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

April 3, 2017 7:00 PM

City Hall Assembly Chambers
Regular Meeting 2017-06

Submitted By:

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Mila Cosgrove
City and Borough Deputy Manager

I. FLAG SALUTE

II. ROLL CALL

III. SPECIAL ORDER OF BUSINESS

A. **Honorary Mayors**

B. **Recognizing Riley John and Seth Gerrin**

C. **Recognizing the Salvation Army**

D. **Proclamation - Commemorating Douglas Days**

IV. APPROVAL OF MINUTES

A. **March 6, 2017 Regular Assembly Meeting 2017-05**

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 2016-09(AK) An Ordinance Transferring $2,760 to the Jensen-Olson Arboretum Endowment Fund, Funding Provided by Unexpended Capital Project Funds from the Closure of the Jensen-Olson Arboretum Capital Improvement Project P42-075.**

This ordinance would close one Capital Improvement Project (CIP P42-075) and return funds totaling $2,759.88 to the original funding source, the Jensen-Olson Arboretum Endowment Fund.

The Jensen-Olson Arboretum Advisory Board approved this request at its February 8, 2017, meeting.

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

b. **Ordinance 2016-09(AL) An Ordinance Appropriating to the Manager the Sum of $120,000 as Funding for the Relocation of the Gruening Park Sewer Pump Station Generator Building in the Glacier Highway Sewer-Anka to Walmart Capital Improvement Project; Funding Provided by Alaska Department of Transportation and Public Facilities.**

The Alaska Department of Transportation and Public Facilities (ADOT) has requested the CBJ relocate the generator building as it is in the way of their new construction plans for Glacier Highway. This appropriating ordinance provides $120,000 for design, construction estimate and bid document preparation. Funding for construction and associated work will be provided by ADOT upon completion of the design and construction cost estimate.

The Public Works and Facilities Committee heard this issue and reviewed project timelines at its March 20, 2017, meeting and forwarded this ordinance 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.

c. **Ordinance 2016-09(AM) An Ordinance Appropriating to the Manager the Sum of $700,000 as Funding for the Juneau Housing First Collaborative (JHFC) Capital Project, Funding Provided by the Sales Tax Fund's Fund Balance.**

In January, 2016, the Assembly approved Ordinance 2015-20(Z) providing $1.8 million in "bridge funding" to Juneau Housing First Collaborative (JHFC), for construction of the Housing First facility. The bridge funding had the potential to become a permanent increase in funding, provided by the CBJ to the JHFC project, if other planned fundraising sources did not work out.

Construction of the JHFC is nearly done and tracking towards opening in July, 2017. The total estimated cost for design, construction (including change orders) and administration is projected to be $7.6 million. Total construction costs are $6.7 million (which includes a health clinic). To date JHFC has collected or has committed funding of $6.4 million, including a $1.5 million grant from CBJ. There remains a current funding shortfall of $1.2 million. At this point JHFC has no additional sources of funding they are highly confident are available.

JHFC is requesting that $1.2 million of the bridge financing be converted to an increased CBJ grant. On June 30, 2016, the CBJ Finance Department encumbered $500,000 of the original financing (estimating a potential future request) and reduced available fund balance. To provide the total increased grant of $1.2 million this ordinance for a $700,000 FY17 supplemental appropriation is needed.

The Assembly Finance Committee will review this request at its April 5, 2017, meeting.

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

d. **Ordinance 2016-09(AN) An Ordinance Appropriating to the Manager the Sum of $125,000 as Funding for the Treadwell Mine Park Preservation, Office**

Building Rehab, Phase 2, Capital Improvement Project; Funding Provided through a Grant from the Rasmuson Foundation.

The request is to approve the $125,000 grant for the purpose of rehabilitation of the "New Office Building" at the Treadwell Historic Park. CBJ Parks and Recreation is working with the Treadwell Historic Preservation and Restoration Society to rehabilitate the "New Office Building" into an open air shelter for public use.

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

e. **Ordinance 2017-08 - An Ordinance Amending the Penal Code Relating to the Discharge of Firearms in the Mendenhall Wetlands.**

At its meeting on February 13, 2017, the Assembly directed an ordinance be drafted to amend City and Borough code to allow for shotgun use on accreted parcels formerly part of the Mendenhall State Game Refuge.

This ordinance amends the City and Borough of Juneau's penal code in accordance with the Assembly's direction.

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

f. **Ordinance 2017-10 - An Ordinance Authorizing the Sale of Foreclosed Property Located at 15860 Glacier Highway by Public Auction.**

This ordinance address the final step in the foreclosure process of real property located at 15860 Glacier Highway. The back property taxes owed on the property total $16,356.10 and are from tax years 2014, 2015, and 2016.

State law provides that tax-foreclosed property conveyed to a municipality and not required for a public purpose may be sold. This ordinance would establish that the property is not needed for a public purpose, and authorizes the manager to dispose of it by public outcry auction held in accordance with CBJ 53.09.230.

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

2. Resolutions

a. **Resolution 2795 - A Resolution In Support of Legislation Authorizing the Creation and Enforcement of Municipal Liens.**

This resolution would express Assembly support for SB 100, a bill intended to return to municipalities the authority to provide for the creation, recording, and enforcement of municipal liens.

The City Manager recommends adoption of this resolution.

b. **Resolution 2796 - A Resolution Approving Amendments to the Bylaws of the Board of Directors of Bartlett Regional Hospital.**

CBJ 40.05.030 requires the hospital board to recommend bylaws for the administration and government of the hospital, which become effective upon Assembly approval by resolution. This resolution would accept the hospital board's recommended amendments to its bylaws that were approved by the board at its regular meeting on February 28, 2017. Highlights of the amendments include:

1. Revision to BRH's non-discrimination policy statement per §1557 of the

Affordable Care Act (p. 1)
2. Establishment of a standing board Governance Committee and setting out duties of same (p. 8)
3. Establishment of a standing board Compliance and Audit Committee and setting out duties of same (p. 8 - 9)
4. Provision of telephonic participation meeting rules (p. 11, 14)

The Human Resources Committee reviewed this resolution at its April 3, 2017, meeting and will forward its recommendation to the Assembly for action.

The City Manager recommends Assembly action according to the recommendation of the Human Resources Committee.

3. Bid Award

a. **Bid Award for Aurora Harbor Re-Build-Phase II – DH17-021**

Construction of this project would remove and replace main walks, and finger floats for moorage areas E through G at Aurora Harbor. New lighting, electrical, fire suppression, and domestic water systems would be installed.

A public bid opening was held on February 8, 2017. The bidders and their total bids are as follows:

Bidders	Total Bid
Northern Construction Service	$3,452,060.00
Trucano Construction Company	$3,594,442.00
Tamico, Inc.	$3,619,500.00
Western Dock and Bridge	$3,667,950.00
Western Marine Construction	$3,778,000.00
Turnagain Marine Construction	$4,076,700.00
Engineer's Estimate	$4,110,922.00

The Docks and Harbors Board reviewed the bids at a special board meeting on March 16, 2017, and a regular board meeting on March 30, 2017.

The City Manager recommends the total bid be awarded to Northern Construction Services in the amount of $3,452,060.00.

4. Liquor License

a. **Liquor License Renewals 2017/2018**

The following 2017/2018 Liquor License Renewals are before the Assembly for action:

Club License #5414 BPO Elks Lodge $320 d/b/a Juneau Elks Club No. 420, 9321 Glacier Hwy., Juneau, AK 99801

Restaurant Eating Place License #4584 Doug Trucano no d/b/a and no premises. This license was formerly held by Zephyr and the Assembly waived its right to protest the license transfer of ownership to Doug Trucano on September 12, 2016.

Staff from the Finance, Fire, Public Works/Utilities, Police, and Community

Development departments have reviewed the above list of renewals and recommend 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 2017/2018 renewal period.

VIII.PUBLIC HEARING

A. **Ordinance 2016-09(AG) An Ordinance Appropriating to the Manager the Sum of $100,000 as Funding for the Manager's Office Operating Budget; Funding Provided by the Sales Tax Fund's Fund Balance.**

This ordinance would appropriate $100,000 of Unrestricted Sales Tax from the Sales Tax Fund's Fund Balance in FY17.

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 FY17 as a reserve to be used by the City Attorney at the direction of the Assembly to defend the ongoing litigation by CLIA.

The City Manager recommends this ordinance be adopted.

B. **Ordinance 2016-09(AH) An Ordinance Appropriating to the Manager the Sum of $309,578 as Funding for the Juneau International Airport Part 121 Ramp Capital Improvement Project; Funding Provided by Passenger Facility Charges.**

This ordinance would appropriate $309,578 to the Juneau International Airport Part 121 Ramp capital improvement project (CIP). Funding is provided as follows:

Passenger Facility Charges (PFC):	$309,578

The funding will be used with existing PFC funding to construct an Air Cargo Hardstand, and a concrete slab at Gate 5.

The Airport Board approved this action at its March 14, 2017, meeting.

The City Manager recommends this ordinance be adopted.

C. **Ordinance 2016-09(AI) An Ordinance Appropriating to the Manager the Sum of $15,000 as Funding for the Jensen-Olson Arboretum Parking & Conservatory Capital Improvement Project; Funding Provided by the Jensen-Olson Arboretum Fund's Fund Balance.**

This ordinance would appropriate $15,000 to Jensen-Olson Arboretum Parking & Conservatory CIP, for parking lot improvements.

Funding is provided from the Jensen-Olson Arboretum fund's fund balance.

The Public Works and Facilities Committee forwarded this recommendation to the Assembly for approval at its meeting on February 27, 2017.

The City Manager recommends this ordinance be adopted.

D. **Ordinance 2016-09(AJ) An Ordinance Appropriating to the Manager the Sum of $127,000**

as Funding for the Jensen-Olson Arboretum Residence Deferred Maintenance Capital Improvement Project; Funding Provided by the Jensen-Olson Arboretum Fund's Fund Balance.

This ordinance would appropriate $127,000 to Jensen-Olson Arboretum Residence Deferred Maintenance CIP, for Arboretum Manager home repairs.

Funding is provided from the Jensen-Olson Arboretum fund's fund balance.

The Public Works and Facilities Committee forwarded this recommendation to the Assembly for approval at its meeting on February 27, 2017.

The City Manager recommends this ordinance be adopted.

E. **Ordinance 2016-26(b) An Ordinance Amending the Land Use Code Relating to Access Standards.**

The primary purpose of this ordinance is to create a new access option for certain subdivisions by allowing shared private access. This would allow for an exception from the requirement that lots have frontage on a public right of way, and instead allow the lots to be accessed via private shared access located in a private easement. Private shared access ways would be maintained solely by the homeowners.

On October 25, 2016, the Planning Commission approved moving the ordinance to the Assembly for its consideration.

The ordinance was introduced at the November 7, 2016, Assembly meeting and referred to the Committee of the Whole. It was heard by the Committee at its November 21, 2016, January 9, 2017, January 30, 2017 (which was a joint meeting with the Planning Commission), and March 13, 2017, meetings. The Committee of the Whole requested a few changes to the ordinance, and approved moving the amended ordinance to the next Assembly meeting for public hearing. The memorandum in your packet from the Municipal Attorney explains the changes made by the Committee.

The City Manager recommends this ordinance be adopted.

IX. UNFINISHED BUSINESS

A. **Southeast Alaska Land (SEAL) Trust v CBJ Assessor - Decision on Appeal**

The proposed decision in this appeal was provided to the parties on March 14, 2017. Written objection was received on March 21, 2017, and is included in your packet. In accordance with CBJ 01.50.140, the decision is now before you for adoption.

The City Manager recommends that the decision be adopted.

X. NEW BUSINESS

A. **Request for Authorization for the City Manager to Enter into a Negotiated Fair Market Value Sale of Juneau Townsite, Block 115, Lot 6, with the Adjacent Property**

The Lands Office received an application to purchase Juneau Townsite, Block 115, Lot 6. The applicants are the owners of lot 7, which neighbors the property requested for purchase. The applicants wish to acquire the lot to make structural improvements to their existing home for mitigation against natural hazards and to better develop single-level living to assist a family member who is unable to navigate stairs.

On February 27, 2017, the Assembly Lands Committee reviewed and adopted a motion of support to the Assembly for a fair market value sale of Lot 6 to the applicants. The land sale is subject to review by the Planning Commission and authorization by the Assembly by ordinance.

As established in CBJ§53.09.260(a) staff recommends that this proposal be pursued by direct negotiation with the original proposers because the hillside behind the subject property is very steep and has been designated as a hazard zone. Due to the "hazard" designation, it is listed in the Land Management Plan for retention. However, by selling this lot to the original proposers who are adjacent to the property, a defensive structure could be built to help reduce the risk to the applicants' existing home as well as neighboring homes downslope.

