

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

May 14, 2018 7:00 PM

City Hall, Assembly Chambers
Regular Meeting 2018-14

Submitted By:

Duncan Rorie Watt
City and Borough Manager

I. FLAG SALUTE

II. ROLL CALL

III. SPECIAL ORDER OF BUSINESS

- A. **Special Recognition: Youth Hockey Teams**
- B. **Presentation of Check for Social Service Grants**
- C. **Proclamation: Infrastructure Week**

IV. APPROVAL OF MINUTES

- A. **April 2, 2018 Regular Assembly Meeting 2018-08**
- B. **April 23, 2018 Regular Assembly Meeting 2018-11**
- C. **April 25, 2018 Special Assembly Meeting 2018-12**
- D. **April 30, 2018 Special Assembly Meeting 2018-13**

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 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 introduced and set for public hearing at the next regular Assembly meeting.

- b. **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 introduced and set for public hearing at the next regular Assembly meeting.

c. **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 introduced and set for public hearing at the next regular Assembly meeting.

d. **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 introduced and set for public hearing at the next regular Assembly meeting.

e. **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 introduced and set for public hearing at the next regular Assembly meeting.

2. Resolutions

a. **Resolution 2821 A Resolution Providing For Interest Rates For The General Obligation School Refunding Bond Being Issued To Wells Fargo Securities.**

On May 16, 2018, CBJ is scheduled to refund, via “Direct Placement” with Wells Fargo Corporation, approximately \$5 million in year general obligation school bonds in order to refund/refinance bonds originally issued in July 2008.

The issuance of the bonds was authorized by the Assembly in Ordinance

2018-09 (adopted April 2, 2018). 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 2821 to adopt the interest rates and set other final bond sale terms. Schedule A and principal bond amount in section 3 of the resolution are currently blank and will ultimately list the years, amounts, when the bonds will mature and sets the interest rates authorized. The final amounts will be determined, based on the capital markets, Monday May 14 and provided to the Assembly and public prior to final action. The aggregate interest cost for all the bonds is estimated to be 2.8% and result in a net present value savings of \$236,000 (savings shared between CBJ and State of Alaska).

The City Manager recommends this resolution be adopted.

3. Bid Award

a. **Bid Award - Bid No. 19-004 Term Contract for Parking Enforcement and Security Services**

Bids were opened on April 26, 2018. Two bids were received. The protest period ended on April 27, 2018. Bids received were as below.

Bidder	Amount Bid
Bootlegger Security Services, LLC	\$123,640.00
Goldbelt Security Services, LLC	\$141,624.00

Bootlegger Security Services, LLC is the low bidder. This is a five-year term contract to enforce parking and handle security issues in the Downtown and Marine Parking Garages.

The City Manager recommends award of the bid to Bootlegger Security Services, LLC in the amount of \$123,640.

b. **Bid Award - Project Playground**

Bids were opened on this project on May 1, 2018. The protest period expired on May 2, 2018. This project consists of work that includes furnishing all equipment, materials, supplies, manufactured articles and labor (unless otherwise noted) for the installation of custom and manufactured play equipment, safety surfacing and associated work at Project Playground at Twin Lakes Park. Bids received were as follows:

Responsive Bidders	Base Bid	Additive Alternate	Additive Alternate	Total Bid
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No. 1

No. 2

Carver Construction, LLC	\$1,149,396.00	\$202,849.00	\$68,426.00	\$1,420,671.00
Admiralty Construction, Inc.	\$1,557,528.00	\$157,000.00	\$80,000.00	\$1,794,528.00
Dawson Construction, LLC	\$1,728,000.00	\$181,500.00	\$56,300.00	\$1,965,800.00
Architect's Estimate	\$1,732,640.00	\$156,800.00	\$70,560.00	\$1,960,000.00

The City Manager recommends award of this bid to Carver Construction, LLC for the total amount bid of \$1,420,671.

4. Liquor License

a. **Liquor License Applications**

The below liquor license actions are before the Assembly to either protest or waive its right to protest each license action. Some of these licenses recently went through a renewal but are currently before the Assembly due to a premises diagram change, transfer of ownership, or are being issued to a new entity and are categorized below according to the type of action being taken.

NEW LICENSE APPLICATION

Beverage Dispensary Tourism License #5631 and application for a Restaurant Designation Permit, Tailwind JNU LLC d/b/a Tailwind Concessions; Location: 1873 Shell Simmons Drive, Ste. 220 (Inside airport security), Juneau. Beverage Dispensary Tourism licenses are non-transferrable so this is an application for a new license to a new owner/operator Tailwind JNU, LLC and is replacing the previous licensee Jacobsen-Daniels Associates, LLC d/b/a The Annex. The 60-day local government comment period for this license action expires as of June 1.

