

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

December 18, 2017 7:00 PM

City Hall Assembly Chambers
Regular Meeting 2017-23

Submitted By:

Duncan Rorie Watt
City and Borough Manager

I. FLAG SALUTE

II. ROLL CALL

III. SPECIAL ORDER OF BUSINESS

A. Recognition of Tom Wagner

IV. APPROVAL OF MINUTES

A. November 27, 2017 Regular Meeting 2017-21

B. December 2, 2017 Assembly Retreat Meeting 2017-22

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(X) An Ordinance Appropriating to the Manager the Sum of \$250,000 as Funding for the Manager's Office Operating Budget; Funding Provided by the Sales Tax Fund's Fund Balance.**

This ordinance would appropriate \$250,000 of unrestricted sales tax revenue. The CBJ strongly supports and welcomes cruise ship tourism,

and will continue to work cooperatively with the industry to address impacts caused by the visitation of approximately one million visitors to the CBJ per year. At the same time, the CBJ must defend its marine passenger and port development fees against the constitutional challenges raised by the industry in the litigation brought by the Cruise Lines International Association (CLIA).

These funds would be appropriated in FY18 as a reserve to be used by the City Attorney at the direction of the Assembly to defend the ongoing litigation by CLIA. The Assembly Finance Committee took up this matter at its meeting on December 13, 2017.

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

- b. **Ordinance 2017-06(Y) An Ordinance Appropriating to the Manager the Sum of \$400,000 to begin Replacement of the Maier Drive Forcemain Emergency Repair Capital Improvement Project; Funding Provided by an Insurance Settlement from Lexington Insurance Company.**

The CBJ has received initial funding from our insurance company for \$400,000 to begin the replacement of the failed Maier Drive sewer forcemain. These funds need to be appropriated into a CIP in order to spend them. The funds will be appropriated into the existing CIP created to begin the planning and design work for the forcemain repair.

The Public Works and Facilities Committee approved this action at its November 20, 2017, meeting.

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

- c. **Ordinance 2017-29 An Ordinance Amending the Land Use Code Relating to Development in the Vicinity of Eagle Nests and Eagle Habitat.**

This ordinance would amend CBJ Title 49 to delete the prohibitions of development near eagle nests and eagle habitat. Existing CBJ code prohibits development within 330 feet of eagle nests on public land and within 50 feet of eagle nests on private land during the nesting period. This ordinance would remove those development prohibitions.

The existing CBJ code related to eagles is difficult to enforce and is unnecessary. The CBJ does not have an inventory of eagle nests nor the capability to determine if a nest is in use or will be used in the future. Although the U.S. Fish and Wildlife Service provided this information to the CBJ in the past, the USFWS has not had the personnel to make those

determinations for many years. This ordinance is anticipated to reduce costs of development near eagle nests and habitat without any adverse impact on eagles because the eagle population in Juneau is healthy.

CBJ staff has consulted with the USFWS. The Planning Commission recommends the Assembly adopt this ordinance. The Lands Committee reviewed this ordinance at its meeting on November 20, 2017, and unanimously moved that it go before the full Assembly.

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

d. **Ordinance 2017-34 An Ordinance Amending the Comprehensive Plan by Adopting the Lemon Creek Area Plan.**

The Lemon Creek Area Plan was reviewed by the Assembly Committee of the Whole at its November 20 and December 4, 2017, meetings. At the latter meeting, the Committee of the Whole voted to send the Plan, as amended, to the full Assembly for adoption as an addendum to the Comprehensive Plan.

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

e. **Ordinance 2017-36 An Ordinance Amending the City and Borough Code Relating to Criminal Offenses and Penalties.**

State law requires that if a municipality prescribes a penalty for a violation of a municipal ordinance and there is a comparable state crime under either AS 11 (the state's criminal code) or AS 28 (motor vehicle and driving offenses) with elements that are similar to the municipal ordinance, the municipality may not impose a greater punishment than that imposed for a violation of the state crime. This provision applies to all municipalities, including home rule.

This ordinance would amend CBJ Code to make it consistent with state law, including changes required by SB 54.