The City Manager requests a motion of support to enter into direct negotiations for the disposal of Juneau Townsite, Block 115, Lot 6 to the applicants.

B. **Request for Authorization for the City Manager to Enter into Negotiations for the Disposal of a Fraction of ATS 14 for Fair Market Value**

The Lands Office received an application to acquire approximately 5,000 square feet from Savikko Park in Douglas. The applicant is the owner of 522 St. Ann's Avenue which is adjacent to Savikko Park. This part of Savikko Park it is not being actively used for park functions. The applicant has requested this property be conveyed at no cost because of an understood verbal agreement from the 1960's made with the previous Mayor of Douglas. Verbal agreements to sell or convey real property are not legally enforceable. Staff believes it is appropriate to sell the property to the applicant for fair market value for the reasons explained in the memorandum included in your packet.

The Lands Committee and the PRAC reviewed the application and both passed motions of support to the Assembly for this disposal.

Title 53.09.260 *Negotiated sales, leases, and exchanges* states that once an application has been received, the proposal "shall be reviewed by the assembly for a determination of whether the proposal should be further considered and, if so, whether by direct negotiation with the original proposer or by competition after an invitation for further proposals." In this case, an invitation for further proposals is not a valid option because the lot to be acquired is an extension of the applicant's backyard.

The City Manager requests a motion of support to enter into negotiations for the disposal of a Fraction of ATS 14 to Ruth Pedersen for fair market value.

C. **Regulation Docks & Harbors Title 5 Chapter 15 Fees and Charges**

Docks & Harbors properly noticed the proposed changes consistent with CBJ ordinance. Docks & Harbors received no comments regarding the proposed regulations change. The Docks and Harbors Board hearing on these regulations was held on March 30, 2017, and they forwarded the proposed regulations as found in your packet.

In reviewing proposed regulations, CBJ 01.60.260 provides that the Assembly may:

1. Take affirmative action to approve the regulation.

2. Take affirmative action to disapprove the regulation. (If the Assembly disapproves the regulation, the Assembly may state its reasons for doing so, but it may not specify explicit conditions for subsequent approval or direct the requesting department to adopt any particular amendments to the regulation.)

3. Allow the regulation to take effect and be deemed approved by not actively considering the regulation. (The Assembly's historical practice is to move 'orders of the day,' requiring the body to consider the next item on its agenda without active consideration of the regulation in order to allow

the regulation to take effect without explicit Assembly action.)

4. Direct that an ordinance or resolution in lieu of the regulation be prepared for its consideration.

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

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

THE CITY AND BOROUGH OF JUNEAU, ALASKA

Meeting Minutes - March 6, 2017

Meeting No. 2017-05: The Regular Meeting of the City and Borough of Juneau Assembly, held in the Assembly Chambers of the Municipal Building was called to order at 7:00p.m. by Mayor Ken Koelsch.

I. ROLL CALL

Assembly Present: Mayor Koelsch, Deputy Mayor Jerry Nankervis, Mary Becker, Jesse Kiehl, Debbie White, Loren Jones, Norton Gregory, and Beth Weldon (telephonic)

Assembly Absent: Maria Gladziszewski

Staff Present: City Manager Rorie Watt, Municipal Attorney Amy Mead, Deputy Clerk Beth McEwen, Finance Director Bob Bartholomew, Community Development Director Rob Steedle, Port Director Carl Uchytil, Parks and Recreation (P&R) Director Kirk Duncan, P&R Facilities & Landscape Superintendent Brent Fischer

II. SPECIAL ORDER OF BUSINESS

None.

III. APPROVAL OF MINUTES

A. February 13, 2017 Regular Assembly Meeting 2017-04

MOTION *by Ms. Becker to approve the minutes of the February 13, 2017 Regular Assembly Meeting.* Hearing no objection, the minutes were approved by unanimous consent.

IV. MANAGER'S REQUEST FOR AGENDA CHANGES

City Manager Rorie Watt requested that Bid Award ***BE17-165 Aspen Avenue Pavement & Drainage Improvements*** be removed from the agenda to be rescheduled on a future agenda.

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Mr. Dennis Harris stated that he testified at the State House Finance Committee against House Bill 132 relating to UBER and transportation. He said he thought it would be very helpful to protect the city's interests and to protect local businesses if the Assembly were to pass a resolution opposing the bill unless they include an option for cities to opt out.

Mr. Harris also stated that another item concerning sales tax exemptions was a bill introduced by Rep. Sam Kito III. His father, Sam Kito Sr. is a lobbyist and Mr. Harris discussed it with them. Mr. Kito Sr. stated that he wouldn't mind paying sales tax as he would just pass those expenses on to their client. Mr. Harris suggested the Assembly remove the lobbyist exemption from the sales tax code.

VI. CONSENT AGENDA

A. Public Requests for Consent Agenda Changes, Other Than Ordinances for Introduction

B. Assembly Requests for Consent Agenda Changes

None.

C. Assembly Action

MOTION *by Mr. Nankervis to adopt the Consent Agenda with the removal of item 2, which is the bid award BE17-165, and asked for unanimous consent.* Hearing no objection, the consent agenda was adopted as amended.

1. Ordinances for Introduction

a. Ordinance 2016-09(AG) An Ordinance Appropriating to the Manager the Sum of $100,000 as Funding for the Manager's Office Operating Budget; Funding Provided by the Sales Tax Fund's Fund Balance.

This ordinance would appropriate $100,000 of Unrestricted Sales Tax from the Sales Tax Fund's Fund Balance in FY17.

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 FY17 as a reserve to be used by the City Attorney at the direction of the Assembly to defend the ongoing litigation by CLIA.

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

b. Ordinance 2016-09(AH) An Ordinance Appropriating to the Manager the Sum of $309,578 as Funding for the Juneau International Airport Part 121 Ramp Capital Improvement Project; Funding Provided by Passenger Facility Charges.

This ordinance would appropriate $309,578 to the Juneau International Airport Part 121 Ramp capital improvement project (CIP). Funding is provided as follows:

Passenger Facility Charges (PFC):	$309,578

The funding will be used with existing PFC funding to construct an Air Cargo Hardstand, and a concrete slab at Gate 5.

The Airport Board is expected to approve this action at its March 14, 2017, meeting.

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

c. Ordinance 2016-09(AI) An Ordinance Appropriating to the Manager the Sum of $15,000 as Funding for the Jensen-Olson Arboretum Parking & Conservatory Capital Improvement Project; Funding Provided by the Jensen-Olson Arboretum Fund's Fund Balance.

This ordinance would appropriate $15,000 to Jensen-Olson Arboretum Parking & Conservatory CIP, for parking lot improvements.

Funding is provided from the Jensen-Olson Arboretum fund's fund balance.
The Public Works and Facilities Committee forwarded this recommendation to the Assembly for approval at its meeting on February 27, 2017.

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

d. Ordinance - 2016-09(AJ) An Ordinance Appropriating to the Manager the Sum of $127,000 as Funding for the Jensen-Olson Arboretum Residence Deferred Maintenance Capital Improvement Project; Funding Provided by the Jensen-Olson Arboretum Fund's Fund Balance.

This ordinance would appropriate $127,000 to Jensen-Olson Arboretum Residence Deferred Maintenance CIP, for Arboretum Manager home repairs.

Funding is provided from the Jensen-Olson Arboretum fund's fund balance.

The Public Works and Facilities Committee forwarded this recommendation to the Assembly for approval at its meeting on February 27, 2017.

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

2. Bid Award

a. BE17-165 Aspen Avenue Pavement & Drainage Improvements

This project consists of reconstruction of Aspen Avenue and Pinewood Drive, including pavement and drainage improvements and miscellaneous items of work.

Bids were opened on the subject project on March 2, 2017. Results of the bid opening are as follows:

Bidders	Base Bid	Additive Alternate No. 1	Total Bid
Pacific Coast Paving	$ 827,051.91	$592,102.74	$1,419,154.65
SECON	$ 826,333.00	$603,967.00	$1,430,300.00
Arete Construction Corp	$ 945,675.00	$653,214.00	$1,598,889.00
Glacier State Contractors	$1,117,258.00	$804,251.00	$1,797,051.00
Admiralty Construction	$1,061,183.00	$735,868.00	$1,921,509.00
Engineer's Estimate	*$ 913,140.00*	*$656,194.00*	*$1,569,334.00*

The City Manager recommends award of this project to Pacific Coast Paving for the base bid and additive alternate No. 1 in the amount of $1,419,154.65.

With the approval of the Assembly, this bid award was removed from the agenda at Mr. Watt's request.

3. Liquor License

a. Liquor License Renewals 2017/2018

The following 2017/2018 Liquor License Renewals are before the Assembly for action:

Beverage Dispensary - Seasonal License #3720 Goldbelt Aerial Tramway, LLC

d/b/a Timberline Bar & Grill, 1800 Foot level - Mt. Roberts Tram, S. Franklin, Juneau
Beverage Dispensary License #2533 Jack D. & Arlene D. Tripp d/b/a Viking Restaurant & Lounge, 216 Front Street, Juneau
Beverage Dispensary License #2728 Molly Ventures, Inc. d/b/a McGivney's Bar & Grill, 9101 Mendenhall Mall Road, Juneau

Club License #4034 Juneau Moose Lodge #700 d/b/a Loyal Order of Moose, 8335 Airport Blvd., Juneau

Package Store License #3552 Costco Wholesale Corp. d/b/a Costco Wholesale #107, 5225 Commercial Way, Juneau

Restaurant Eating Place License #2641 Saffron, LLC d/b/a Saffron, 112 N. Franklin Street, Juneau.

Staff from the Finance, Fire, Public Works/Utilities, Police, and Community Development departments have reviewed the above list of renewals and recommend 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 2017/2018 renewal period.

4. Other Items for consent

a. Retail Marijuana Store License - Green Elephant LLC, License No. 10844

The Alcohol Marijuana Control Office (AMCO) sends local governing bodies notice of Marijuana License applications which allows local governing bodies the opportunity to protest or waive its right to protest the issuance or renewal of these licenses. CBJ received notice of a State of Alaska Retail Marijuana Store License #10844 from Green Elephant, LLC to be located at 101 Mill Street, Suite B, Juneau, AK 99801 on January 17, 2017.

CBJ staff from the Police, Fire, Finance, and Community Development departments reviewed this application for compliance with CBJ laws and regulations and recommend the Assembly waive its right to protest the issuance of this license. As to CDD's recommendation, although Green Elephant, LLC does not yet have a local license CDD recommends allowing the applicants to move forward to obtain the state license. The applicant will not be allowed to operate in the borough until the license is issued.

Due to the large quantity of documents associated with each marijuana license, your paper packets have been limited to the following documents:

- January 17, 2017 AMCO Notice to Local Governing Body
- State of Alaska Alcohol & Marijuana Control Office – Initiating License Application #10844 online form
- Form MJ-01: Marijuana Establishment Operating Plan
- Form MJ-02: Premises Diagram
- Form MJ-03: Retail Supplemental
- CBJ Planning Commission Conditional Use Permit USE2016-0028 Notice of Decision

The full set of documents is available to Assemblymembers electronically using the NOVUS BoardView portal in your online packets. Original paper copies of all the documents relating to this license are available for public review in the office of the Municipal Clerk during regular business hours.

The City Manager recommends the Assembly waive its right to protest the issuance of this Retail Marijuana Store License #10844 to Green Elephant, LLC.

VII. PUBLIC HEARING

A. Ordinance 2016-46 An Ordinance Amending the Land Use Code Relating to Parking Waivers.

This ordinance would amend CBJ Title 49, the Land Use Code, to provide for reductions in parking requirements by means of a new waiver process. A waiver allowing a particular use at a particular location could be granted by the Planning Commission (in the case of major development) or the Director (in the case of minor development) upon finding that it would benefit the community as a whole and the proposed use is located outside of the downtown special parking districts.

On January 24, 2017, the Planning Commission considered the ordinance and recommended it be forwarded to the Assembly for its consideration.

The City Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION *by Mr. Gregory to adopt Ordinance 2016-46 and asked for unanimous consent.*

Mr. Jones noted an objection. He said he did not see anything in the ordinance defining minor vs. major development and asked if there was already a definition in code.

Ms. Mead explained that there is already a definition of minor vs. major development in the same chapter as the Table of Permissible Uses. She explained that the definition is based on the size of the property in question as set out in 49.25.300 and is not based on the assessed dollar amount.

Additional discussion took place with Mr. Steedle explaining the processes under Title 49 and how that relates to the decisions made by the CDD Director vs. those that come before the Planning Commission. Additional questions were also answered relating to the appeal process. Ms. Mead explained a recent Supreme Court ruling on appeals. She explained that not all decisions by the Director are appealable. She explained that the decision to grant or not grant a permit is appealable but what is not appealable is whether a development would be considered minor or major since that is a factual matter based on size and zoning.

