJ from indemnifying others. However, Charter 9.13(c) allows the CBJ to indemnify the State when the CBJ would not otherwise be able to participate. This ordinance would allow the Manager to execute ADOT&PF access road permits required by state law.

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

- d. **Ordinance 2017-06(AX) An Ordinance Appropriating to the Manager the Sum of \$250,000 as Supplemental Funding for Harbors' Fiscal Year 2018 Operating Budget; Funding Provided by Harbors' Fund Balance.**

Docks & Harbors anticipates exceeding its FY18 authorized spending authority by \$250K in the Harbor Enterprise. The increase is attributable to extraordinary expenditures including personnel costs, infrastructure improvements and resolving abandoned and derelict vessels. The additional request is an increase of 5% of the total authorized expenditures in FY18. Sufficient revenues in excess of the budget are available in the current fiscal year.

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

2. Resolutions

a. **Resolution 2823 A Resolution Ratifying the Labor Agreement between the City and Borough and the International Longshore and Warehouse Union AFL-CIO, Healthcare Unit 2201.**

This resolution would provide Assembly ratification of the tentative agreement negotiated between Bartlett Regional Hospital and the International Longshore and Warehouse Union, Healthcare Unit 2201, for a collective bargaining agreement that will expire on December 31, 2020.

The tentative agreement includes the following wage increases: 1.5% in fiscal year 2019, 1% in fiscal year 2020, and 1% in fiscal year 2021. The total cost of these provisions over the life of the contract for both union and non-represented employees is projected to be approximately \$4,183,000.

In addition, there are other non-economic language changes to the collective bargaining agreement.

This tentative agreement has been ratified by the union membership and was passed unanimously by the Bartlett Regional Hospital Board of Directors.

The City Manager recommends this resolution be adopted.

3. Bid Award

a. **Bid Award DH18-068 Auke Bay Marine Station Float Extension**

The results of the bid opening were as follows. The period to file notice to protest has ended. The Docks and Harbors Board reviewed this bid at its regular board meeting on May 31, 2018 and recommends a bid award to Trucano Construction.

Additional project funding will be provided by Transfer T-1001, also on this consent agenda.

Bidders

Total Bid

Trucano Construction	\$202,700
Silver Bow Construction	\$292,500
Engineer's Estimate	\$158,000

The City Manager recommends award of the bid to Trucano Construction for the total amount bid of \$202,700.

4. Liquor License

a. **Alaskan Brewing LLC d/b/a Alaskan Brewing Co. Transfer of Controlling Interest in Liquor License #2534**

Brewery License #2534 Alaskan Brewing LLC d/b/a Alaskan Brewing Co.

Location: 5429 Shaune Drive, Juneau.

This license action is for an ownership transfer of controlling interest. The Assembly just waived its right to protest the license renewal at its April 2, 2018, meeting. Staff from the Police, Fire, Finance, Engineering/Public Works and Community Development departments recommend the Assembly waive its right to protest the transfer of controlling interest application provided in this packet.

The 60-day local government comment period for this license action expires as of July 3.

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

5. Transfers

a. **Transfer T-1001 Transfer of \$50,000 from Harris Harbor Restrooms Capital Improvement Project to the ABMS Maintenance and Improvements Capital Improvement Project.**

The request is to transfer \$50,000 to an existing CIP to allow construction and installation of new marine floats attached to the existing moorage floats at the Auke Bay Marine Station.

Time is of the essence for this transfer as a bid (DH18-086) that exceeded cost estimates was received on May 30, 2018. The bid award for this project is included in this consent agenda.

The Harris Harbor restroom project is 98% complete and the budget shows adequate funds to complete the project and provide the needed funds to the Auke Bay Marine Station project. Demand is high for these floats in Auke Bay thus it is in the best interest of Docks and Harbors to keep the original schedule of this project.

Currently there is \$93,231 in the H51-115 account. If the transfer is approved the account balance would be \$43,231 which is more than adequate to complete the restroom project.

The Docks and Harbors Board reviewed this transfer request at its regular meeting of May 31, 2018.

The City Manager recommends this transfer be approved.

