

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

August 21, 2017 7:00 PM

City Hall Assembly Chambers
Regular Meeting 2017-17

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. **July 31, 2017 Regular Assembly Meeting 2017-16**

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(C) An Ordinance Appropriating to the Manager the Sum of \$9,939 as Funding for a New Master Plan for Riverside Rotary Park; Donation Provided by The Glacier Valley Rotary Club.**

The FY17 CIP provided \$250,000 from the voter-approved special 1% sales tax to perform improvements and upgrades to Riverside Rotary Park. The improvements include renovating and improving the playground and creating a new master plan for the entire park space.

The Glacier Valley Rotary Club has raised \$9,939 as a donation toward the project. These funds will be used to complete a new park master plan as part of these improvements.

The Public Works and Facilities Committee approved this request at its meeting on August 7, 2017.

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

- b. **Ordinance 2017-06(D) An Ordinance Appropriating to the Manager the Sum of \$25,000 as Partial Funding for the Historic Preservation Plan, Phase II; Grant Funding Provided by the State of Alaska Department of Natural Resources.**

The State Historic Preservation Office has awarded the CBJ a \$25,000 grant to update Juneau's Historic Preservation Plan. The funds, which will be used to pay a consultant to assist staff in updating the plan, come with a 40 percent match requirement. CBJ will meet this obligation with budgeted staff time.

CBJ's current preservation plan was completed 20 years ago. It remains in draft form, as it was never brought before the Assembly for adoption. CBJ is classified as a Certified Local Government (CLG), which makes it eligible for preservation grants. In order to maintain CLG status, cities are required to have adopted historic preservation plans. CBJ has been using the draft preservation plan for many years, but as funding becomes more competitive, it is prudent to have an adopted plan. Staff anticipates bringing the updated historic preservation plan before the Assembly to consider adoption in September, 2018.

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

- c. **Ordinance 2017-06(E) An Ordinance Appropriating to the Manager the Sum of \$109,800 as Supplemental Funding for the Law Department Fiscal Year 2018 Operating Budget; Funding Provided from the General Fund's Fund Balance.**

The requested appropriation would fund a new attorney position. The position would have a dual focus, working for both the criminal and civil sections. The position would alleviate the strain on the criminal side created by a dramatic increase in criminal cases being prosecuted as a result both of the criminal justice reform bill as well as the impact that bill has had on the local District Attorney's Office's resources and ability to handle a share of the misdemeanor caseload. The addition of the new

position would also allow the civil section to significantly increase the CBJ's collections efforts with respect to unremitted sales tax, as well as civil and criminal fines that have gone unpaid and the recovery of damages through the initiation of civil litigation.

The FY18 funding source is an increased draw on General Fund fund balance of \$109,800 over the recently adopted budget. The FY18 adopted Law budget reduced their budget's draw on the general fund due to \$100,000 increased cost reimbursement from BRH. Thus this requested increment only draws \$13,000 more on the general fund than their FY17 budget. This requested increase was discussed at the July 12 Committee of the Whole meeting. The direction to prepare an ordinance for Assembly introduction passed without objection.

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

2. Resolutions

a. **Resolution 2801 A Resolution of the City and Borough of Juneau in Support of Alaska Department of Transportation and Public Facilities Harbor Facility Grant Submission.**

Docks & Harbors desires to apply for an ADOT Harbor Facility Grant to retrofit Mike Pusich Douglas Harbor and Harris Harbor with zinc anodes to extend the useful life of the steel pilings. The approximate construction cost for Douglas Harbor is \$280,000 and for Harris Harbor, \$250,000. The Harbor Facility Grant requires a 50% local match. Docks & Harbors is prepared to provide up to \$265,000 from its Harbor Fund fund balance for this purpose.

The application is due on September 1, 2017, and the applicant receives an additional point (out of 56) with a local resolution of support.

The Docks & Harbors Board reviewed the language at its July 31, 2017, regular board meeting and recommends the Assembly adopt Resolution 2801.

The City Manager recommends adoption of this resolution.

b. **Resolution 2802 A Resolution Reestablishing the Juneau Commission on Aging and Repealing Resolution 2279.**

The Juneau Commission on Aging has struggled for the past year to maintain enough members to meet the quorum requirements necessary to take action and hold meetings. Assembly Human Resources Committee (HRC) Chair Loren Jones and members of the clerk's office met with current and former members of the commission in a series of public

meetings in May and June of 2017 to discuss the status of the commission and the possibility of refocusing its mission. A resolution was drafted incorporating the changes discussed.