Discussion took place regarding how a decision is made relating to the language on page 5 of the ordinance stating that *"the granting of the waiver would result in more benefits than detriments to the community as a whole as identified by the comprehensive plan."* Mr. Steedle explained that determining whether or not a proposed development comports with the comp plan requires a great deal of judgment in looking at the proposal in front of them and weighing that against a great understanding of the comp plan. He said that is what the Planning Commission does at each of its hearings.

Mr. Jones stated that he will maintain his objection.

Roll Call on adoption of Ordinance 2016-46:
Ayes: Becker, Gregory, Kiehl, Nankervis, Weldon, White, Koelsch
Nay: Jones
Motion passed. 7 ayes, 1 nay.

B. Ordinance 2017-02 An Ordinance Amending the City and Borough of Juneau Code Relating to Licenses to Use Certain Rights of Way for the Selling of Food and Beverages and Related Uses.

The CBJ has received requests to use portions of right-of-way for outside seating associated with adjacent restaurants. As written, existing code sections do not explicitly anticipate this type of use. Use of these relatively small portions of land could enhance commercial activity, enliven our public spaces and generate revenue for CBJ. Commercial use of unneeded sections of ROW would be appropriate, provided that the conditions outlined in the attached ordinance are met.

The Lands and Resources Committee considered this issue at its December 12, 2016, meeting and unanimously asked staff to draft an ordinance to forward to the Assembly.

The City Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION by Ms. White to adopt Ordinance 2017-02 and asked for unanimous consent.

Mr. Kiehl said this came before the Lands Committee and he was interested in finding out what the status was on the Docks and Harbors (D&H) Board's development of the tidelands and deck-over project in the downtown area.

Port Director Uchytil explained that the D&H Board was currently working on finishing up the work on the land use master plan from Norway Point to Bridge Park. The next plan to be worked on is what they are calling "The Urban Plan" which covers the area from the Taku Fisheries dock to Marine Park. They anticipate that project beginning in April and ending sometime in November with the hope of the work happening through the busy cruise ship season so the public will have a chance to see the impacts and provide input during the busy season. He said this matter of ROW permits may or may not be included in the economics of The Urban Plan.

Discussion took place regarding the valuation of the ROW permits under this ordinance and how the Fair Market Value (FMV) is part of that equation. Ms. Mead explained that it falls under the current code provisions relating to the appraisal values and any adjustments as determined by the assessor. Mr. Watt explained that another factor taken into consideration is the duration of the permit and adjustments that may be made depending on the seasonality factors.

Ms. Weldon expressed concern with the requirement for a general liability policy at the $1,000.000.00 level. Staff explained that is the same as the requirement for sidewalk vending permits and was the reason for being included in this ordinance.

Mr. Kiehl expressed his concerns with Mr. Uchytil's comments that this may or may not have an economic impact on The Urban Plan and he would like to revisit this issue once The Urban Plan is in place.

***MOTION* by Mr. Kiehl to amend the ordinance by adding a sunset date of December 31, 2018 to Ordinance 2017-02.**

Ms. White noted objection to the amendment. Ms. White stated that the permits already expire as of December 31 of each year so with that automatic sunset on each permit, if there is concern with a particular permit, the renewal may not be granted.

Roll Call Vote on the Amendment
Ayes: Weldon, Kiehl, Jones, Gregory, and Koelsch
Nays: White, Nankervis, and Becker
The amendment passed 5 ayes and 3 nays.

Mr. Jones said he read the ordinance a number of times but could not find the answer to a question he had about whether a permit applicant would be granted a permit if it was for the ROW in front of another business' storefront. The Mayor called for a 5 minute recess (ending at 7:34p.m.) for the staff to come up with a response to Mr. Jones' inquiry.

Ms. Mead explained that there are two conditions based on current code and the language in the proposed ordinance. They are, 1) one business may not block a second business' right of way without first getting permission to do so by the second business, and 2) the proposed ordinance contains language with respect to priority being given to the previous year's permit holder.

Mr. Jones also asked about the language in the ordinance that pertains to process relating to the revocation of a permit by the manager. Ms. Mead explained that this is the same process that is carried out with respect to sidewalk vending permits and the only difference in this case would be that instead of the manager designating a hearing officer, this is done by the manager and it is appealable to the Assembly.

There being no further questions and no objection, Ordinance 2017-02 as amended passed by unanimous consent.

C. Ordinance 2017-03 An Ordinance Amending the Uniform Sales Tax Code to Establish a Tax Exemption for the Sale of Goods Aboard Cruise Ships.

The City and Borough of Juneau levies a sales tax for goods and services. Although called for under the tax code, the CBJ historically has not required cruise lines to collect sales tax from its passengers for sales made aboard the ship when the ship is within CBJ boundaries. In April 2016, the Cruise Line International Association (CLIA) sought a sales tax determination on the applicability of CBJ's sales tax code. CBJ's sales tax administrator determined in October 2016 that sales onboard cruise ships are subject to CBJ's sales tax code. Based on this final position the current informal arrangement needs to be adopted in code as a tax exemption or we need to begin requiring the collection and payment of sales tax.

The CBJ sales tax office estimates that between $50,000 and $100,000 could be collected in total, per season from sales aboard cruise ships. CBJ currently receives about $8 million in sales tax from cruise passengers who get off the ships and make purchases of goods, services and tours. CBJ also collects about $12.5 million a year in fee revenue from local and state passenger fee programs.

The Finance Committee discussed this issue at its March 2016 and January 2017 meetings. At the January meeting staff was directed to prepare an ordinance, for assembly consideration, to exempt onboard sales.

The City Manager recommends this ordinance be adopted.

Public Comment:
Mr. Guy Archibald spoke in opposition to the ordinance. He provided financial data pointing out that the approximate sales tax raised per passenger of 10 cents is not going to change anyone's travel plans but at $100,000 raised overall, this may be less of a tax burden to the public in general. He also stated that in this day and age of technology, it would not be that much of an additional burden for the cruise ship lines to calculate, track and collect the sales taxes and remit them to the city.

Mr. Mike Satre spoke in favor of the ordinance. He said this is a common sense solution and these taxes were not collected previously so there is no loss of funds. The cruise ships may not necessarily go away if they are required to remit the sales tax but it will look like Juneau is unfriendly to business and he said that the Assembly should be doing everything in its power to show that Juneau is open and business friendly.

Mr. Dennis Harris spoke in opposition to the ordinance. He said he and every other business in town collect sales tax on every sale or service provided and that it is not equitable for the cruise ships not to collect that same tax for sales while in port. He said at the rate of $100,000 per year, that would be 1 million dollars loss of revenue over 10 years. He disagreed with the argument that cruise ships would leave port earlier as a result of this and that they collect much more in commissions which they would lose if they were to leave earlier than the present schedule.

Ms. Susan Schrader spoke in opposition to the ordinance. She said she submitted comments in writing to all the Assemblymembers. She said the Disney cruise line has figured out how to track and remit sales tax and it would not be an undue burden for the other cruise ships to do so as well. This is the opportunity for the Assembly to put citizens before the cruise industry.

Mr. Craig Dahl, Executive Director of the Juneau Chamber of Commerce (JCC) stated that he submitted a letter on behalf of the Chamber. He compared tax incentives with other companies such as Intel to this being a tax incentive for the cruise ship lines. He stated that JCC supports tax policies that support business friendly environments and encouraged the Assembly to vote in favor of this exemption and let the cruise ship industry know that we support them as a community.

Mr. Bob Janes spoke in favor of the ordinance citing that this industry brings in $16,000,000-$20,000,000 annually to our community and this issue is a chance for us to cooperate with the cruise lines that bring so much economic attraction to Juneau every year.

Mr. Dennis Watson spoke in favor of the ordinance. He spoke to the difficulties Allen Marine had experienced when they were charging sales tax on those portions of their sightseeing trips that took place within the borough. He mentioned that he didn't remember ever paying sales tax during his trips on the AMHS as they cruise through Borough waters. He also mentioned that the cruise ships already pay sales taxes on their utility bills through Docks & Harbors for use of city water and sewer services.

Assembly Action:

***MOTION* by Mr. Jones to adopt Ordinance 2017-03.**

Objection by Mr. Kiehl.

Mr. Kiehl spoke to his objection with the key reasons being fairness to all businesses, the fact that Juneau has a legal basis for charging the tax, and the cruise industry representative Mr. Binkley stated to the state legislature the previous year that the local community should have the ability to charge sales taxes on tourists. Mr. Kiehl stated that he objected to carving out another exemption for a business that is not in need of a new found exemption.

Discussion took place regarding the process and the history of how this exemption came about. Mr. Nankervis noted that this topic was part of the discussion of the Tax Exemption Review Committee as well as discussions of past Assembly Finance Committee meetings. He compared it to the manufacturing and business personal property exemptions. Ms. Mead explained the timeline for this matter and that when the Sales Tax Administrator issued his determination, his decision was not appealed by the industry or businesses and as such, if the Assembly wished to implement this exemption, it would have to be included within the CBJ code.

Additional discussion took place with Ms. White, Mr. Gregory, and Mayor Koelsch speaking in favor of the ordinance.

Roll Call Vote on the adoption of Ordinance 2017-03:
Ayes: Weldon, White, Nankervis, Becker, Jones, Gregory, and Koelsch
Nays: Kiehl
The motion passed 7 ayes and 1 nay.

D. Ordinance 2016-09(AE) An Ordinance Appropriating to the Manager the Sum of $10,000,000 as Funding for CBJ Biosolids Treatment and Disposal Project; Loan Funding Provided by the State of Alaska Department of Environmental Conservation, Alaska Clean Water Fund State Revolving Fund.

This appropriating ordinance provides $10 million for the Biosolids Treatment and Disposal Project.

The terms of the low interest loans under the Alaska Revolving Loan Fund programs are 20-year repayment at a 1.5-percent interest rate. The project loans will be re-paid with Waste Water Utility customer revenues.

The Public Works and Facilities Committee heard this issue and reviewed project timelines at its January 30, 2017, meeting, and forwarded this ordinance to the full Assembly for approval.

The City Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

***MOTION* by Mr. Kiehl to adopt Ordinance 2016-09(AE) and asked for unanimous consent.**

Objection by Ms. White. Ms. White said in speaking to her objection, she agrees to disagree with the

City Manager on this subject.

<u>Roll Call Vote on the adoption of Ordinance 2016-09(AE):</u>
Ayes: Weldon, Kiehl, Nankervis, Becker, Jones, Gregory, and Koelsch
Nays: White
The motion passed 7 ayes and 1 nay.

E. Ordinance 2016-09(AF) An Ordinance Appropriating to the Manager the Sum of $250,000 as Funding for the Teacher Excellence Fund, a University of Alaska Southeast School of Education Endowment Through the Juneau Community Foundation; Funding Provided by the City and Borough of Juneau's Fund Balance.

As a part of the University of Alaska's Strategic Pathways process a preliminary decision was made to consolidate program leadership and administration of all education schools at the University of Fairbanks campus. The UAS School of Education has a track record of excellence in preparing educators and many in the community believed that removing the program from UAS would undermine the school's standing in the UA system as a credible four year university. A strong University adds to the diversity, quality of life, and economic viability of our community.

During the consideration phase, the City Manager, with the knowledge of the Assembly, committed to helping to fund a $1 million endowment for the School of Education to be available to the University in support of the School of Education as long as that degree program remains centered at UAS.

At the December 14, 2016, Board of Regents meeting, after considering testimony from many informed individuals about the quality and success of the UAS program and understanding the degree to which the community supports having the program remain in Juneau, UA President Johnsen changed his position and recommended to the Board of Regents that the UA School of Education be centered at UAS. The Board of Regents voted unanimously to do so.

Proceeds of the Endowment Fund will be used to further the UAS School of Education mission of creating innovative, Alaskan grown educators to help improve the quality of K-12 education within the State of Alaska. A committee has been formed that is working on fundraising strategies for the endowment fund. Participants on this committee include representatives from public, private, and non-profit agencies in the community.

This ordinance would provide $250,000 of initial funding to the Teacher Excellence fund during FY2017. The Assembly Finance Committee discussed this issue at its January 11, 2017, meeting. The AFC directed that an ordinance allocating funds for this purpose be introduced and set for public hearing.

The City Manager recommends this ordinance be adopted.

<u>Public Comment:</u> None.

<u>Assembly Action:</u>

<u>MOTION</u> by Ms. Becker to adopt Ordinance 2016-09(AF) and asked for unanimous consent.

Mr. Jones objected to the motion for purposes of amendment.