VIIIPUBLIC HEARING

A. Ordinance 2018-29 An Ordinance Authorizing the Manager to Execute a Utility Permit for a Water System Reconstruction in a State Right-of-Way with the Alaska Department of Transportation and Public Facilities.

This ordinance would allow the CBJ to reconstruct a water service at 2570 Douglas Highway, which is located within a State of Alaska right-of-way.

On February 15, 2017, the CBJ's water service and the customer line were damaged. Emergency repairs were done. The cause of the damage is currently being litigated. The adjacent property owner, Elton Engstrom, has requested that the CBJ remove and replace the existing water service. In order to do so, the CBJ needs a utility permit from the State of Alaska.

The Department of Transportation and Public Facilities recently provided the CBJ with a proposed utility permit, but it contained an indemnification provision. CBJ Charter 9.13(a) generally prohibits the CBJ from indemnifying others. However, Charter 9.13(c) allows the CBJ to indemnify the State when the CBJ would not otherwise be able to participate. This ordinance would allow the Manager to execute the utility permit which includes the indemnity provision.

The City Manager recommends this ordinance be adopted.

B. Ordinance 2018-30 An Ordinance Amending the General Penalty Code.

Although most misdemeanor offenses are subject to a penalty of 30 days or less, state law provides for a sentence of up to one year for certain crimes. A defendant may be sentenced to up to one year for a conviction of offensive touching of another not proscribed by Alaska statute as sexual abuse of a minor.

This ordinance would amend the CBJ's general penalty provision to allow for a sentence of up to one year for such an offense, consistent with state law.

The City Manager recommends this ordinance be adopted.

C. Ordinance 2018-31 An Ordinance Amending the Land Use Code Relating to Sobering Centers and Emergency Shelters.

This ordinance would amend the Land Use Code as it relates to sobering centers and emergency shelters. CDD was directed by the Manager's Office to determine in which zoning districts sobering centers should be allowed. Based on research of other communities, staff determined a new use category for sobering centers was necessary, as well as a clarifying definition to distinguish sobering centers from emergency shelters. Sobering centers are proposed to be allowed with a conditional use permit in the Light Commercial, General Commercial, Mixed Use and Mixed Use 2 zoning districts.

On December 27, 2016, the Planning Commission recommended that the Assembly adopt the ordinance.

The City Manager recommends this ordinance be adopted.

D. Ordinance 2018-33 An Ordinance Authorizing the Manager to Execute a Permit for Road Reconstruction in a State Right-of-Way with the Alaska Department of Transportation and Public Facilities for the Intersections of D Street and 3rd Street (Douglas Highway) adjacent to 915 and 916 3rd Street and H Street and 3rd Street adjacent to 1316 3rd Street in Downtown Douglas.

In order to complete the street reconstruction of D Street, from 2nd to 5th Street and H Street from 2nd to 3rd Street in downtown Douglas, as routine maintenance provided for in the FY 2018 Capital Improvement Program, the CBJ must obtain approval (an approach road permit) from the Department of Transportation and Public Facilities in order to reconstruct the roadway aprons and sidewalk approaches.

State regulations (17 AAC 10.020(c)) require ADOT&PF to include an indemnity provision from the permittee to the State in all approach road permits.

Normally the CBJ is prohibited by Charter section 9.13(a) (which is substantially similar to Article IX, section 13 of the Alaska Constitution) from contractually agreeing to indemnify another party. (Charter sec. 9.13 prohibits the CBJ from incurring an obligation absent an appropriation for that purpose. An indemnity provision is an agreement to compensate the other party for any harm or loss arising out of the agreement, such as paying any judgment or damages, and oftentimes defending the other party in any legal action.) The Charter carves out a limited exception, however, allowing the Assembly, by ordinance, to require the payment of funds from appropriations of a later year (or for more than one year) for any federal or state grant, contract, lease, program, etc., without which the municipality would not be able to participate.

This ordinance would allow the City Manager to execute the approach road permit, which includes an indemnity provision, in accordance with Charter section 9.13(c), as required by 17 AAC 10.020(c).

