

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

April 23, 2018 7:00 PM

City Hall, Assembly Chambers
Regular Meeting 2018-11

Submitted By:

Duncan Rorie Watt
City and Borough Manager

I. FLAG SALUTE

II. ROLL CALL

III. SPECIAL ORDER OF BUSINESS

- A. **Special Recognition: Jane Lindsey**
- B. **Proclamation - Public Service Recognition Week May 6-12, 2018**

IV. APPROVAL OF MINUTES

- A. **April 4, 2018 Special Assembly Meeting 2018-09 Minutes**
- B. **April 11, 2018 Special Assembly Meeting 2018-10 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 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 introduced and set for public hearing at the next regular Assembly meeting.

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

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

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

- e. **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. The City and Borough of Juneau 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.

The City and Borough of Juneau 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 introduced and set for public hearing at the next regular Assembly meeting.

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

2. Bid Award

a. **BE18-174 Birch Lane Pavement and Drainage Improvements**

This project includes reconstruction of Birch Lane from the intersection of Julep Street to the intersection of Mendenhall Boulevard.

Bids were opened on this project on April 18, 2018. The bid protest period expired at 4:30 p.m. on April 19, 2018. Results of the bid opening were as follows:

Responsive Bidders	Total Bid
Admiralty Construction, Inc.	\$1,253,052.00
Arete Construction Corp.	\$1,274,653.00
K&E Alaska, Inc.	\$1,394,430.70
Glacier State Contractors	\$1,577,372.50
Architect's or Engineer's Estimate	\$1,443,992.00

The City Manager recommends award of the bid to Admiralty Construction, Inc. for the total amount bid of \$1,253,052.

b. **DH18-54 Taku Harbor Repairs**

The results of the bid opening were as follows. The protest period has ended. The Docks and Harbors Board reviewed this bid at a Special Board Meeting on April 18, 2018 and recommends a bid award to Trucano Construction.

Bidders	Base Bid	Alternate A	Total Bid
Trucano Construction	\$74,290.00	\$41,703.00	\$115,993.00
Tamico Inc.	\$79,100.00	\$59,540.00	\$138,640.00
Western Dock & Bridge, LLC	\$102,500.00	\$51,980.00	\$154,480.00
Northern Construction	\$187,000.00	\$43,800.00	\$230,800.00
<i>Engineer's Estimate</i>	\$111,625.00	\$40,100.00	\$151,725.00

The City Manager recommends award of the bid to Trucano Construction for the total amount bid of \$115,993.00.

3. Liquor License

a. **Liquor License Renewals 2018/2019**

The following liquor license renewal applications have been received from the Alcohol Beverage Control Board and are before the Assembly for one of the following actions: to protest or waive its right to protest.

Beverage Dispensary Tourism AMCO License #3824
Licensee: Hospitality Group, LLC d/b/a Frontier Suites Hotel,
Location: 9400 Glacier Hwy., Juneau

Restaurant Eating Place AMCO License #3049
Licensee: Valley Restaurant LLC d/b/a Valley Restaurant, Location:
9320 Glacier Hwy., Juneau

Staff from the Police, Finance, Fire, Community Development, and Engineering/Public Works departments have reviewed these licenses and are recommending the Assembly waive its right to protest these renewals.

The City Manager recommends the Assembly waive its right to protest the above-listed liquor license renewals for the 2018/2019 renewal period.

VIIIPUBLIC HEARING

A. **Ordinance 2017-06(AM) An Ordinance Appropriating to the Manager the Sum of \$112,500 as Funding for Conducting Deferred Maintenance and Repairs at the Taku Harbor Float Facility; Funding Provided by the State of Alaska Department of Fish & Game as a Federal Pass-Thru.**

CBJ Docks and Harbors requests approval of an appropriation ordinance that would accept grant funds from the Alaska Department of Fish and Game (ADF&G) for conducting deferred maintenance and repairs at the Taku Harbor float facility.

The request is to approve a matching grant from ADF&G for a \$150,000 project. ADF&G would provide 75% of the funds (\$112,500) and D&H would provide 25% of the funds (\$37,500) which is currently in an existing CIP for this work.

The funds would repair and re-drive pilings that have withdrawn from the sea floor; repair deteriorated steel hinges connecting the floating approach floats; and replace some decking and rub rails.

The Docks and Harbors Board reviewed this ordinance at its meeting on March 29, 2018.