<u>MOTION</u> ***by Mr. Jones to Amend Ordinance 2016-09(AF) to change the amount of $250,000 to $500,000.***

Speaking to his amendment, Mr. Jones stated that he thinks this body, through the City Manager, and other statements that have been made by the Assembly, has committed to $1 million and to basically only come up with 25% of that with a statement from the Manager that a committee has been formed to work on fundraising strategies, is not the Assembly's commitment. He said he feels the Assembly's commitment to the University is much greater than that and they need to have more skin in the game to honor the commitment and the University has made its commitment based on the Assembly's commitment.

Mr. Kiehl objected to the amendment. He stated that the discussion at the AFC and the instruction to staff was to bring this ordinance forward as the first installment of their commitment and that the second installment of the Assembly's commitment would be included in the next fiscal year budget. He said that the next meeting of the fundraising committee is scheduled for the following day and they are proceeding and he has no doubt that CBJ will spearhead this endowment and come up with the full amount committed. He said that their efforts to raise as much of that as they are able will take a bit of time but it will also take some time for the University to unify the three schools of education.

Mr. Nankervis said he also objects to the amendment not for philosophical reasons on whether or not to give the university the $1 million but rather based on the process in which this has all happened. He said he hopes he is the minority but that he still has to object to the process in which this has come about.

Roll Call Vote on the amendment to Ordinance 2016-09(AF) to change the $250,000 to $500,000.
Ayes: Jones
Nays: White, Weldon, Kiehl, Nankervis, Becker, Gregory, and Koelsch
The motion to amend failed 1 aye and 7 nays.

Mayor Koelsch asked for any objection to the adoption of Ordinance 2016-09(AF). Mr. Nankervis said he maintains his objection as previously stated.

Roll Call Vote on the motion to adopt Ordinance 2016-09(AF):
Ayes: White, Weldon, Kiehl, Becker, Gregory, and Koelsch
Nays: Jones and Nankervis
The motion to adopt Ordinance 2016-09(AF) passed 6 ayes and 2 nays.

VIII. UNFINISHED BUSINESS

None.

IX. NEW BUSINESS

None.

X. STAFF REPORTS

A. Foreclosed Property - 15860 Glacier Highway

Mr. Watt said they have been in contact with the previous property owner and tried to meet several times to discuss this but they have been unsuccessful in setting up a meeting. He said that by the next Assembly meeting, he hopes to have additional information to provide regarding this matter as well as being able to provide the Assembly with a list of possible public uses for the property as previously requested by the Assembly.

B. Auke Bay Marine Station Update

Mr. Watt said that he and Mr. Uchytil have had several meetings with staff from the University of Alaska regarding this issue. They have also had quite a bit of correspondence with the Federal GSA regarding the disposal of that property. He said he thinks it needs finer grained work by the Assembly as there are some sticky issues. He said that he thinks both the University and Docks and Harbors have reasonable positions but fundamentally their purposes are not necessarily aligned. He discussed this with Mr. Nankervis and they intend to bring it before the Assembly Committee of the Whole for more work on the meeting to be held Monday, March 13.

C. Lien Legislation

Ms. Mead said that this issue is something that a group of municipal attorneys have been working on that is being brought before each of their respective governing bodies. This relates to a Supreme Court case from 2012 in which Kotzebue was charging for garbage services as a municipality and it had on its books a provision that provided a lien mechanism for unpaid garbage fees. She said that was challenged and the Supreme Court issued a decision at the end of 2012 that said that municipalities had no authority to provide in their code for the establishment of a lien without statutory authority to do so. She said that has caused some issues for example the CBJ has on its books a provision providing for a creation of a lien for the non-payment of utilities. That was in effect repealed by the Supreme Court case. It was also the reason why we are now litigating the demolition of the Gastineau apartments building. That was a lien that we provided for in our code that we will now have to go through to get a court order in order to enforce.

Ms. Mead stated that the lien legislation that is being proposed would provide for the creation of liens by municipal ordinance. She is bringing this forward to the Assembly as she would like to bring a draft resolution forward for review at the next Assembly meeting.

There being no discussion and no objection, Ms. Mead will bring that resolution forward to the next Assembly meeting.

XI. ASSEMBLY REPORTS

A. Mayor's Report

Mayor Koelsch thanked Mr. Nankervis for attending to mayoral duties while he was away on travel status. He also informed them that he would be attending the "Mayor's Institute on City Design - A Case Study" March 22 - 24, in Charleston, SC.

B. Committee and Liaison Reports

<u>*Committee of the Whole:*</u> Chair Nankervis said the COW held a joint meeting with the Eaglecrest and School boards on February 27 and following those joint meetings, they briefly discussed SB14 which is related to the regulation of Transportation Network Companies (TNC). The committee will hold two upcoming meetings. March 13 they will discuss the Shared Access Ordinance and the Auke Bay Marine Station; it is likely the Pederson Hill and the Housing Data update issues will not yet be ready for the March 13 meeting. On March 20 they will hold a joint meeting with the Bartlett Regional Hospital Board to discuss their financial report and an update on the CAMHU project. Following the joint session with BRH, the COW will also discuss the City Manager's Wellness Strategy, receive a presentation on RecycleWorks and discuss a possible Essential Public Facility ordinance.

Public Works and Facilities Committee: Chair Becker said that at the last PWFC meeting they discussed two of the items that were on this Assembly agenda. They discussed the draft CIP list and voted to move that on to the Finance Committee. They received information about the wastewater biosolids and a road that is being suggested to go to the hospital as an emergency access road.

Joint Assembly - School Board Facilities Committee: Chair Becker said that their consultants from Jensen, Yorba, Lott came up and they are looking at facility adequacy, what is missing in our educational programs, and looking at the budget. One of the big projects they are looking at is what can be done to maximize capacity. She said that some of their recommendations are likely to be questioned by the committee because they want to move people out of the schools in order to make everything only educational classrooms. Right now some of the schools have space being used for things such as a finance department mainly because there is currently open space in the schools for that and not enough space in the district office building. She said they are strictly looking at using all the space and looking at enrollment figures and not necessarily looking at the amount of space each student needs to have and the rest of support type rooms. She said that she personally thinks they may not be on the right trail on that topic but they are just beginning that process.

Docks and Harbors Board: Liaison Becker said that the Assembly heard quite a bit regarding the Auke Bay Marine Station issue. She said there was a long discussion during two meetings about using part of the right of way on the docks and it was agreed that a one year trial would probably be OK but it seems like the Assembly has now made a change to that at this meeting. She said the board is doing quite a bit of work regarding assessment of fees. They are talking about the planning process for the different projects to Norway Point as well as the Urban Project that is being planned in the future. The next regular Docks & Harbors Board meeting will be April 1 and it will be in the form of a retreat from 9am-3pm.

Juneau Chamber of Commerce: Liaison Becker said that two of the programs of particular interest to the Assembly was when the President of the University system, Jim Johnsen, came and spoke and then last week when Kevin Ritchie, Joy Bloom, and Bruce Denton came and spoke about Best Starts and how they are going to want money from the city to start preschool up to age 4 for prekindergarten education.

Finance Committee: Chair Kiehl said the Finance Committee will be meeting on Wednesday, March 8 and everyone was given a paper packet at this meeting and the electronic version is available online.

UAS Campus Council: Liaison Kiehl said that the council met earlier that day and one of the primary topics was the work that is beginning to unify the schools of education leadership at the University of Alaska Southeast. There is a great amount of work out there before it goes to the Northwest Commission on Accreditation. Sometime next spring, they will be looking for a new dean for the unified school. There was significant discussion regarding the budget cuts that the state has made over the past few years and the number of positions lost across UAS and concern about pending budget cuts this year. He said that in spite of those cuts, the university system continues to work on marketing to attract as many enrollees as possible. There has been significant work done on what they are calling the "Come Home Alaska" program which is targetting anyone with Alaska relatives to come and pay instate tuition. The other program they are marketing is the "Finish Alaska" program which is trying to encourage Alaskans who have some college credit or some certificate work to complete it. He said they also heard a report from UAS' Title 9 coordinator who recently, in the wake of the US Dept. of Education civil rights investigation, has gone from half time to full time. There has been a lot of training with faculty and staff as well as joint partners such as JPD to provide resources for students and they are seeing a lot of excellent results in terms of students and some employees who now feel like there is someone who will hear complaints.

Alaska Municipal League: Liaison Kiehl said AML has been consumed with the legislative session. With respect to the TNC bill, AML has been working hard on protecting local options and local control with that. There are a number of other issues. He said that the proposed lobbyist tax bill that was mentioned earlier in this meeting, would help fund the Alaska Public Offices Commission which has had its budget dramatically cut in the last year. He said that bill also included filing fees for candidates and filing fees for Public Official Financial Disclosure Forms that would reach down into municipalities of more than 15,000 for both elected officials as well as Planning Commissioners which is of some concern to him. That is another bill that AML is weighing in on.

Human Resources Committee: Chair Jones reported that the HRC met prior to the Assembly meeting and received the annual reports from the Jensen-Olson Arboretum Advisory Board, the Parks and Recreation Advisory Committee, and the Wetlands Review Board, copies of which are in the HRC packet. There were some vacancies to fill and the HRC recommended appointments, which, hearing no objection, the Assembly approved as follows:

Jensen-Olson Arboretum Advisory Board (JOAAB) - there were three seats open but only two applicants. The Assembly reappointed Kim Garnero and Nell McConahey to the JOAAB for terms expiring January 31, 2020.

Parks and Recreation Advisory Committee (PRAC) - There were four applicants for three open seats on the PRAC. Christopher Mertl and Josh Anderson were reappointed and George Schaaf was appointed to terms expiring February 28, 2020.

Personnel Board - there were two Labor representative seats to be filled. The only two applicants were incumbents Cindy Spanyers and Rodney Hesson and the Central Council sent a letter in support of their reappointments. The Assembly reappointed Cindy Spanyers and Rodney Hesson to the Labor seats on the Personnel Board to terms expiring January 31, 2020.

Chair Jones stated that the HRC was going to review the resolution regarding the possible dissolution of the Fisheries Development Committee (FDC) but the discussions between the FDC and the Docks and Harbors Board have not moved very far so that agenda topic was being postponed.

Chair Jones stated that they received a staff report on the rewrite of Title 4 which are the Alcohol Control statutes and the progress that is making at the legislature. He stated that at the last COW meeting, Mr. Jones had agreed to meet with the Eaglecrest Board to discuss some of the issues related to alcohol sales but he was unable to attend the Eaglecrest Board's meeting due to illness so he will be trying to work on that with its Chair.

Downtown Business Association (DBA): Liaison Jones said they had not met since the last Assembly meeting. They will be meeting the next morning at 8:30a.m. and Mr. Jones will be on a flight heading to Anchorage for a Marijuana Control Board meeting at that time so he encouraged anyone else wishing to attend, to do so.

Airport Board: Liaison Jones said that the Airport Board did meet and introduced some people with **Life Med** which is a new air ambulance service that will start in May and will give us three companies in Juneau. He said he asked some questions regarding capacity and there have been some times when both the current medivac planes have been out and a third one was needed. Mr. Jones said the board is also working on some signage out at the airport which is one of the pieces still to be done from the remodel project. He said that the aircraft rescue/firefighter/snow removal building is moving along but was held up due to the weather. He said the board's next meeting is on April 14 and he plans on calling in to listen.

Aquatics Board: Liaison White said the board is continuing to work on marketing and outreach, working on their budget as well as looking for cost saving measures and looking for effeciencies.

Lands Committee: Chair White said that they have had some interesting things going on. She talked about some work the committee is doing with respect to the Aurora Arms Condos on Norway Point for a land/access road exchange to provide access to CBJ property and also open up the units at Aurora Arms from being a non-conforming use to a conforming use property. The Lands Committee has been doing a lot of work with respect to Pederson Hill. At the last meeting, they also discussed a drainage easement with Johnson Youth Center/Sleepy Spruce.

Planning Commisson: Liaison White said that the meeting that had been scheduled for March 14 was cancelled. She stated that there will be another meeting March 28. She said the topics on the last meeting were primarily related to Pederson Hill and the RecycleWorks presentation that they will be receiving at the Assembly COW meeting.

Travel Juneau: Liaison White stated that the Travel Juneau Executive Officer reminder her that the Arctic Council meetings had started in Juneau that morning. Liaison White said that Travel Juneau had its annual meeting last week but due to meeting conflicts she was not able to attend the full event. She stated that Travel Juneau won the bid on a convention with approximately 120 people coming in for Toastmasters for the western region in October.

Ms. Weldon said that Mr. Gregory would present her report.

School Board: The School Board approved a one year food service contract to Chartwells for the 2017-2018 school year. The board voted to uphold the board grievance panel's recommendation to deny a grievance filed by the Juneau Education Association. The next School Board meeting is scheduled for March 14 at 6pm at Thunder Mountain High School.