The Assembly Human Resources Committee reviewed the draft resolution at its June 26 and July 31, 2017, meetings, and recommended forwarding Resolution 2802 to the Assembly for adoption.

The City Manager recommends this resolution be adopted.

- c. **Resolution 2803 A Resolution Repealing Resolution 2288 Approving Fees Relating to the Disclosure of Public Records.**

With the adoption of a new public records act, Resolution 2288, which established fees for the copying, certifying or conforming of public documents in response to a request, is now obsolete. This resolution would repeal Resolution 2288.

The City Manager recommends the adoption of this resolution.

- d. **Resolution 2804 A Resolution Affirming the City and Borough of Juneau's Commitment to Climate Action.**

At the June 26, 2017, regular Assembly meeting, during Assembly comments, a motion was made to have the Assembly support the Mayors' Climate Change Initiative. The motion passed. At the July 31, 2017, regular Assembly meeting, a motion was made to reconsider that vote. The motion passed. Subsequently a motion was made to introduce a resolution for the next Assembly meeting affirming Juneau's commitment to climate action. That motion passed.

The Assembly directed that such a resolution be included on the agenda for the August 21, 2017, regular Assembly meeting.

As this is an Assembly directed resolution, the City Manager has no recommendation.

3. Other Items for consent

- a. **Renewal of Marijuana License 10271 - Marijuana Product Manufacturing Facility, Licensee: Top Hat Concentrates, LLC at 2315 Industrial Blvd., Suite B, Juneau**

The above marijuana license renewal is before the Assembly to either protest or waive its right to protest. The Finance, Police, Fire, and Community Development departments have reviewed this renewal and found the business to be in compliance with CBJ Code. Your packet contains the renewal application along with the AMCO notice to the local governing body. Additional license application documents are available through the Clerk's office upon request.

In the event the Assembly does protest this renewal, CBJ Code 20.30 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 its right to an informal hearing before the Assembly. The sixty-day comment period for local governing body action will expire as of Saturday, September 16, 2017.

The City Manager recommends the Assembly waive its right to protest the renewal of AMCO marijuana license #10271.

- b. **Renewal of Marijuana License 10315 - Standard Marijuana Cultivation Facility, Licensee: Green Elephant, LLC at 101 Mill Street, Suite A, Juneau**

The above marijuana license renewal is before the Assembly to either protest or waive its right to protest. The Finance, Police, Fire, and Community Development departments have reviewed this renewal and found the business to be in compliance with CBJ Code. Your packet contains the renewal application along with the AMCO notice to the local governing body. Additional license application documents are available through the Clerk's office upon request.

In the event the Assembly does protest this renewal, CBJ Code 20.30 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 its right to an informal hearing before the Assembly. The sixty-day comment period for local governing body action will expire as of Tuesday, September 5, 2017.

The City Manager recommends the Assembly waive its right to protest the renewal of AMCO marijuana license #10315.

- c. **Renewal of Marijuana License 10844 - Retail Marijuana Store, Licensee: Green Elephant, LLC at 101 Mill Street, Suite B, Juneau**

The above marijuana license renewal is before the Assembly to either protest or waive its right to protest. The Finance, Police, Fire, and Community Development departments have reviewed this renewal and found the business to be in compliance with CBJ Code. Your packet contains the renewal application along with the AMCO notice to the local governing body. Additional license application documents are available through the Clerk's office upon request.

In the event the Assembly does protest this renewal, CBJ Code 20.30 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 its right to an informal hearing before the Assembly. The sixty-day comment period for local governing body action will expire as of

Tuesday, September 5, 2017.

The City Manager recommends the Assembly waive its right to protest the renewal of AMCO marijuana license #10844.

4. Transfers

a. **Transfer T-989 Transfer of \$1.558 Million from 4 CIPs to the Pederson Hill Subdivision CIP.**

This transfer will move \$1.558 million from 4 CIPs into the Pederson Hill Subdivision CIP. The Pederson Hill Subdivision project is moving forward with the first phase of construction expected to begin in the fall of 2017. The \$1.3 million being transferred from the Whittier Street CIP was a loan from the West Juneau/Douglas Access Study CIP in February 2016 allowing the project to be constructed during the spring of 2016, ahead of the opening of the state library and museum complex. CIP funding was allocated for Whittier in the FY17 CIP which became available until July 2016.