The City Manager recommends this ordinance be adopted.

E. Ordinance 2017-06(AU) An Ordinance Appropriating to the Manager the Sum of \$8,180,300 as Partial Funding for Various Departments' Fiscal Year 2018 Operating Budgets; Funding Provided by Increased Revenues and Fund Balance.

This ordinance would appropriate \$8,180,300 for increases in FY18 operations among three CBJ departments.

The Hospital anticipates exceeding its FY18 Assembly authorized spending authority by \$8.0M. The increased spending is needed to address the number of increased patient visits in FY18. The costs are fully funded with related increased revenue. Overall, the patient visits were more than originally projected.

The Airport anticipates exceeding its FY18 Assembly authorized spending authority by \$140,300. The increase is attributable to the cost of lump sum negotiated wage payment not included in the base budget. Sufficient revenues in excess of budget are available to cover the additional salary expenses.

The Affordable Housing Division is anticipating a shortfall of \$40,000 in the FY18 operating budget. This shortfall is due to the cost of the continuation of the Mobile Home Loan Program not included in the base budget. The anticipated funding for this increase is the Housing Fund's Fund Balance.

The Assembly Finance Committee reviewed the increases at its meeting on May 9, 2018, and forwarded them to the full Assembly for approval.

The City Manager recommends this ordinance be adopted.

IX. UNFINISHED BUSINESS

A. Resolution 2819(c) A Resolution Adopting the City and Borough Capital Improvement Program for Fiscal Years 2019 Through 2024, and Establishing the Capital Improvement Project Priorities for Fiscal Year 2019.

This resolution would adopt the Capital Improvement Program (CIP) for fiscal years 2019 through 2024, as required by Charter Section 9.4, and lists the capital projects that will be initially appropriated by ordinance in FY19. The initial FY19 resolution authorizes \$25.7 million for CIPs and \$2.5 million for operating budget activities.

The Public Works and Facilities Committee reviewed the CIP at its meeting on

February 26, 2018, and forwarded the plan to the Assembly.

The CIP resolution was introduced at the Assembly meeting on April 4, 2018, and referred to the Assembly Finance Committee, where it was reviewed during the meetings of April 11 and May 9, 2018. It was open for public comment, as required by charter, during the Special Assembly meeting of April 25, 2018.

The AFC approved Resolution 2819(c) as amended and referred it to the full Assembly for adoption.

The City Manager recommends this resolution, as amended by the Assembly Finance Committee, be adopted.

B. Ordinance 2018-10 An Ordinance Establishing the Rate of Levy for Property Taxes for Calendar Year 2018 Based Upon the Proposed Budget for Fiscal Year 2019.

This ordinance establishes the mill rates for property taxes for 2018, which funds a significant portion of the City and Borough of Juneau's FY19 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 City Manager's FY19 Proposed Budget that has been reviewed by the Assembly Finance Committee. As part of the budget review process, the Assembly Finance Committee reviewed and recommends, to the Assembly, the final mill levies. The final mill levies must be adopted on or before June 15.

For FY19 both the operating and debt service mill rates remain unchanged. This ordinance proposes a total mill levy of 10.66; the components of which are:

<u>Operation Mill Rate by Service Area</u>	Millage
Roaded Service Area	2.30
Fire Service Area	0.36
Areawide	6.70
Operating Total	9.36
Debt Service	1.30
Total	10.66

An opportunity for public comment was provided at a Special Assembly meeting on April 25, 2018. The Assembly Finance Committee reviewed the mill rate ordinance at its meetings on April 25 and May 9, 2018, referring the ordinance to the full Assembly for adoption.

The City Manager recommends this ordinance, as approved by the Assembly Finance Committee, be adopted.

C. Ordinance 2018-11(b) An Ordinance Appropriating Funds from the Treasury for FY19 City and Borough Operations.

This ordinance appropriates \$343,479,300 for the City and Borough of Juneau's FY19 operating budget, excluding the school district. It is necessary to appropriate all transfers between funds that support operations, debt service and capital projects as well as the associated expenditures within the funds themselves. These transfers account for \$96,830,700 of the FY19 operating budget.