Juneau Economic Development Council (JEDC): The Innovation Summit had great feedback from attendees. There were 208 attendees this year, 45% were from the private sector and 25% were from out of town. Congratulations went out to Sandro Lane, and Marcy and Geoff Larson for being inducted into the Research/Innovators Hall of Fame. He said the Juneau Maritime Festival will take place on Saturday, May 6 in honor of our maritime industry. JEDC met with several larger retailers regarding their concerns about increased shoplifting and the limited public transportation for their employees on Sundays and holidays. The next JEDC meeting is scheduled for April 5 at noon in the JEDC Boardroom.

Eaglecrest Board: Liaison Gregory reported that the 2016-17 pass sales are on average for this year. The Eaglecrest Board will be discussing alcohol sales with Mr. Jones. The board continues to explore opportunities to electrify the Black Bear chair lift. Matt Lillard is officially resigned and working in Vermont. Nathan Abbott is the acting general manager and he will be working with senior personnel at Eaglecrest to keep the mountain active and going until they hire a new general manager. The search is currently underway and they plan to have that position filled by July. He said that the Eaglecrest Board was exploring creating a new mountain bike trail for the mountain; however the grant for that new trail fell through and they will continue to explore other grant possibilities. The spring ski pass sale is currently underway; ski passes are $199 for adults and if you ski four times, you will pay for your pass.

C. Presiding Officer Reports

Mr. Kiehl asked all the Assemblymembers to send their comments to the Deputy City Attorney on the draft decision for the Southeast Alaska Land Trust tax appeal by Friday, March 10.

XII. ASSEMBLY COMMENTS AND QUESTIONS

Mr. Gregory said he appreciated all the phone calls and emails he received with regard to the cruise ship tax. He said he encourages continued dialogue from the community as it is insightful and appreciated and it is not falling on deaf ears.

Mr. Kiehl said that Ms. White mentioned the Arctic Council Senior Arctic Officials' meeting which is a pretty big deal in the capital city. He said he had the pleasure of attending the Read Across America event on Saturday, March 4 put on by the Juneau Education Association and he saw some of the other Assemblymembers present as well. He said the best part wasn't reading to the children but rather that there were three little kids who wanted to read to him. He reminded everyone that Daylight Saving Time (DST) starts on March 12 and only pointed it out because CBJ is the only municipality of which he is aware that includes language about DST in its Charter.

Mr. Nankervis said he was fortunate, along with some of the other Assemblymembers, to attend the AML conference the previous week. He extended thanks to Ms. Becker in helping out by running the COW when he could not speak. He asked for Assembly approval to look into possible changes to CBJ Code 69.10.020 which is the property exemption ordinance but specifically as it relates to the exemption on manufacturing business personal property. He would like to make them more user friendly but he's not sure how that would look until he has a chance to discuss it with staff and may come back to the Assembly with a recommended ordinance amendment. *Hearing no objection, the Assembly approved this request.*

All other members passed on the Assembly comments/questions.

XIII. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

None.

XIV. EXECUTIVE SESSION

A. CLIA Litigation Update

MOTION by Mr. Kiehl to recess into Executive Session to discuss a matter, which by law, is required to be kept confidential, specifically an update on ongoing litigation with the Cruise Line Industry Association lawsuit.

Hearing no objection, the meeting adjourned into Executive Session at 9:11p.m.

The Assembly came back from Executive Session at 10:41p.m. and Mr. Kiehl reported that during the Executive Session, the Assembly heard an update from the City Attorney and the City Manager on the Cruise Line Industry Association lawsuit and discussed the matter and gave direction to staff.

XV. ADJOURNMENT

There being no further business to come before the Assembly, the meeting was adjourned at 10:42p.m.

Signed:__________________________ Elizabeth J. McEwen, Acting Clerk

Signed:______________________________ Kendell D. Koelsch, Mayor

XVI. SUPPLEMENTAL MATERIALS

Presented by:	The Manager
Introduced:	4/3/2017
Drafted by:	Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2016-09(AK)

An Ordinance Transferring $2,760 to the Jensen-Olson Arboretum Endowment Fund, Funding Provided by Unexpended Capital Project Funds from the Closure of the Jensen-Olson Arboretum Capital Improvement Project P42-075.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Transfer. There is appropriated to the Manager the sum of $2,760 for the Jensen-Olson Arboretum Endowment Fund.

Section 3. Source of Funds. Capital Project funds currently budgeted in the Jensen-Olson Arboretum Capital Improvement Project, CIP P42-075.

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this ________ day of ____________, 2017.

____
Kendell D. Koelsch, Mayor

Attest:

____
Laurie J. Sica, Municipal Clerk

Presented by: The Manager
Introduced: 04/03/2017
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2016-09(AL)

An Ordinance Appropriating to the Manager the Sum of $120,000 as Funding for the Relocation of the Gruening Park Sewer Pump Station Generator Building in the Glacier Highway Sewer-Anka to Walmart Capital Improvement Project; Funding Provided by Alaska Department of Transportation and Public Facilities.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of $120,000 for the Relocation of the Gruening Park Sewer Pump Station Generator Building in the Glacier Highway Sewer-Anka to Walmart Capital Improvement Project U76-100.

Section 3. Source of Funds.

Alaska Department of Transportation and Public Facilities $120,000

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this 24th day of April, 2017.

Kendell D. Koelsch, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

Presented by: The Manager
Introduced: 4/3/2017
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2016-09(AM)

An Ordinance Appropriating to the Manager the Sum of $700,000 as Funding for the Juneau Housing First Collaborative (JHFC) Capital Project, Funding Provided by the Sales Tax Fund's Fund Balance.

WHEREAS, on the 11th day of January, 2016, the Assembly adopted Ordinance 2015-20(Z), an Ordinance Appropriating to the Manager the Sum of $1,800,000 as ("Bridge Financing") funding for the Juneau Housing First Collaborative (JHFC) Capital Project, funding provided by the General Fund's Fund Balance; and

WHEREAS, the JHFC was unable to obtain sufficient, additional funding; and

WHEREAS, in order to pay costs for the Juneau Housing First Collaborative Capital Project, the JHFC requires additional funding of up to $1,200,000; and

WHEREAS, the CBJ encumbered $500,000 in funding to JHFC in FY16 prior to the $1,300,000 balance of the appropriation lapsing; and

WHEREAS, to fully fund the Juneau Housing First Collaborative Capital Project an additional appropriation of $700,000 is required.

NOW, THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of $700,000 for the Juneau Housing First Collaborative Project.

Section 3. Source of Funds

Sales Tax Fund's Fund Balance	$700,000

Section 4. Effective Date. This ordinance shall become effective upon

adoption.

Adopted this ________ day of ____________, 2017.

____
Kendell D. Koelsch, Mayor

Attest:

____
Laurie J. Sica, Municipal Clerk

Presented by: The Manager
Introduced: 04/03/2017
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2016-09(AN)

An Ordinance Appropriating to the Manager the Sum of $125,000 as Funding for the Treadwell Mine Park Preservation, Office Building Rehab, Phase 2, Capital Improvement Project; Funding Provided through a Grant from the Rasmuson Foundation.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriate. There is appropriated to the Manager the sum of $125,000 as funding for the Treadwell Mine Park Preservation, Office Building Rehab, Phase 2 Capital Improvement Project.

Section 3. Source of Funds.

Rasmuson Foundation Grant $ 125,000

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this __ day of _________, 2017.

____
Kendell D. Koelsch, Mayor

Attest:

____
Laurie J. Sica, Municipal Clerk

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2017-08

An Ordinance Amending the Penal Code Relating to the Discharge of Firearms in the Mendenhall Wetlands.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment of Section. CBJ 42.20.050 Discharging firearms, is amended to read:

42.20.050 Discharging firearms.

(a) It is unlawful for any person except a peace officer in the line of duty, to fire or discharge any firearm within one-quarter mile of any public street, road or highway within the City and Borough of Juneau, except that it is not unlawful to discharge:

(1) a shotgun within the Mendenhall Wetlands State Game Refuge<u> or on property within the shotgun discharge area as shown on the Shotgun Discharge Area Map, dated March 2, 2017</u>;

(2) a firearm at a shooting range operated by the Hank Harmon Memorial Rifle Range, the Juneau Gun Club, or the federal or state government; or

(3) a firearm at a shooting range approved as required under CBJ 49.25.300, Table of Permissible Uses.

(b) It is unlawful for any person except a peace officer in the line of duty, to fire or discharge any firearm within one-quarter mile of the Mount Roberts Trail, from the trailhead at Sixth Street to the top of Gastineau Peak, including Gold Ridge, from May 1 through September 30.

(c) It is not a violation of subsection (a) of this section if the discharge is in accordance with rules and regulations governing a biathlon or other competitive event involving the discharge of firearms when such biathlon or other competitive event has been authorized to take place in the area or facility by the person responsible for the management of such area or facility.

(d) Discharging a firearm in violation of this section is a Class B misdemeanor.

Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this ________ day of _______________________, 2017.

____
Kendell D. Koelsch, Mayor

Attest:

____
Laurie J. Sica, Municipal Clerk

CITY/BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY

Law Department
City & Borough of Juneau

MEMORANDUM

TO: CBJ Assembly

FROM: Amy Gurton Mead, Municipal Attorney

DATE: March 29, 2017

SUBJECT: Ordinance 2017-08

Ordinance 2017-08 amends CBJ 42.20.050 to allow for the discharge of shotguns when waterfowl hunting within the Mendenhall Wetlands State Game Refuge or on private parcels that were within the original Refuge boundary.

The Refuge boundary was put into Alaska law in 1976: Alaska Statute 16.20.034(a). That law uses a combination of methods to define the Refuge boundary, including reference to the extreme high tide line. As the position of the extreme high tide line changed since 1976, upland property owners filed accretion claims and acquired more than 45 acres of property that was originally State land and part of the Refuge. Many of those accreted properties are now owned by the Southeast Alaska Land Trust.

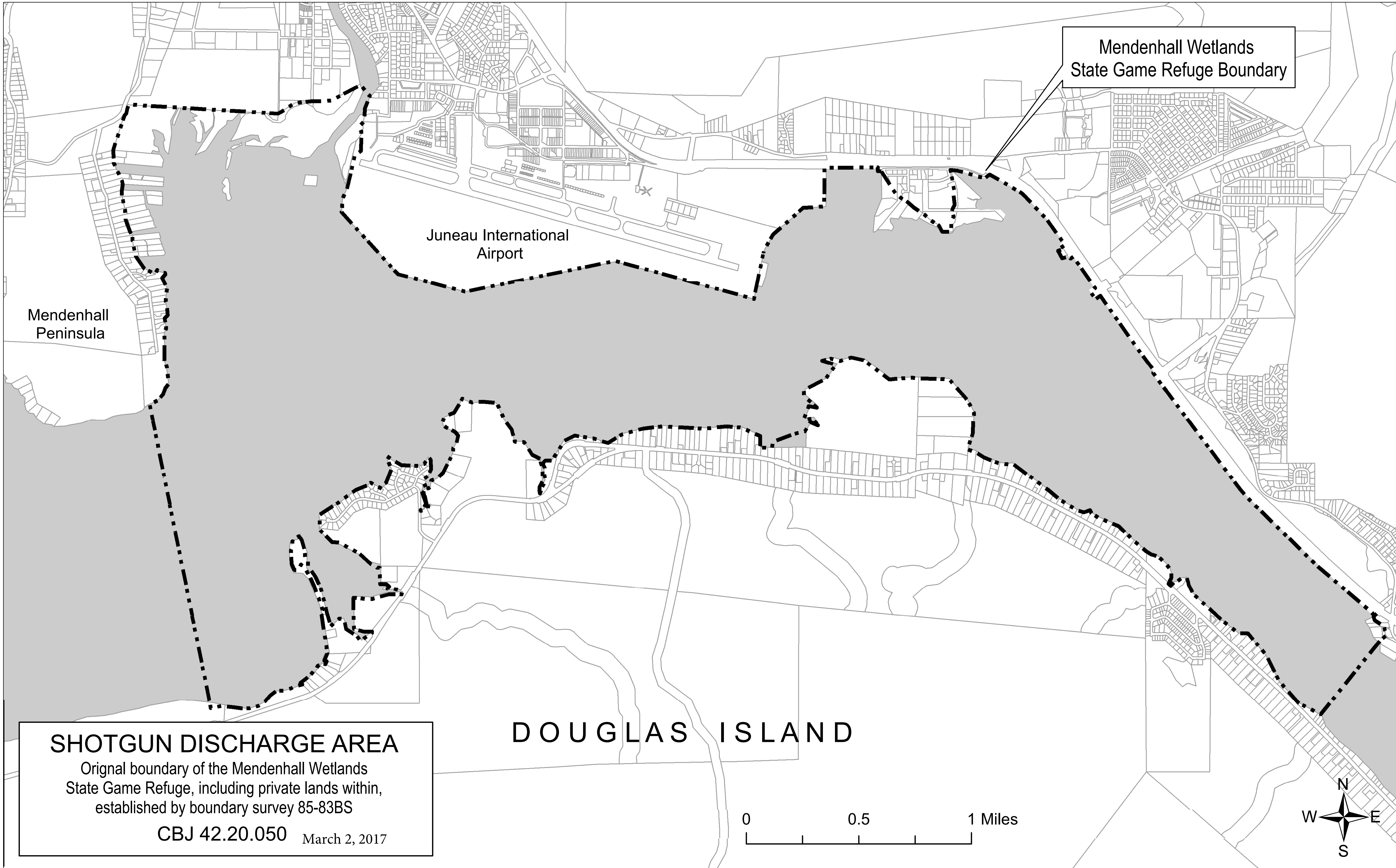
The private parcels create a checkerboard ownership pattern with the remaining State land in the Refuge. Although private landowners may restrict hunting on their property, one of the reasons the Refuge was established was to allow waterfowl hunting. See AS 16.20.034(e), and 5 AAC 92.520(a). Even though waterfowl hunting is allowed on State land within the Refuge, waterfowl hunters cannot easily know if they are on Refuge property or private property. This ordinance removes the shotgun prohibition on private land so lawful waterfowl hunters do not inadvertently commit a misdemeanor because of the checkerboard mosaic of landownership in and around the Refuge. Nothing in this ordinance changes a private landowner's right to post their property to prohibit hunting.