The Public Works and Facilities Committee forwarded this request at its August 7, 2017, meeting.

The City Manager recommends this transfer be approved.

b. **Transfer T-990 Transfer of \$100,000 from the Construct RSA IIB CIP to the Taxiway A & Taxiway E CIP.**

This transfer will move \$100,000 from the Construct RSA IIB CIP to the Taxiway A & Taxiway E CIP.

The funding source is Airport Fund fund balance, which will be used to forward-fund weather-critical field work, including topographic surveying and geotechnical investigation, until a federal grant is received for this work.

At its August 8, 2017, meeting, the Airport Board approved this transfer.

The City Manager recommends this transfer be approved.

VII PUBLIC HEARING

A. **Ordinance 2017-18 An Ordinance Amending the Penal Code.**

This ordinance aligns the CBJ penal code with state statutes and adds penalty provisions. An annotated version of this ordinance, which explained each amendment, was presented to the Committee of the Whole on July 12, 2017. The Committee of the Whole approved a motion to forward the ordinance to the Assembly for introduction.

The City Manager recommends this ordinance be adopted.

B. Ordinance 2017-21 An Ordinance Amending the Discharging Firearms Ordinance.

This ordinance would amend the code section prohibiting the discharging of firearms in certain areas to remove an incorrect geographic reference.

CBJ 42.20.050 prohibits the discharge of firearms within a quarter mile of the Mount Roberts Trail. In describing the trail, the code specifically identifies the trailhead as beginning at Sixth Street. Although that trailhead still exists and is still in use, the official trailhead is now at Basin Road. Eliminating the specific reference to Sixth Street would result in both trailheads being recognized for purposes of CBJ 42.20.050.

At the April 3, 2017, meeting, an Assembly member questioned the reference to Sixth Street and asked staff to look into the question. This ordinance is a result of that inquiry.

The City Manager recommends this ordinance be adopted.

C. Ordinance 2017-22 An Ordinance Providing for the Levy and Collection of a Temporary 1% Areawide Sales Tax on the Sale Price of Retail Sales, Rentals, and Services Performed within the City and Borough of Juneau, to be Effective October 1, 2018, and Providing for a Ballot Question Ratifying the Levy.

This ordinance would place the question of extending the 1% temporary sales tax on the ballot at the next regular municipal election. The current 1% temporary sales tax expires on September 30, 2018. If approved, the temporary 1% tax would be extended five years, until September 30, 2023.

It is estimated that the temporary tax would generate a total of \$43.3 million in sales tax revenue. It is intended that this revenue be used for a variety of capital projects focused on addressing deferred maintenance needs of public utilities and facilities. These projects would improve the condition of city owned assets, thereby helping to hold down operating costs and allowing for smaller utility rate increases moving forward. The earmarked projects include the following:

- Wastewater: infrastructure maintenance and improvements
- CBJ-owned building maintenance
- Water: infrastructure maintenance and improvements
- Airport: matching funds for federally funded projects
- Augustus Brown Pool deferred maintenance
- Centennial Hall upgrades and deferred maintenance
- Schools: major building maintenance
- Bartlett Regional Hospital: Rainforest Recovery Center upgrades

- Information Technology: infrastructure upgrades
- RecycleWorks: Wastewater diversion program
- Affordable Housing Fund
- Park deferred maintenance
- Aurora Harbor reconstruction

This issue was reviewed by the Assembly Finance Committee at its meetings on June 14, June 28, and July 13, 2017. The Finance Committee recommended the ordinance be brought to the full Assembly for consideration.

The City Manager recommends this ordinance be adopted.

D. Ordinance 2017-24(c) An Ordinance Increasing the Hotel-Motel Room Rental Tax by Two Percent and Providing for a Ballot Question Ratifying the Increase.

This ordinance would place the question of increasing the hotel-motel room rental tax from seven to nine percent on the ballot at the next regular municipal election. In accordance with an amendment proposed by the Finance Committee at its meeting on August 9, 2017, the increase would be temporary, with an effective date of January 1, 2018, through December 31, 2022.

The hotel-motel room rental tax was last increased in 1988. The increased rate authorized by this ordinance would generate an estimated additional \$400,000 per year in revenue for each of the four years the temporary increase would be in effect. The intent is to use the funding initially for renovations to the Juneau Arts and Cultural Center, and then for improvements to Centennial Hall, visitor information and marketing services, and other tourism and visitor services and facilities.