The City Manager recommends this ordinance be adopted.

B. Ordinance 2017-06(AP) An Ordinance Appropriating to the Manager the Sum of \$75,000, as Funding for Leasing the Juneau Subport Parking Lot; Funding Provided by the Downtown Parking Fund's Fund Balance.

This ordinance is a companion to Ordinance 2018-25, which would authorize the City Manager to execute a use permit to the State for parking.

This ordinance would appropriate \$75,000 from the Parking Fund to lease additional parking spaces at the subport (near downtown). Between government employers (CBJ, State & Legislature) there is a shortage of parking spaces to meet demand. The State recently moved more employees into their downtown offices. Leasing additional spaces will allow CBJ to work with interested parties to determine how best to allocate and fund limited parking spaces to meet the expanded need.

The City Manager gave a verbal report on downtown parking issues at the Committee of the Whole meeting on March 19, 2018.

The City Manager recommends this ordinance be adopted.

C. Ordinance 2018-25 An Ordinance Authorizing the Manager to Execute a Use Permit for Approximately One Acre of Lot C2A, Juneau Subport Subdivision, Located at 300 Egan Drive, to the State of Alaska.

This ordinance is a companion to Ordinance 2017-06(AP), which would appropriate funds to the Manager to lease Lot C2A of the Juneau Subport from Develop Juneau Now, LLC.

This ordinance would authorize the Manager to grant a use permit to the State to use property leased by the CBJ from Develop Juneau Now, LLC, for parking. The State has an immediate need for parking in order to alleviate new demands caused by the State relocating a number of employees from the Mendenhall Valley to downtown Juneau. The initial permit term would be six months renewable thereafter on a month-to-month basis, consistent with the CBJ's lease of the property.

Under CBJ code, use permits normally require Planning Commission review. However, considering the State's immediate parking needs, the fact that Lot C2A is privately owned, and that CDD determined the parking lot use does not require a conditional use permit, Planning Commission review is not necessary.

The City Manager gave a verbal report on downtown parking issues at the

Committee of the Whole meeting on March 19, 2018.

The City Manager recommends this ordinance be adopted.

D. Ordinance 2018-01 An Ordinance Amending the Airport Operations Code Relating to Parking, Standing, and Stopping for the Active Loading and Unloading of Passengers and Providing for a Penalty.

The Airport Operations Committee determined that vehicles parking and waiting at the curb for passengers to load and unload presents both a public safety problem as well as a security compliance issue. The Committee directed staff to consider an amendment to the Airport code to address the issue.

At its meeting on October 10, 2017, the Airport Board considered staff's recommendation to amend the Airport parking code to prohibit the standing or parking of vehicles unless actively engaged in the loading and unloading of passengers and the proposed \$100 fine, and approved moving the issue forward to the Assembly. The relevant minutes from the October 10, 2017, meeting have been included in the agenda packet.

At the Assembly's request, the Airport Board has revisited this issue and from a parking management and enforcement perspective feels that \$100 is the appropriate level of fine. I have heard from the public the concern that a \$100 fine conveys an unwelcoming message at the primary gateway to Juneau. In balancing these needs, I recommend you reduce the proposed fee by motion to \$50 and request that the Airport report back in one year on the results.

The City Manager recommends you adopt this ordinance with an adjusted fine of \$50.

E. 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.

Twenty-six properties along the Mendenhall River between Rivercourt Way and the north end of Meander Way are threatened by severe riverbank erosion. Many of the property owners asked the CBJ to assist with securing funding for a riverbank stabilization project through 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.

This ordinance would create a local improvement district (LID #200) to provide the local sponsorship as required by NRCS. The CBJ estimates its contribution to the project will 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 allocation of the property owners' assessment would be borne equally by all of the affected properties. Because the CBJ will be absorbing a large portion of the costs, and as the property owners' contribution is capped at a value that is lower than could properly be assessed against the properties otherwise, equal apportionment is warranted.

At its Committee of the Whole meeting on November 20, 2017, the Assembly directed staff to proceed with the proposed LID ordinance and recommended fixing the property owner assessments at \$80,000 per lot.

CBJ 15.10.040(b) requires that notice of the public hearing be mailed to the property owners at least 30 days prior to the hearing. The CBJ mailed notices to the property owners on March 1, 2018.

Version (b) of the ordinance corrects the overall project cost, and makes other changes required by that amendment, such as to the amount to be paid by the CBJ.