This ordinance would let lawful waterfowl hunters use a shotgun without violating CBJ 42.20.050(a)(1) on State land in the Refuge and on the following private parcels as indicated on the Shotgun Discharge Area Map attached here:

Tax ID	Area	Legal Description	Owner	Acreage
4B1901040147	Mendenhall Peninsula	Gandercall Lot 3	SEAL Trust	1.99

4B1901040148	Mendenhall Peninsula	Gandercall Lot 4	SEAL Trust	2
4B1901040163	Mendenhall Peninsula	Grey Goose Lot 2	SEAL Trust	2.04
4B1901050023	Mendenhall Peninsula	Morning Meadow Lot 3	SEAL Trust	1.6
4B1901041053	Mendenhall Peninsula	Great Horned Owl Lot 2	SEAL Trust	2.18
4B1901050013	Mendenhall Peninsula	Morning Meadow Lot 4	SEAL Trust	2.24
4B1901050042	Mendenhall Peninsula	Moon Meadow Lot 2	SEAL Trust	1.47
4B1801070063	Mendenhall Peninsula	Lazy G Acres Lot 2	SEAL Trust	3.5
4B1801070033	Mendenhall Peninsula	Hakala Lot 2	SEAL Trust	1.99
4B1801070053	Mendenhall Peninsula	USS 2901 Lot 8A1	Clinton L Rose	3.55
4B1701160020	Mendenhall Peninsula	USS 4573 Lot 1 Fraction	Robert H File et al	28.57
4B1801070019	Mendenhall Peninsula	Wigeon Ponds Lot 2	State of Alaska	6.45
4B1801070016	Mendenhall Peninsula	USS 2901 Lot 2D1	Jared L Erickson et al	2
4B1801070018	Mendenhall Peninsula	Wigeon Ponds Lot 1	Rollin T Young et al	2
4B1801070032	Mendenhall Peninsula	Hakala Lot 1	?	1.99
4B1801070041	Mendenhall Peninsula	USS 2901 Lot 6B1 ASLS 2010-28	Kramer-Wright Living Trust et al	3.97
4B1901050031	Mendenhall Peninsula	USS 2901 Lot 12C ASLS 2005-13	Larry F Karsten et al	2.92
7B0901030071	Salmon Creek	Fraction of USS 1075	Media Limited	1.68
7B0901030090	Salmon Creek	USS 1075 Tract A Lot 1A	Halverson/Sorenson LLP	3.12
7B0901030100	Salmon Creek	USS 1075 Lot 2 & ATS 887 Lot 2T	Betty J Smith et al	4.7
5B1401040173	Sunny Point	Sunny Point Park 3 Lot 1	SEAL Trust	6.56
5B1401040143	Sunny Point	Sunny Point Park 3 Lot 2	SEAL Trust	7.55
5B1401030013	Sunny Point	Branta Lot 2	SEAL Trust	2.42

5B1401040016	Sunny Point	Hinz II Lot 1B	SEAL Trust	2.56
5B1401030101	Sunny Point	Sunny Point Block 2 Lot 7A	Fritz Moser et al	4.34
5B1401030091	Sunny Point	Sunny Point Block 2 Lot 5A1	Francis J. Rue III et al	3.98
5B1401030012	Sunny Point	Branta Lot 1	Juneau King Family Trust	4.39
3B1601000120	Airport	ATS 1680 Tract A	State of Alaska	1.96
3B1601000110	Airport	ATS 1680 Tract B	State of Alaska	2.67
3B1601000100	Airport	ATS 1680 Tract C	State of Alaska	8.33
4B1701160040	Industrial Blvd	USS 4573 Lot 4 Fraction	CBJ	1.54



SHOTGUN DISCHARGE AREA

Orignal boundary of the Mendenhall Wetlands
State Game Refuge, including private lands within,
established by boundary survey 85-83BS

CBJ 42.20.050 March 2, 2017

Ordinance 2017-08

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2017-10

An Ordinance Authorizing the Sale of Foreclosed Property Located at 15860 Glacier Highway by Public Auction.

WHEREAS, in connection with the foreclosure process for property tax year 2014, the following property was conveyed to City and Borough of Juneau by clerk's deed:

LUSS 3265 LT 24 TR A, Juneau Recording District,
First Judicial District, State of Alaska

with an address of 15860 Glacier Highway, Juneau, Alaska; and

WHEREAS, the current amount owed for tax years 2014, 2015, and 2016, including penalties and interest, is $16,356.10; and

WHEREAS, AS 29.45.460 provides that tax-foreclosed property conveyed to a municipality and not required for a public purpose may be sold; and

WHEREAS, the property is not needed by the City and Borough for a public purpose; and

WHEREAS, according to the City and Borough's real property tax assessment rolls, Carmenzita Maria Lorenz was the last record owner of the property; and

WHEREAS, CBJ 53.09.230 provides for the disposal of City and Borough land by outcry auction.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a non-code ordinance.

Section 2. As it is determined that a public purpose does not exist for the property, the manager is authorized to dispose of the property located at 15860 Glacier Highway, and legally described as USS 3265 LT 24 TR A, by public outcry auction in accordance with CBJ 53.09.230.

Section 3. **Effective Date.** This ordinance shall be effective 30 days after its adoption.

Adopted this ________ day of ________________________, 2017.

____
Kendell D. Koelsch, Mayor

Attest:

____
Laurie J. Sica, Municipal Clerk

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2795

A Resolution In Support of Legislation Authorizing the Creation and Enforcement of Municipal Liens.

WHEREAS, in 1998, in an effort to discredit unauthorized common law liens recorded against public servants when those individuals disagreed with government action, the legislature passed legislation unintentionally rendering municipal liens unenforceable while preserving the enforceability of state law liens; and

WHEREAS, the ability to provide for the creation, recording, and enforcement of liens has historically been an effective tool used by municipalities to recover unpaid costs incurred by the municipality in providing services such as public nuisance abatement and public utilities; and

WHEREAS, in 2012, the Alaska Supreme Court, in *Cutler v. Kodiak Island Borough*, 290 P.3d 415 (Alaska 2012), held that as liens solely based on municipal law were not recognized as an exception to the definition of nonconsensual liens embodied in AS 09.45.169(2), liens provided for solely by municipal code were unenforceable; and

WHEREAS, SB 100 would return to municipalities the ability to use liens to secure payment for services rendered and costs incurred in addressing public nuisances and in providing utility services by giving liens arising solely under municipal law the same authority state and federal law liens hold under AS 09.45.169(2).

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. The Assembly of the City and Borough of Juneau fully supports the passage of SB 100, or other legislation that accomplishes the same purpose.

Section 2. **Effective Date.** This resolution shall be effective immediately after its adoption.

Adopted this _______ day of _______________________, 2017.

____
Kendell D. Koelsch, Mayor

Attest:

____
Laurie J. Sica, Municipal Clerk

Presented by: The Manager
Introduced:
Drafted by: Jane E. Sebens

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2796

A Resolution Approving Amendments to the Bylaws of the Board of Directors of Bartlett Regional Hospital.

WHEREAS, the Board of Directors of Bartlett Regional Hospital is responsible for the administration and management of the hospital under the general direction of the Assembly; and

WHEREAS, CBJ 40.05.030 provides that the Bartlett Regional Hospital Board of Directors shall recommend bylaws for the administration and government of the hospital, which bylaws shall become effective upon approval of the Assembly by resolution; and

WHEREAS, the Assembly may accept the bylaws recommended by the Bartlett Regional Hospital Board of Directors, may reject such bylaws or may modify them; and

WHEREAS, at its regular meeting on February 28, 2017, the Bartlett Regional Hospital Board of Directors approved certain amendments to the bylaws consistent with CBJ ordinances and forwarded the same to the Assembly; and

WHEREAS, the Bartlett Regional Hospital Board of Directors recommends that the Assembly approve the amended bylaws attached to this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. The Assembly hereby approves the Bartlett Regional Hospital Board of Directors Bylaws, dated February 28, 2017, attached as Exhibit A.

Section 2. Effective Date. This resolution shall be effective immediately upon adoption.

Adopted this _____ day of ______________________, 2017.

____
Kendell D. Koelsch, Mayor

Attest:

____
Laurie J. Sica, Municipal Clerk

Bartlett Regional Hospital

BOARD OF DIRECTORS

B Y L A W S

VOTING MAJORITIES

BYLAWS	**Recommendation to Adopt, Amend or Repeal (0131 - Page 3)**	**Prevailing vote of at least six members.**
REMOVAL OF BOARD MEMBER RECOMMENDATION	**(0144 - Page 4)**	**Prevailing vote of at least six members.**
QUORUM - BOARD MEETING	**(0162 – Page 10)**	**Five members of the board shall constitute a quorum.**
VOTING	**(0172 – Page 12)**	**Prevailing vote of at least five members.**
APPOINTMENT OF ADMINISTRATOR	**(0211 - Page 16)**	**Prevailing vote of a majority of the Board.**

BOARD OF DIRECTORS BYLAWS

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BOARD OF DIRECTORS BYLAWS TABLE OF CONTENTS (CONTINUED)

BOARD OF DIRECTORS 0100
NAME & PURPOSE - 0110

0111 NAME

The governing body of the Bartlett Regional Hospital shall be known as the Board of Directors.

0112 PURPOSE

1. **To provide ~~and~~for the management of facilities, personnel and services designed to diagnose and treat patients. Quality patient care shall be provided to ~~sick, injured or disabled~~all persons without ~~regard to~~discrimination on the basis of race, color, religion, national origin, age, sex, sexual orientation, sexual stereotyping, gender identity, disabilit~~ies~~y, pregnancy, parenthood, marital status, or change in marital status.**

2. **To provide appropriate facilities and services to best serve the needs of patients; to improve the standards of health care; to encourage education and training of hospital employees and staff appointees; and to maintain the quality of patient care that is achievable with resources available.**

3. **To carry on education activities for the promotion of health in the community.**

4. **To manage, operate or participate insofar as hospital policy, circumstances and available funds may warrant, any activity designed and carried on to promote general health in the community.**

BOARD OF DIRECTORS 0100
AUTHORITY & GENERAL POWERS 0120

0121 AUTHORITY

The Board of Directors is constituted, authorized, and governed by the Charter and Ordinances of the City and Borough of Juneau.
(CBJ Charter, Article III, Section 3.15; C.B.J. Chapter 40.05)

0122 GENERAL POWERS

Subject to state laws and other City and Borough Ordinances, CBJ 40.05.020 provides in part that the Board of Directors shall be responsible for the operation of all licensed hospitals owned or leased by the City and Borough according to the best interests of the public's health, shall make and enforce all rules and regulations necessary for the administration of hospitals under its management, shall prescribe the terms under which patients shall be admitted thereto and shall establish and enforce standards of operation. The Board shall, within the hospital appropriation, establish and may amend the pay plan for hospital employees.

0123 CONTRACTING AUTHORITY

The Board is responsible for approving all contracts for supplies, services, or professional services, or amendments thereto, relating to the Board's power and authority as established by CBJ 40.05.020. No contract may be approved unless the contract complies with the CBJ Charter and CBJ Municipal Code. Unless otherwise provided by law, the Board may delegate to the CEO authority to negotiate and/or execute all contracts, or may establish parameters by contract type and/or dollar amount, for the exercise of such authority with or without approval of the Board.