Version (c) of the ordinance incorporates the changes approved by the Finance Committee on August 9, 2017:

1. Makes the two percent increase a temporary increase that automatically sunsets on December 31, 2022; and
2. Removes "parking infrastructure" from the list of items the increased revenue is intended to fund.

Version (c) also incorporates the changes made in version (b) from the ordinance as it was originally drafted: corrects the effective date in Section 5 to read "January 1, 2018," and adds a title to the proposition (Section 4).

On Tuesday, August 15, the board of the New JACC wrote to the Assembly requesting that you indefinitely postpone action on this ordinance. The City Manager recommends that you reject this ordinance.

IX. UNFINISHED BUSINESS

X. NEW BUSINESS

A. Senior Citizen and Hardship Late-File Application Extension Requests

The following listed property owners are requesting that the Assembly authorize the Assessor to consider a late-filed appeal of their property assessment. The action required by the Assembly is to determine whether or not the late-filed tax assessment appeal will be heard. Evidence on the assessment itself or the merit of the appeal is not relevant. The Assembly should consider each request separately and determine whether or not the property owner was unable to comply with the 30-day filing requirement.

The burden of proof is upon the property owner to show the inability to file a timely appeal. In this context, the word “unable” does not include situations in which a property owner forgot about, or overlooked, the assessment notice, was out of town during the period for filing an appeal, or similar situations. Rather, it covers situations that are beyond the property owner’s control and would prevent a property owner from recognizing what is at stake and dealing with it. Examples of this would include physical or mental disability serious enough to prevent a person from dealing rationally with their private affairs. Disagreeing with the amount of the assessment does not constitute inability to submit a timely appeal, nor does a notice of assessment being sent to a wrong address. The property owner is responsible for keeping a current, correct address on file with the assessor’s office.

If the Assembly decides to accept the late-filed appeal, the assessment appeal will be referred to the Assessor for review and action.

- Senior Citizen Late File - Trivette and
- Hardship Late File - Trivette

- Senior Citizen Late File - Sumdum and
- Hardship Late File - Sumdum - one letter attached for both

- Senior Citizen Late File - Eldridge
- Senior Citizen Late File - Barron
- Hardship Late File - Preston
- Hardship Late File - Chantry
- Hardship Late File - Haight
- Hardship Late File - Myers
- Hardship Late File - Donnelly

B. Notice of Appeal - Affordable Auto Sales v CBJ

On July 17, 2017, the City Manager rejected a recommendation from the Sales Tax Board of Appeals relating to a request to abate penalties owed by Affordable Auto Sales stemming from unpaid sales tax from calendar year 2013. The July 17 letter also gave notice to Mr. Khmelev of his right to appeal the City Manager’s decision

within twenty days of receipt. The letter was sent certified mail. The return receipt indicates the letter was received on July 21, 2017, making the appeal deadline August 10, 2017.

On August 10, Mr. Khmelev sent an email to the Sales Tax Officer and the City Manager inquiring about the appeal process. The City Clerk responded, providing Mr. Khmelev an appeal form. On August 11, she followed up with an email giving Mr. Khmelev until the close of business on August 11 (one day past the twenty day deadline) to file any appeal.

Mr. Khmelev filed the appeal on August 14, 2017.

CBJ 01.50.030(c) provides:

Time for filing a notice of appeal. Unless otherwise provided in the Code, ordinance, resolution, or other provision which creates the right of appeal, no person shall be entitled to an appellate review of a decision who fails to file a proper notice of appeal with the municipal clerk within 20 days of the date the decision is filed with the municipal clerk if the decision is one which is required to be so filed; or, if the decision is not one which is required to be filed with the municipal clerk, then within 20 days of the later of:

- (1) The date the decision becomes effective; or
- (2) The date the appellant received personal notice of the decision, if such notice is required.

In accordance with the Appeals Code, the Assembly must now 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.

XI. STAFF REPORTS

XII. ASSEMBLY REPORTS

A. Mayor's Report

B. Committee and Liaison Reports

C. Presiding Officer Reports

XIII ASSEMBLY COMMENTS AND QUESTIONS

**XIV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA
ITEMS**

XV. EXECUTIVE SESSION

XVI. ADJOURNMENT

XVII. 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 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