LICENSE TRANSFER OF OWNERSHIP

Distillery License #5506 Amalga Distillery LLC d/b/a Amalga Distillery; Location: 134 N. Franklin Street, Juneau. This license action is for a transfer of ownership in this business. The 60-day local government comment period for this license action expires as of June 2.

APPLICATIONS FOR LICENSED PREMISES CHANGES

Package Store License #2976 No Creek Jack Inc. d/b/a Duck Creek Market; Location: 9951 Stephen Richards Drive, Juneau. AMCO Regulations 3AAC 304.185 require a premises diagram change form for all licensees seeking to alter the functional floor plan or reduce or expand the area of the establishment's existing licensed premises. The Assembly just waived its right to protest the renewal of this license at its April 2, 2018 Assembly meeting. The 60-day local government comment period for this license action expires as of June 12.

Brewery License #5517 Devil's Club Brewing LLC d/b/a Devil's Club Brewing Company; Location: 100 N. Franklin Street, Juneau. AMCO Regulations 3AAC 304.185 require a premises diagram change form for all licensees seeking to alter the functional floor plan or reduce or expand the area of the establishment's existing licensed premises. The 60-day local government comment period for this license expires as of June 9.

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 these applications.

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

VIIIPUBLIC HEARING

A. Ordinance 2018-04(b) An Ordinance Amending the Land Use Code Relating to Variances.

This ordinance would amend CBJ Title 49 concerning variances. A person seeks a variance when they want to develop something that is prohibited by Title 49. Because a variance allows a person to violate the requirements of Title 49 that apply to everybody else, variances are only warranted in limited circumstances and the requirements should be vigorous. The current variance requirements have become difficult to apply due to some nuanced criteria and how past variances were decided.

This ordinance (1) clarifies which provisions of Title 49 are subject to a variance, (2) clarifies the process used to evaluate variances, and (3) creates new variance criteria to sever the Board of Adjustment from its past variance decisions.

On February 27, 2018, the commission recommended the Assembly adopt this ordinance. The Assembly Committee of the Whole heard the ordinance at its meeting on April 30, 2018, recommending it move forward to public hearing.

Version (b) of the ordinance makes two small language changes at 49.20.230 and

49.20.240, shown in bold italics, and some minor, non-substantive formatting changes.

The City Manager recommends this ordinance be adopted.

B. Ordinance 2018-23 An Ordinance Authorizing the Manager to Execute a Lease of the Eagle Valley Center Ropes Challenge Course, Located near Amalga Harbor, to Southeast Alaska Independent Living, Inc.

The CBJ has owned the Eagle Valley Center since 1997. Between 1997 and 2015, the facility was leased to SAGA. When the lease expired in 2015, it was not renewed. *Southeast Alaska Independent Living* (SAIL) contacted the CBJ to lease a portion of the facility: the ropes challenge course. SAIL's proposal is to improve and upgrade the course, facilitating its availability to SAIL's clients as well as the residents of Juneau.

At its January 8, 2018, meeting, the Assembly authorized the Manager to commence lease negotiations with SAIL under CBJ 53.09.260. The Planning Commission found the proposal consistent with the Comprehensive Plan and Title 49 at its February 27, 2018, meeting.

The City Manager recommends this ordinance be adopted.

C. Ordinance 2018-26 An Ordinance Amending the Property Maintenance Code to Reference the International Property Maintenance Code 2012 Edition.

This ordinance updates the International Property Maintenance Code reference from 2009 to 2012 in CBJ 19.11.010 - International Property Maintenance Code (IPMC) adopted. With Ordinance 2017-01, adopted June 5, 2017, Title 19 was amended to reference the 2012 international codes. This housekeeping ordinance makes the above-referenced update, which was inadvertently overlooked.

The City Manager recommends this ordinance be adopted.

D. Ordinance 2018-27 An Ordinance Authorizing the Sale of Foreclosed Property Located at 333 W. Ninth Street by Sealed Competitive Bid.

On January 11, 2018, the City obtained a Clerk's Deed for property located at 333 W. Ninth Street, for delinquent property taxes owed from tax year 2015. Delinquent property taxes are also owed for tax years 2016 and 2017.