The original ordinance was introduced at the April 4, 2018, Special Assembly meeting and referred to the Assembly Finance Committee (AFC) for deliberation. The AFC held six meetings/work sessions on the budget. An opportunity for public comment was provided at a Special Assembly meeting on April 25, 2018. The AFC moved the amended budget ordinance back to the full Assembly at its May 9, 2018, meeting. The AFC changes are reflected in the (b) version of the ordinance, where data being updated or deleted is shown by strikeout font.

The Charter requires adoption of the FY19 operating budget by June 15, 2018.

The City Manager recommends this ordinance, as amended by the Assembly Finance Committee, be adopted.

D. SEAL Trust v CBJ Assessor 2017 - Assessor's Petition for Reconsideration

On May 18, 2018, the Clerk's Office received a timely petition for reconsideration from the CBJ Assessor in the matter of SEAL Trust v CBJ Assessor -2017, an appeal that was heard by the State of Alaska Office of Administrative Appeals, and a decision was issued and adopted by the Assembly at its meeting of May 14, 2018. The final decision and the petition for reconsideration are enclosed in this meeting packet.

CBJ Code 01.50.180, Reconsideration, provides the following:

(a) The appeal agency may, within 30 days after the delivery or mailing of a decision to the parties, order a reconsideration of all or part of the appeal on its own motion or on petition of a party. To be considered by the appeal agency, a petition for reconsideration must be filed with the agency within 15 days after delivery or mailing of the decision. A petition for reconsideration filed by a party will be placed before the appeal agency at the first regular meeting at which the matter may be scheduled or at a special meeting called for that purpose. Unless granted by an affirmative vote of the appeal agency, the petition for reconsideration is deemed denied.

(b) An appeal may be reconsidered by the appeal agency on all the pertinent parts

of the record and the additional evidence and argument that are permitted, or may be assigned to a hearing officer. A reconsideration assigned to a hearing officer is subject to the procedure provided in section 01.50.140. If oral evidence is introduced before the appeal agency, an appeal agency member may participate in the decision only if the appeal agency member has heard the evidence in person at the initial hearing and the hearing on reconsideration.

As this is a matter regarding an appeal, the City Manager makes no recommendation.

X. NEW BUSINESS

A. Rogers Land Exchange

Alan and Ellen Rogers of 812 Fritz Cove Road (Smuggler's Cove Road) contacted the CBJ to propose an equal value land trade to exchange a strip of land along the northwest boundary of their property (including waterfront) for a portion of upland CBJ parkland. They will pay all survey and subdivision costs.

On May 1, 2018, the Parks and Recreation Advisory Committee passed a motion of support for the proposal. The Lands Committee reviewed the concept at its May 21, 2018, meeting and passed a motion to forward the land trade to the full Assembly with a positive recommendation.

CBJ§53.09.230(a) stipulates that prior to considering a land exchange, the Assembly must determine if it is appropriate to work *“by direct negotiation with the original proposer or by competition after an invitation for further proposals. Upon direction of the Assembly by motion, the manager may commence negotiations for the...exchange...of City and Borough land.”*

Therefore the Assembly has to determine by motion whether to work directly with the Rogers family or seek additional proposals. Since the original proposer (Rogers family) is an adjacent property owner with a unique set of circumstances, it is extremely unlikely that any other party would have the opportunity to propose a land exchange on similar terms. Final terms of the land trade are to be approved by ordinance.

The City Manager recommends that the Assembly approve a motion finding the proposed land trade to be generally acceptable and directs the Manager to commence negotiations for the exchange.

XI. STAFF REPORTS

A. UAS Auto Shop

B. JCOS Letter to US Forest Service

XII.ASSEMBLY REPORTS

- A. Mayor's Report
- B. Committee Reports, Liaison Reports, Assembly Comments and Questions
- C. Presiding Officer Reports

XIIICONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

XIV.EXECUTIVE SESSION

- A. SEAL Trust Appeal

XV. ADJOURNMENT

XVISUPPLEMENTAL MATERIALS

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