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

2. Resolutions

a. **Resolution 2813 A Resolution in Support of the City and Borough's Application to FEMA for its Cooperative Technical Partner Grant Program.**

The Emergency Services Office and the Community Development Department are applying for a Federal Emergency Management Agency

(FEMA) Cooperative Technical Partner (CTP) grant to pay for landslide hazard mapping and analysis. This work is intended to inform local decision making in order to reduce future losses from natural hazards. The purpose of this resolution is to communicate to FEMA that the Assembly supports this funding request. There is no match requirement.

At its December 4, 2017, meeting, the Public Works and Facilities Committee voted to forward a resolution in support of the application to the Assembly for its approval.

The City Manager recommends this resolution be adopted.

b. Resolution 2814 A Resolution in Support of Full Funding from the State of Alaska for the Municipal Harbor Facility Grant Program.

The substantive portions of this resolution were drafted by the Alaska Association of Harbormasters and Port Administrators (AAHPA), of which CBJ Docks & Harbors is a member.

This resolution recommends full funding for the State of Alaska Department of Transportation's Harbor Facility Grant Program. In 2015, the CBJ received a \$2 million Tier II grant for Phase II of the Aurora Harbor project. Prior to that, the CBJ has been a beneficiary of approximately \$9 million in harbor grant funding since the program's inception. The CBJ has submitted an application this year for \$260K for installation of zinc anodes for Harris Harbor and Mike Pusich Douglas Harbor.

The City & Borough of Juneau along with the municipalities of the City of Anchorage, City of Ketchikan, City and Borough of Sitka, City of Whale Pass, and the City of Whittier have offered to contribute \$9,820,141 in local match funding for FY2019 towards eight harbor projects of significant importance for Alaska.

The Docks & Harbors Board reviewed this resolution at its November 2, 2017, meeting, and has recommended forwarding it to the full Assembly for approval.

The City Manager recommends this resolution be adopted.

3. Liquor Licenses

a. Liquor License Transfer - Percy's Liquor Store Package Store License #849

Package Store Liquor License # 849 Transfer of Ownership
FROM: Oke Hui Rodman d/b/a Percy's Liquor Store
TO: Thibodeau's Market Inc. d/b/a Percy's Liquor Store
Location: 214 Front Street, Juneau

The above package store liquor license transfer is before the Assembly

for one of the following actions: to protest, waive its right to protest, or refer this matter to the Assembly Human Resources Committee for additional review and recommendation.

Staff from the Community Development, Fire, Police, Finance, and Engineering/Public Works departments have reviewed this license for code compliance and recommend the Assembly waive its right to protest this license transfer.

CBJ Code 20.25.025 sets out the basis by which the Assembly may protest a license transfer. The Assembly has until January 28, 2018, to take final action on this liquor license transfer.

The City Manager recommends the Assembly waive its right to protest the transfer of liquor license #849.

b. Liquor License Renewals 2018/2019

The following 2018/2019 liquor license renewal applications have been received from the Alcohol Beverage Control Board so far for the upcoming license renewal cycle.

Beverage Dispensary Licenses

License # 1166 Triangle Club Inc. d/b/a Triangle Club, Location: 251 Front Street, Juneau

License #728 JD Entertainment, Inc. d/b/a The Island Pub, Location: 1102 2nd Street, Douglas

The above liquor licenses are before the Assembly for one of the following actions: to protest, waive its right to protest, or refer the license to the Assembly Human Resources Committee for additional review and recommendation.

Staff from the Community Development, Fire, Police, Finance, and Engineering/Public Works departments have reviewed these licenses for code compliance and recommend the Assembly waive its right to protest these license renewals.

CBJ Code 20.25.025 sets out the basis by which the Assembly may protest liquor license renewals. The 60-day local governing body comment period expires as of January 19 for the Triangle Club and January 26 for the Island Pub licenses respectively.

The City Manager recommends the Assembly waive its right to protest the renewal of the above liquor licenses.