For the sake of the owners that need or desire bank protection, I would like to recommend favorably on this ordinance. However, I cannot make a positive recommendation for a variety of reasons which include the following:

1. There are a substantial number of owners that have indicated that they do not want or need the project;
2. A compulsory assessment of \$80,000 is more than ten times larger than our other CBJ LIDs that have been used for paving or wastewater system improvements; forcing an unwilling owner to pay this much money, however well financed, would be a life changing financial event;
3. The costs are high enough that approval of this ordinance makes litigation likely;
4. The CBJ almost certainly would be required to obtain project easements through condemnation. Property condemnation should be a tool of last resort; and
5. The Mendenhall River flow and erosion pattern is dynamic and constantly changing. Whether true or not, the project is likely to be viewed as causative of upstream and downstream flow alignment change and bank alteration.

The City Manager recommends that you reject this ordinance.

- F. **Ordinance 2018-14 An Ordinance Authorizing the Manager to Lease a .05 Acre Fraction of Parcel JPD II Tract J1, Located at 6235 and 6255 Alaway Avenue, to the Federal Aviation Administration.**

The following Manager's Report refers to the following three ordinances.

Ordinance 2018-14, 2018-15, and 2018-16 all concern the lease of property to the Federal Aviation Administration (FAA) for the Juneau Airport Wind Systems (JAWS). The FAA has utilized the lease property identified in the three ordinances since 1997. The proposed lease amount for all three leases is at less than fair market value pursuant to 53.09.270(a), allowing leases to government agencies for less than fair market value for public use. On March 20, 2017, the Lands Committee passed a motion of support for the leases to the FAA at no cost in order to ensure the continuation of the JAWS program. On June 16, 2017, the Planning Commission moved to forward the ordinances to the Assembly with a recommendation of approval.

The City Manager recommends these three ordinances be adopted.

- G. **Ordinance 2018-15 An Ordinance Authorizing the Manager to Lease a .4 Acre Fraction of Lot 1, USS 3559, Located Near Fish Creek Road on North Douglas, to the Federal Aviation Administration.**
- H. **Ordinance 2018-16 An Ordinance Authorizing the Manager to Lease a .032 Acre Fraction of ATS 14, Located at 115 Dock Street, Douglas, to the Federal Aviation Administration.**
- I. **Ordinance 2018-17 An Ordinance Authorizing the Manager to Execute a Special Use Permit for the Six Pre-Existing Roadside City Woodstove Burn Ban Signs on State Rights-of-Way with the Alaska Department of Transportation and Public Facilities.**

This ordinance would facilitate the continued use of six woodstove burn ban signs in state rights-of-way. The CBJ uses signs to notify people when an air emergency is in effect in the Mendenhall Valley, and the state controls the right-of-way at six crucial locations.

State law requires the CBJ to obtain a permit for the use of the right-of-way. State law authorizes the Department of Transportation and Public Facilities to require any permit conditions the agency deems necessary or in the best interest of the state. ADOT&PF's right-of-way permit includes 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 permit, including the indemnity provision.

The City Manager recommends this ordinance be adopted.

- J. **Ordinance 2018-18 An Ordinance Amending the City and Borough Code Relating to Criminal Offenses and Penalties for Criminal Mischief.**

AS 11.46.489 requires that upon conviction of certain offenses involving damage to public or private property, including criminal mischief, the defendant be sentenced

to at least 25 hours of community work service. This ordinance would amend the CBJ's criminal mischief ordinance (CBJ 42.15.110) to include this mandatory penalty.

This ordinance would also amend the ordinance to reduce the valuation cap between an A misdemeanor and a felony charge from \$1000 to \$750, also consistent with (and required by) state law.

The City Manager recommends this ordinance be adopted.

K. Ordinance 2018-19 An Ordinance Amending the City and Borough of Juneau Code Relating to Aquatics Facilities.

The Juneau voters approved the establishment of a new enterprise board to run the CBJ's aquatics facilities in October 2014. Subsequently, ordinance 2015-23(b) amended the CBJ code to add a new "Aquatics Facilities" chapter and created the seven-member Aquatics Board. The ordinance specified that the new chapter would sunset on May 28, 2018.

Over the past year, the Aquatics Board has been researching options for the future governance of the aquatics facilities. Public meetings were held on February 20, 2018, and February 28, 2018, to generate community feedback regarding four future governance options being considered by the Aquatics Board.