BOARD OF DIRECTORS –
0100 FUNCTIONS - 0130

0131 LEGISLATIVE

1. **The Board of Directors shall recommend bylaws and provide policies and procedures for the administration and governance of the hospitals, which bylaws shall become effective upon approval of the City and Borough Assembly by resolution. The Assembly may accept the bylaws recommended by the Board, may reject such bylaws or may modify them. A manual of bylaws shall be maintained. (CBJ 40.05.030) Policies and procedures shall become effective after being adopted by the Board of Directors. A manual of policies and procedures of the BRH Board shall be maintained and established as the Board Manual.**

2. **At least annually, the ~~President of the Board~~ Governance Committee shall ~~appoint two board members to~~ review the bylaws as expeditiously as is reasonable under the circumstances.~~. They shall make their recommendations to the Executive Committee and submit its suggested revisions, if any, to the full Board for consideration~~.**

3. **The Governance Committee's recommended revisions to the bylaws, if any, shall ~~then~~ be reviewed by the ~~full~~ Board at aits~~the nex~~t regular meeting ~~of the Board~~ and final Board action taken ~~voted on~~ at a ~~the following~~ subsequent ~~regular~~ Board meeting.**

4. **Any changes approved by the prevailing vote of at least six members of the Board shall be submitted to the CBJ Assembly for approval by resolution.**

0132 EVALUATION

The Board of Directors shall annually evaluate its performance against the strategic plan and against the goals and objectives established by the Board.

BOARD OF DIRECTORS - 0100
MEMBERSHIP - 0140

0141 NUMBER AND APPOINTMENTS

The Board of Directors shall consist of nine members appointed by the Assembly for staggered three-year terms. Board members shall serve at the pleasure of the Assembly. Up to two members of the hospital Board of Directors may be physicians in the community appointed from a list of those names submitted by the hospital medical staff. Terms shall commence on January first. (CBJ 40.05.010)

0142 EXPECTATIONS

A voting member shall show willingness to give as much time as is reasonably requested or required. The applicant must be willing to accept responsibility for governance, including availability to participate actively in board and committee activities; to provide effective governance and to utilize experience in organizational and community activities.

0143 TERM

The term of membership shall be three years and until a successor takes office, except that a member appointed to fill a vacancy shall serve for the un-expired term.

0144 VACANCY

In addition to the vacancy provisions set out in CBJ 40.05.050, the following provisions shall apply:

1. **A recommendation to the Assembly for removal of a board member may be made upon the prevailing vote of at least six members of the Board.**

2. **A ~~Director~~Board member may resign at any time by giving written notice to the Assembly, with a copy to the President of the Board. Such resignation shall take effect on the date of receipt or at any later time specified.**

BOARD OF DIRECTORS - 0100
MEMBERSHIP – 0140 (CONTINUED)

0145 COMPENSATION

1. **Board members ~~and members of all committees~~ shall not be~~receive no~~ compensated~~ion~~ for ~~any~~ services rendered in their capacities as board ~~members~~ or board committee members. However, nothing herein contained shall be construed to preclude any board member or committee member from receiving ~~compensation~~reimbursement for expenses incurred in serving the hospital as a board member.**

2. **Before any reimbursement for expenses is made, receipts of such expenses must be submitted to the Administrator.**

3. **The Board of Directors may maintain membership in any local, state or national group or association organized and operated for the promotion of the public health and welfare or the advancement of the efficiency of hospital administration and, in connection therewith, the hospital will pay dues and fees thereto.**
   (CBJ 40.05.070)

0146 TRAINING

The Board shall provide training to board members on the duties and functions of the Board, the general operations of the hospital, and the history ~~and traditions~~ of the hospital and its relationship with the community.

1. **Each new board member will be given, not later than their first regular meeting as a board member and for their use and possession for the duration of their term, a copy of CBJ Title 40 Hospitals, the Board Bylaws, the Board Manual and any other documents as deemed appropriate.**

2. **The Board shall provide ongoing education on board governance, compliance responsibilities, and the health care industry.**

BOARD OF DIRECTORS - 0100
ORGANIZATION - 0150

0151 ORGANIZATION MEETING

The Board shall elect annually from its members a President, Vice President, Secretary and such other officers as it deems necessary.
(CBJ Section 40.05.040)

0152 OFFICERS

1. **The officers of the Board shall be a President, a Vice President, and a Secretary.**

2. **Officers shall be elected annually according to the schedule in the Board Manual, and each shall hold office for a one year term and until successors shall have been elected. Officers shall serve at the pleasure of the Board.**

3. **Any officer may resign their office at any time by giving written notice to the Board. Such resignation shall take effect on the date of receipt or at any later time specified.**

4. **The President shall preside at all meetings of the Board, and shall be an ex-officio voting member of all committees except the nominating committee. The President shall be the Chairperson of the Executive Committee.**

5. **The Vice-President shall act as President in the absence of the President, and when so acting, shall have the power and authority of the President. The Vice President shall succeed to the office of President for the unexpired term if that office becomes vacant.**

6. **The Secretary shall ensure the retention of minutes of all meetings of the Board and board committees, and shall ensure appropriate public notice is given for all meetings of the Board and its committees in accordance with these bylaws or as required by law. The Secretary shall ensure that the records and reports of the Board are kept as required by law.**

7. **Upon a vacancy in the office of Vice President, or Secretary, the Board shall hold an election at its next regular meeting to fill such vacancy for the unexpired term.**

0153 COMMITTEES

1. **The President ~~Board~~ shall establish the following standing committees: an Executive Committee, a Finance Committee, a Governance Committee, a Compliance and Audit Committee, a Planning Committee, ~~and~~ a Quality ~~Assurance~~ Committee and a Joint Conference Committee. The Board shall assign such duties and responsibilities to the committees or appoint such other committees as it deems necessary.**

2. The President shall appoint the Chair and members of all committees.

3. With the exception of the Executive Committee, committees of the Board shall, when specifically charged to do so by the Board, conduct studies, make recommendations to the Board, and act in an advisory capacity, but shall not take action on behalf of the Board.

4. Unless otherwise determined by the Board, committees shall consist of no fewer than two board members and shall serve until the committee is discharged.

5. A board member may request or refuse appointment to a committee and the refusal to serve on any one committee shall not be grounds for failure to appoint that board member to another committee.

6. A committee shall be convened by the Chair or designee who shall report for the committee. The chair shall ensure that minutes will be kept and submitted for Board review.

7. The Board may assign the functions of any management and/or board committee, except the Executive Committee, to combined or new committees, or to the Board acting as a Committee of the Whole.

8. The Administrator shall, unless otherwise expressly provided, be a non-voting ex-officio member of all Board committees.

154 COMMITTEE FUNCTIONS

1. Executive Committee

The Executive Committee shall consist of the President, Vice President, Secretary, and, when appropriate, the Immediate Past President. The President shall be Chair of the Executive Committee and in their~~his or her~~ absence the Vice President shall be Chair. The Immediate Past President shall serve as an ex-officio voting member on the Executive Committee only for a term of one year following ~~his or her~~their last term as President. The Executive Committee shall be empowered to transact all regular business of the hospital during the interim between meetings of the Board, provided that any action it may take shall not conflict with the policies of the Board. Any action taken by the Executive Committee shall be reported at the next regular meeting of the Board and may be rescinded by Board action at the meeting.

BOARD OF DIRECTORS - 0100
ORGANIZATION – 0150 (CONTINUED)

2. Finance Committee

The Finance Committee shall consist of a chair and two~~three~~ members appointed by the President. The duties and responsibilities of the Finance Committee are to review and make recommendations to the Board concerning all matters affecting the financial condition of the hospital, including but not limited to, the annual budget and capital budget matters referred to the committee by the President.

A. The Finance Committee will review the annual budget prepared, and submitted to the Board, by the hospital administrator.

B. Not later than April 1, the Finance Committee will complete its review, and forward the budget to the Board for approval and submission to the City and Borough Manager, as provided in CBJ 40.25.020.

C. The year-end audited financial reports by an outside auditing firm shall be reviewed by the Finance Committee and the committee shall report conclusions to the Board at the next board meeting.

3. Governance Committee

The Governance Committee shall consist of a chair and two members appointed by the President. The duties and responsibilities of the Governance Committee are to assist and make recommendations to the Board in the areas of Board governance, development, performance and effectiveness.

A. The Committee will review Board bylaws and forward its recommended revisions, if any, to the Board on at least an annual basis and will periodically review and make recommendations to the Board, as needed,for revisions to the Board manual.

B. The Committee will monitor current standards, regulations and general expert commentary on corporate governance practices and procedures and will review and make recommendations to the Board on all matters of governance, including governance practices and procedures.

C. The Committee will review and make recommendations to the Board for Board member training and education, and will establish criteria for, and guide the Board in, an annual self-evaluation of Board performance.

4. Compliance and Audit Committee

The Compliance and Audit Committee shall consist of a chair and two members appointed by the President. The duties and responsibilities of the Compliance and Audit Committee shall be to assist and make recommendations to the Board in its oversight of the Hospital's Compliance Program.

A. The Committee will oversee and ensure the Hospital's development and implementation of Compliance Program guidelines and procedures, and the Hospital's compliance education and training.

B. The Committee will oversee and ensure the Hospital's maintenance of internal controls, systems, processes, resources and channels of communication for identifying, reporting and investigating compliance violations or concerns, and implementing corrective action.

C. The Committee will oversee and review periodic reports regarding compliance activities and investigations and ensure the conduct of regular internal and/or external audits and surveys to verify adherence to the Hospital's compliance guidelines and procedures.]

5. Planning Committee

The Planning Committee shall consist of a Chair and ~~three~~two members appointed by the President. The Planning Committee shall provide information to the Board on changes and trends in the health care field that may influence the growth and development of the hospital.

A. The Committee may assist in the preparation and modification of long-range and short-range plans to ensure that the total hospital program is attuned to meeting the health care needs of the community served by the hospital. Any plan should coordinate the hospital services with those of other health care facilities and related community resources.

B. The Board shall provide for institutional planning by including the Administration, the Medical Staff, the Nursing Department, other department/services, and appropriate advisors in the planning process with participation at the Planning Committee meetings.

C. Maintenance and building issues will be referred to the Planning Committee.

6. Quality ~~Assurance~~ Committee

The Quality ~~Assurance~~ Committee shall consist of a Chair and two members appointed by the President.

A. The Quality ~~Assurance~~ Committee shall provide information to the Board concerning the hospital quality assurance program and the mechanisms for monitoring and evaluating quality, identifying and resolving problems, and identifying opportunities to improve patient care.

B. **One member of the Quality ~~Assurance~~ Committee shall be appointed annually by the Board to serve as Board liaison to the staff Quality Improvement Committee (QIC)**

C. **~~The Board shall meet its quality assurance goals by involving the Administration, the Medical Staff, the Nursing Department, and appropriate advisors regarding quality assurance through participation on the Quality Assurance Committee~~. To fulfill the Board's oversight responsibilities, the Quality Committee will report at least quarterly to the Board.**

7. **Joint Conference Committee**

The Joint Conference Committee shall consist of the Executive Committee of the Board, the E~~e~~xecutive C~~c~~ommittee of the Medical Staff and representatives from Administration. ~~One of the Board members shall be appointed committee chairperson.~~ The President of the Board will chair the Joint Conference Committee. In the absence of the Board President, the Board Vice President will serve as Chair of the Committee.

The purpose of this C~~c~~ommittee is to provide a forum for communications between the Medical Staff and the Board of Directors.

8. **~~Special~~Ad Hoc Committees**

~~Special~~ Ad hoc committees may be appointed by the President for special tasks. Upon completion of the task for which appointed, such ad hoc~~special~~ committees shall be discharged.

0155 BOARD CALENDAR

The Board shall conduct its business by reference to a calendar which specifies the month or date that decisions, resolutions, deliberations, notices, and reports must be made, instituted or received by the Board.

BOARD OF DIRECTORS - 0100
MEETINGS - 0160

0161 PARLIAMENTARY AUTHORITY

Meetings shall be conducted under Robert's Rules of Order, using the edition currently adopted by the City and Borough of Juneau, and such amendments of these rules as may be adopted by the Board

0162 QUORUM

Five members of the Board shall constitute a quorum, and no business shall be conducted in the absence of a quorum, other than to adjourn a meeting to a later date. (CBJ Charter 3.12(e))

0163 PRESIDING OFFICER

The President shall preside at all meetings of the Board. In the absence, disability, or disqualification of the President, the Vice President shall preside. In the absence, disability, or disqualification of the President and Vice President, the Secretary shall preside. In the absence, disability, removal, or disqualification of the President, Vice President, and Secretary, the person with the longest period of current consecutive service on the Board shall preside.