AS 29.45.460 requires a municipality to determine by ordinance whether foreclosed property deeded to the municipality be retained for a public purpose or not. If not, the property can be sold.

This ordinance establishes that the property is not required by the CBJ for a public purpose, and authorizes the sale of the property by sealed competitive bid.

The City Manager recommends this ordinance be adopted.

E. Ordinance 2017-06(AN) An Ordinance Appropriating to the Manager the Sum

of \$50,000 as Funding for Juneau Community Foundation's Park Program; Funding Provided by the Sales Tax Fund's Fund Balance.

This appropriation of \$50,000 to the Juneau Community Foundation completes the intent of the FY17 budget (seed funding for the Juneau Park Foundation).

The Assembly Finance Committee forwarded this recommendation to the full Assembly for approval at its meeting on April 11, 2018.

The City Manager recommends this ordinance be adopted.

F. Ordinance 2017-06(AQ) An Ordinance Appropriating to the Manager the Sum of \$20,000 as Funding for Capital City Fire Rescue; Grant Funding Provided by the State of Alaska, Department of Environmental Conservation.

This ordinance would provide funding from the Alaska Department of Environmental Conservation (ADEC) in the amount of \$20,000. The City and Borough of Juneau will receive up to \$20,000 from ADEC upon the completion of purchases, equipment, supplies, maintenance, and training agreed upon per the request made to ADEC from Capital City Fire Rescue. CBJ will provide to ADEC a final invoice of all expenses, including supporting documentations of any invoices and purchase orders, connected with the purchase of agreed equipment, supplies, maintenance and training.

CBJ will work with ADEC to develop and implement procedures to initiate responses to oil and hazardous substance incidents according to the ADEC Local Community Response Agreement. All expenditures for this MOU must be completed by June 30, 2018.

The City Manager recommends this ordinance be adopted.

G. Ordinance 2017-06(AR) An Ordinance Appropriating to the Manager the Sum of \$100,000 as Funding for Juneau Community Foundation; Funding Provided by the Sales Tax Fund's Fund Balance.

This appropriation of \$100,000 of sales tax funds to the Manager will provide funding to the Juneau Community Foundation (JCF) as an operating grant to work with Trail Mix to perform repair work on the Treadwell Ditch Trail.

This \$100,000 was allocated to the Montana Creek Loop Road to Community Gardens trail in the 2012 temporary sales tax. This proposed section of trail is unbuildable due to flooding. The Parks and Recreation Advisory Committee recommended this funding be granted to JCF at its July 11, 2017, meeting. The Public Works and Facilities Committee recommended this funding be granted to JCF at its February 26, 2018, meeting.

The City Manager recommends this ordinance be adopted.

IX. UNFINISHED BUSINESS

A. **Ordinance 2018-12(b) An Ordinance Appropriating Funds from the Treasury for FY19 School District Operations.**

This ordinance would appropriate to the school district an FY19 operating budget of \$85,799,900. This is an overall decrease in the budget of \$1.50 million from the FY18 adopted budget. The school district's operating budget is:

General Operations	\$70,161,000
Special Revenue (pupil transportation, food service, etc.)	\$7,194,500
Student Activities/Other	\$8,444,400
Total Budget	\$85,799,900

The FY19 school budget is supported with a combination of funding sources that includes local funding of \$27,789,100. This consists of: \$26,412,600 for general operations, and \$1,376,500 for programs and activities outside of the CAP. These programs and activities include: \$1,181,500 for student activities, \$50,000 for pupil transportation, \$50,000 for food service and \$95,000 for Community Schools. The \$26.4 million in general operations support is an increase of \$0.6 million over FY18 Amended. The other program and activities funding is an increase of \$0.5M over FY18.

The original ordinance was introduced at the April 4, 2018, Special Assembly meeting and referred to the Assembly Finance Committee for deliberation. On April 25, 2018, a Special Assembly meeting was held to hear public comment and for the Assembly to state, by motion, the amount of local funding to be provided to the school district.

The Assembly Finance Committee approved and moved the ordinance back to the full Assembly for action, at its May 9, 2018, meeting. The charter requires adoption by May 31, 2018.

The City Manager recommends this ordinance be adopted.