4. Other Items for consent

a. **New Marijuana Licenses - AMCO #s 13217, 13221, & 13222**

Below are three new marijuana licenses before the Assembly for local governing body review. Staff from the Police, Fire, Finance, and Public Works departments have reviewed these applications for compliance with CBJ Code 20.25.025 and recommend the Assembly waive its right to protest the issuance of these licenses. The Community Development Department noted that each of the below licenses received a Conditional Use Permit as of November 3, 2017 but they do not yet have a CBJ license to operate; however CDD staff recommends allowing the applicant to move forward to obtain the state license.

Retail Marijuana Store

AMCO License #13217

ForgetMeNot Enterprises, Inc. d/b/a Glacier Valley Shop

Location: 8505 Old Dairy Road, Suite 1, Juneau

Standard Marijuana Cultivation Facility

AMCO License #13221

ForgetMeNot Enterprises, Inc. d/b/a Green Valley Enterprises

Location: 8505 Old Dairy Road, Suite 2, Juneau

Marijuana Product Manufacturing Facility

AMCO License #13222

ForgetMeNot Enterprises, Inc. d/b/a Southeast Essentials

Location: 8505 Old Dairy Road, Suite 3, Juneau

The 60-day local governing body comment period for all three licenses ends on December 30, 2017. Copies of the AMCO notice, the redacted online application and the premises diagrams for these three licenses are included in the public packet. Complete AMCO documents regarding these licenses are available upon request of the Clerk's office during regular business hours.

The City Manager recommends the Assembly waive its right to protest the issuance of the above marijuana licenses.

VIIIPUBLIC HEARING

A. **There are no ordinances set for public hearing at this meeting.**

IX. UNFINISHED BUSINESS

A. **Liquor License Transfer Thibodeau's Douglas Depot Package Store License**

#828

The below liquor license transfer is before the Assembly to either protest or waive its right to protest.

Package Store Liquor License #828 Transfer

From: Thibodeau's Market Inc. d/b/a Thibodeau's Liquor, Location: No Premises

To: Thibodeau's Market Inc. d/b/a Thibodeau's Douglas Depot, Location: 1017 3rd Street, Douglas, AK 99824

The Finance, Police, Fire, and Community Development departments have reviewed the above liquor license and found it to be in compliance with CBJ Code.

In the event the Assembly does protest the transfer of this license, CBJ Code 20.25 requires notice, with specificity regarding the nature and basis of the protest, to be sent to the licensee and provides the licensee an opportunity to exercise their right to an informal hearing before the Assembly. The sixty-day comment period for local governing body action on this license will expire as of Monday, December 25, 2017.

This license was originally on the November 27 Assembly agenda and was referred to the Assembly Human Resources Committee and Assembly agendas for December 18 for additional opportunity for public hearing and an informal hearing before the Assembly. Copies of the CBJ Code 20.25.025 pertaining to the basis upon which the Assembly may protest a license are included in your packets. The Douglas Advisory Board met on December 13, 2017 and a copy of their letter of recommendation regarding this matter is also included in your packets.

The City Manager recommends the Assembly act in accordance with the recommendation from the Human Resources Committee following action at its December 18 meeting.

X. NEW BUSINESS

A. Notice of Appeal - Granite Mountain Properties LLC v Planning Commission - USE2017 0022

On October 24, 2017, the Planning Commission approved a conditional use permit for a marijuana cultivation facility in an industrial zone at 2001 Anka Street. On November 22, 2017, a timely appeal of the Planning Commission'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.

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

B. Authorization to Negotiate Sale of Property to the Alaskan Brewing Company

In accordance with CBJ 53.09.260, the City Manager requests a motion directing him to commence negotiations for the sale of SSG Subdivision Lots 4 & 5 and SSG Subdivision Phase IV Lots 41 & 42 to the Alaskan Brewing Company.

XI. STAFF REPORTS

XII. ASSEMBLY REPORTS

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

XIII. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

XIV. EXECUTIVE SESSION

- A. Personal Injury Litigation Update
- B. City Attorney and City Manager Performance and Compensation

XV. ADJOURNMENT

XVI. SUPPLEMENTAL 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 audiotope 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