On March 14, 2018, the Aquatics Board presented these four governance options to the Assembly Finance Committee. The Assembly Finance Committee unanimously voted to extend the term of the Aquatics Board through June 30, 2019, to allow for further research and consideration.

The Assembly's intention was to leave the existing board members in place, which can be accomplished by a motion.

The City Manager recommends this ordinance be adopted.

IX. UNFINISHED BUSINESS

X. NEW BUSINESS

A. Granite Mountain Properties LLC Appeal Re: Always Redeye LLC

Granite Mountain appealed a Planning Commission decision granting a conditional use permit to Always Redeye LLC. The Assembly accepted the appeal and referred it to a hearing officer with the State Office of Administrative Hearings. Just prior to filing its opening brief, Granite Mountain sought to withdraw its appeal. The Planning Commission agreed, and the hearing officer signed the attached order.

Had the parties not resolved this case, the Assembly would be required to review the hearing officer's decision pursuant to CBJ 01.50.140(c). Although that code section does not clarify the process when the parties have resolved an appeal, out of

an abundance of caution, the hearing officer's order is being presented to inform the Assembly.

The Assembly needs to decide whether to accept or reject the hearing officer's order dismissing this appeal. No new testimony or evidence of any nature may be received. If the Assembly accepts the hearing officer's order, then the appeal is dismissed pursuant to the hearing officer's order. If the Assembly rejects the hearing officer's order, then the Assembly needs to decide what to do consistent with CBJ 01.50.140(c)(3).

B. Terraces at Lawson Creek vs. CBJ Assessor 2018 - Notice of Appeal

On March 7, 2018, the CBJ Assessor denied a request from the Terraces at Lawson Creek owned by Juneau I VOA LLC, Juneau II VOA LLC, and Intrepid VOA LLC for charitable use exemption status for parcels located at 2570-5278 Vista Drive, Juneau, AK 99801. On April 6, 2018, an appeal of the Assessor's decision was filed.

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 sits in its quasi-judicial capacity and must avoid discussing the case outside of the hearing process. (See CBJ 01.50.230, Impartiality.)

As this is a quasi-judicial matter, the City Manager makes no recommendation.

C. Liquor License Protest Recommendation - Tides Complex Inc. d/b/a Dragon Inn Chinese Cuisine Inc.

The following 2018-2019 liquor license renewal application is being recommended for protest by the Fire Department.

Restaurant Eating Place Liquor License #4405: Tides Complex Inc. d/b/a Dragon Inn Chinese Cuisine Inc. Location: 5000 Glacier Hwy., Juneau

The Fire Marshal's office stated that the kitchen fire suppression system does not meet the fire code and has not been inspected. They noted that the system covers the main kitchen hood system and is non-serviceable and obsolete. They are

recommending the Assembly protest the renewal of this license until such time that the fire suppression system meets the minimum fire code requirements.

CBJ Code 20.25.025 provides the licensee an opportunity for an informal hearing before the Assembly as follows:

“(b) If the assembly or committee or a subcommittee thereof recommends protest of the issuance, renewal, transfer, or continued operation of a license it shall state the basis of the protest and the applicant shall be afforded notice and an opportunity to be heard at an abbreviated informal hearing before the assembly to defend the application. For the purposes of this subsection, notice shall be sufficient if sent at least ten days prior to the hearing by certified first class mail to the applicant's address identified on the state license application. At the conclusion of the hearing, the assembly decision to protest the application shall stand unless the majority of the assembly votes to withdraw the protest.”

The Assembly Human Resources Committee also considered this matter at its meeting immediately preceding this Assembly meeting and will provide a recommendation to the Assembly for action. Packet items for this action are contained in the Assembly Human Resources Committee packet and include copies of the notice sent to the licensee as well as the CBJ Code sections and Alaska Statutes pertaining to this matter.

The City Manager recommends the Assembly act in accordance with the recommendation from the Human Resources Committee following action at its April 23, 2018, meeting.

XI. STAFF REPORTS

- A. Douglas Highway Water Main Project**
- B. 450 Whittier Street (Public Safety Building)**
- C. Parks and Recreation Department Update**

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

XV. ADJOURNMENT

XVISUPPLEMENTAL MATERIALS

**A. Mendenhall River LID200 - Additional Comments Received After Packet
Publication**

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