B. **Ordinance 2018-13(b) An Ordinance Creating Local Improvement District No. 200 for a Riverbank Stabilization Project along the Mendenhall River between 9399 Rivercourt Way and 3463 Meander Way and Appropriating the Sum of \$5,095,000.**

At its meeting on April 23, 2018, the Assembly continued the hearing on Ordinance 2018-13(b), which would create a local improvement district (LID#200) for a riverbank stabilization project on the Mendenhall River between Rivercourt Way and the north end of Meander Way. As proposed, the riverbank stabilization project would be done in conjunction with the National Resources Conservation Service Emergency Watershed Protection program. NRCS would fund the design, inspection, and construction administration, plus 75% of the estimated construction costs. Total cost of the project, including the construction costs, is estimated to be \$11,425,000.

The CBJ's estimated contribution to the project would be \$3,015,000, which includes the assessment to be paid by the CBJ as a property owner within the LID, but does not include the costs associated with maintaining the riverbank protection structure for a period of 10 years, as would be required. The property owners' combined contribution, through the LID, would be fixed at \$2,080,000 or \$80,000 per property. The remaining costs would be paid with federal funding.

To accommodate the CBJ's public process and the attempt to form an LID that would allow for owner financing, NRCS has previously granted several project deadline extensions. However, after the Assembly extended the hearing to May 14, NRCS advised the CBJ in writing that they are unwilling to further extend the project funding deadline and have removed the project from the national funding waitlist.

There are several tasks that would have to be completed with CBJ funds in order to access the federal funding, including obtaining project permitting and all easements (both of which would require lengthy processes and local funding). If the Assembly votes to adopt this ordinance, it would need to be amended to specify that the creation of the LID is contingent upon the reinstatement of federal funding.

The City Manager recommends that you reject this ordinance.

C. Southeast Alaska Land Trust v CBJ Assessor - Appeal

At the regular Assembly meeting on July 31, 2017, the Assembly accepted this appeal from petitioner Southeast Alaska Land Trust regarding the Assessor's denial of its community purpose exemption, considered by the Assessor on remand by the Assembly. The Assembly referred the matter to a hearing officer (the Office of Administrative Appeals).

The hearing was held on March 29, 2018. The hearing officer issued her opinion on April 24, 2018. The Assessor's Office submitted timely notice of objection and SEAL Trust filed a statement in support. By notice dated May 7, 2018, the hearing officer declined to change her decision.

The draft decision, the parties' responses, and the hearing officer's reply, have been provided to the Assembly for its review. You must decide whether to accept the draft decision as written, accept the decision with modifications, or reject the decision.

Code 01.50.140 Decision on the appeal, provides in (c)

(2)...Unless rejected or modified by an affirmative vote of the appeal agency on a motion to reject or modify, the proposed decision, as amended by the hearing officer if such an amendment has been filed, shall be deemed adopted by the appeal agency

and shall be the appeal agency decision. No testimony or evidence of any nature other than that contained in a timely filed objection may be received by the appeal agency at the meeting at which the proposed decision is presented.

(3) If the proposed decision is rejected by the appeal agency, the matter shall be immediately referred to the hearing officer for a rehearing of the appeal after notice to the parties; provided, the appeal agency may refer the appeal to a different hearing officer, may limit the scope of the rehearing to specified issues, may request the hearing officer to reconsider the proposed decision solely in light of new evidence raised in an objection, may place similar or different limits or conditions on the rehearing or reconsideration by the hearing officer, may remand the matter, or may rehear the matter itself after notice to the parties.

X. NEW BUSINESS

A. Export Manufacturing Property Tax Exemption

Property owners seeking a Manufacturing Property Tax Exemption must file a request with the Assessor's Office on or before January 31 of each year. The code places the authority for approving the manufacturing exemption requests with the Assembly.

For 2018, two companies have requested the tax exemption: Alaska Glacier Seafood Inc. and AKBV Group, LLC (Alaska Brewery).

CBJ 69.10.020(10) provides for exempting qualifying manufacturing property from assessment and taxation. Qualifying property may receive a declining five-year percentage exemption from the property's market value as follows:

100% exemption in year 1
 80% exemption in year 2
 60% exemption in year 3
 40% exemption in year 4
 20% exemption in year 5

The total property value requested for exemptions this year is \$1,049,282. This would result in a tax loss of \$11,222. Individual company amounts are detailed in the meeting packet materials.

The Assessor's Office reviewed the exemption applications and determined that the properties met the code requirements. The Assembly Finance Committee reviewed this issue at its April 11, 2018, meeting, and recommended forwarding the tax exemptions for 2018 to the full Assembly for approval.

The City Manager recommends approval of these exemptions.

XI. STAFF REPORTS

- A. ERV 2nd/Franklin Purchase Date Extension**
- B. Douglas Highway Water Main Project**

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. Litigation Update: CLIA v. CBJ**

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