0164 CALL OF MEETINGS

1. **Regular meetings shall be held at least once a month, as provided in CBJ 40.05.0~~5~~60.**

2. **Special meetings not regularly scheduled may be called by the President or upon the presentation of a petition requesting such a meeting and endorsed by a majority of the voting members of the Board.**

3. **All meetings of the Board and committees of the Board shall be open to the public, except as otherwise provided by law.**

~~3.~~4. **A member may participate via telephone in a Board meeting, or a Committee meeting, if the member declares that circumstances prevent physical attendance at the meeting. If the President participates by telephone, the Vice-President will preside at the meeting. No more than the first three~~wo~~ members for a Board meeting, or two members for a Committee meeting, to contact the Administrator may participate via telephone at any one meeting. A member participating by telephone shall be counted as present for purposes of quorum, discussion and voting. If the telephone connection is lost and the member is necessary to achieve a quorum, the meeting shall be at ease, recess or adjourn as necessary until the connection is established or restored.**

0165 NOTICE

1. **The President shall notify each Board member, in writing and no later than three days in advance of the meeting, of the time, date, location, and, to the extent it is known, the agenda of any regular meeting. Notice of the time, date, location and purpose of a special Board meeting shall be given to board members no later than twenty-four hours in advance of the meeting.**

2. **Reasonable public notice shall be given for all meetings. Notice of all Board meetings and committee meetings shall be delivered to newspapers of general circulation in the municipality and to the commercial radio and television stations operating in the municipality at least 24 hours prior to such meetings.**

BOARD OF DIRECTORS - 0100
MEETINGS – 0160 (CONTINUED)

In calling a special meeting this notice shall state the business for the transaction of which the special meeting has been called and no business other than that stated in the notice shall be transacted at such special meeting.

BOARD OF DIRECTORS - 0100
CONDUCT - 0170

0171 CONFLICT OF INTEREST

Board members shall be governed by the CBJ Charter, Section 15.1 and CBJ Chapter 01.45 with respect to conflict of interest.

0172 MOTIONS/VOTING

~~**Seconds to motions [are] [are not] required.**~~

1. **The prevailing vote of at least five members of the Board shall be required for official action except that the prevailing vote may be reduced by one vote for every two members of the board who are present but who do not vote because of a conflict, as more fully set out in CBJ Charter 3.16(e).**

2. **A board member with a declared conflict of interest on an issue shall be excused from voting by the President and must abstain from any discussion and/or the vote on the issue. If the President declares a conflict of interest, ~~T~~the President shall excuse~~s him/herself~~themselves.**

3. **A vote may be taken by voice, show of hands or roll call. If one or more members are participating telephonically, the vote of all members shall be taken by voice or roll call. Proxy voting shall not be permitted. At the request of any member, the Board shall be polled.**

0173 EXECUTIVE SESSIONS

1. **If ~~excepted~~permitted subjects are to be discussed at a meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that come within the exceptions set forth below shall be determined by a majority vote of the Board. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. No action may be taken at the executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.**

The following ~~excepted~~ subjects ~~shall~~may be ~~discussed~~considered in an executive session:

- **A.** **Matters the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity~~government unit~~;**

- **B.** **Subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;**

C. **Matters which by law, municipal charter, or ordinances are required to be confidential.**

D. **Matters involving consideration of government records that by law are not subject to public disclosure.**

2. **Any executive session where the subject to be discussed tends to prejudice the reputation and character of any person shall require advance notification of the person and the opportunity for the person to request a public discussion.**

3. **Board members participating via telephone in a meeting in which an executive session is called, may participate in the executive session only after verifying, on the record and before the session, that the member is alone, in a private place and able to maintain and safeguard the private status of the telephone call for the duration of the session. If at any time the privacy of the call becomes in question any member or invited attendee in the session may request re-verification of the caller's privacy status.**

0174 HEARING OF PUBLIC

Members of the public present at the meeting of the Board shall be offered a reasonable opportunity to be heard in accordance with Board policy.

0176 ADJOURNMENT

The Board may at any time recess or adjourn a meeting to a time and place certain. Upon resuming, the Board shall commence business at the point in the agenda where the motion to recess or adjourn was adopted.

0177 CODE OF ETHICS

Members of the Board, including ex officio members, shall at all times abide by and conform to the CBJ Conflict of Interest Code (CBJ 01.45) and to the following code of ethics in their capacity as board members:

1. **Members of the Board of Directors will conduct the business affairs for the Hospital in good faith and with honesty, integrity and due diligence.**

2. **Members of the Board of Directors will exercise proper authority and good judgment in their dealings with staff, patients, and the general public and will respond to all in a responsible, respectful, and professional manner.**

3. **Each member of the Board of Directors will use his or her best efforts to regularly participate in board activities and will perform his or her duties in a responsible manner.**

4. Upon termination of service, a retiring board member will promptly return to the Hospital all property entrusted to the Board member for the purpose of fulfilling his or her responsibilities.

The Board of Directors must act at all times in the best interests of the Hospital and not for personal or third-party gain or financial enrichment. When encountering potential conflicts of interest, board members will consult and adhere to CBJ 01.45, including~~identify the conflict and~~, as required, removing~~e~~ themselves from all discussion and voting on the matter. ~~Specifically, b~~Board members shall ~~follow these guidelines:~~

~~A~~avoid placing, or ~~(and avoid~~ the appearance of placing,~~)~~ ~~one's~~their own self-interest or any third-party interest above that of the Hospital which shall include~~;~~:

A. **~~Do n~~Not ~~abuse board membership by improperly~~ using board membership or the Hospital's staff, resources or property for personal or third-party gain; ~~board members shall~~ not representing that their authority as a board member extends any further than that to which it actually extends;**

B. **~~Do n~~Not engaging~~e~~ in any outside business, professional or other activities that would materially adversely affect the Hospital;**

C. **~~Do n~~Not soliciting or accepting gifts, gratuities, free trips, honoraria, personal property, or any other item of value from any person or entity as a direct or indirect inducement to provide special treatment to such donor with respect to matters pertaining to the Hospital;**

D. **Providing~~e~~ goods or services to the Hospital as a paid vendor only after full disclosure to the Board.**

BOARD OF DIRECTORS 0100
MINUTES - 0180

0181 OFFICIAL MINUTES

1. **The Board shall keep minutes of all of its board meetings and board committee meetings and a record of all proceedings of the Board.**

2. **All minutes shall be filed in the office of the Administrator in a minutes book as the permanent record of the acts of the Board.**

3. **The minutes shall show the time and place, the members present, the members absent, the subjects considered, the actions taken, the vote taken, and any other information required by law.**

4. **Motions to convene and the subject matter(s) to be discussed in executive session shall be clearly reflected in the minutes.**

5. **Copies of all written reports received at a Board or committee meeting shall be attached to the minutes for that meeting.**

BOARD OF DIRECTORS 0100
ADMINISTRATION 0200

0211 APPOINTMENT

The Chief Executive Officer of the hospital shall be a hospital administrator appointed by the Board, after consultation with the CBJ City Manager, only upon affirmative vote of a majority of the Board. (CBJ 40.10.010) (40.05.020(d))

0212 VACANCY

Whenever a vacancy occurs, the succession plan as described in the Board Manual will be implemented.

0223 DUTIES AND RESPONSIBILITIES

In addition to the duties and responsibilities set out in CBJ 40.10.020:

1. **The Administrator shall have the duties and responsibilities with respect to the Board as described in the Board Manual.**

2. **The Administrator shall fulfill the duties set forth in the administrator's job description.**

0241 ANNUAL EVALUATION

Annually, or more frequently as the Board deems necessary, the Board shall review the performance of the Administrator. The President of the Board shall inform the Administrator of the results this evaluation. Minutes of the Board meeting shall document the evaluation of the Administrator.

MEDICAL STAFF 0300
ORGANIZATION 0320

0321 MEDICAL STAFF ORGANIZATION AND BYLAWS

The Board serves as the Governing Body for the hospital. The Medical Staff is responsible to the Board for the clinical and scientific work of the hospital and shall, with approval of the Board, adopt bylaws, rules, regulations and policies for the proper conduct of its work and eligibility for appointment to the hospital medical staff. The Medical Staff bylaws shall be submitted to the Board for its approval and shall not become effective until approved by the Board. The bylaws shall include provisions for hearings on applications for membership on the Medical Staff that are consistent with the requirements of due process, federal law, state law, and these bylaws. When the Medical Staff reviews or revises its bylaws, rules, regulations and policies it will submit its recommendations for amendment to the Board for its review and approval. (CBJ 40.15.040)

Neither the Medical Staff nor the Board may unilaterally amend the staff bylaws.

0322 SELF-GOVERNING

The Medical Staff shall be self-governing with respect to the professional work performed in the hospital. It shall:

1. **Designate one of its members as Chief of Staff.**
2. **Hold regular meetings ~~at least once each month~~ in accordance with Medical Staff bylaws, for which minutes and records of attendance shall be kept.**
3. **Review and analyze at regular intervals the clinical experience of the Hospital. Medical records of patients shall be the basis for such review and analysis. (CBJ 40.15.050)**

0351 ACTIONS AND DECISIONS

In accordance with the Medical Staff bylaws adopted pursuant to CBJ 40.15.030 the Board, after appropriate action by the Medical Staff, shall take action or make a decision on Medical Staff matters, including applications for membership, clinical privileges and professional discipline matters.

0361 REVIEW OF ACTIONS AND DECISIONS

The Medical Staff bylaws shall include procedures for hearings whereby the applicant or member of the Medical Staff shall be afforded a hearing in connection with a request for a review of a decision or action taken pursuant to Section 0351 of these bylaws.

0365 REAPPLICATION FOLLOWING DENIAL OR REVOCATION

If an application for membership on the Medical Staff or renewal of membership is denied by the Board, or if the Board revokes the membership of a staff member, the applicant may reapply for appointment to the Medical Staff after the expiration of two years from the date of such denial, unless the Board provides otherwise in the formal written denial.

0371 BOARD OBLIGATION TO THE MEDICAL STAFF

The Board, through the administrator, shall ensure that the Medical Staff is provided with the administrative assistance necessary to conduct quality assurance activities in accordance with the hospital's Quality Review Plan. This includes the services of the medical record department, and any other administrative or technical assistance deemed necessary and appropriate to facilitate the Medical Staff's conduct of quality review activities. The nature and the frequency of submission of required reports shall be in accordance with the hospital's Quality Review Plan and the Medical Staff bylaws, rules and regulations.

MEMORANDUM

DOCKS AND HARBORS
CITY/BOROUGH OF JUNEAU
155 SOUTH SEWARD STREET, JUNEAU, ALASKA 99801

FAXED MEMORANDUM

TO: Bidders

Date: February 9, 2017

FROM: Carl Uchytil
Port Director

SUBJ: POSTING NOTICE OF BIDS
Aurora Harbor Rebuild – Phase II
Contract No. DH17-021

This memo is to post a notice of the results of the bid opening on February 8, 2017, for the subject project. The bidders and their total bids are as follows:

BIDDERS	TOTAL BID
Northern Construction Service	**$3,452,060.00**
Trucano Construction Company	$3,594,442.00
Tamico, Inc.	$3,619,500.00
Western Dock & Bridge	$3,667,950.00
Western Marine Construction	$3,778,000.00
Turnagain Marine Construction	$4,076,700.00
Engineer's *Estimate*	$4,110,922.00

The apparent low bidder is Northern Construction Service. The CBJ intends to award the Total Bid in the amount of $3,452,060.00. Award will be forwarded to the Docks and Harbors Board for approval. Recommendation to award the Total Bid in the amount of $3,452,060.00 has been forwarded to the CBJ Assembly for approval at the Regular Assembly Meeting on February 13, 2017.

This notice begins the protest period per Purchasing Code 53.50.062. Protests will be executed in accordance with CBJ Ordinance 53.50.062 "Protests", and 53.50.080 "Administration of Protest." The CBJ Purchasing Code is available online at: http://www.juneau.org/law or from the CBJ Purchasing Division at (907) 586-5258.

The apparent low bidder has until ***4:30 p.m. on February 16, 2017,*** to submit the Subcontractor Report, Section 00360 to the Engineering Department Contracts Office. The Subcontractor Report must be submitted even if there are no subcontractors planned for the job.

c. Gary Gillette, Port Engineer

SECTION 00360 - SUBCONTRACTOR REPORT

LIST OF SUBCONTRACTORS (AS 36.30.115)

The apparent low Bidder must submit a list of Subcontractors that the Bidder proposes to use in the performance of this contract *on the fifth business day* following the Posting Notice of Bids. If the fifth day falls on a weekend or holiday, the report is due by close of business on the next business Day following the weekend or holiday. The Subcontractor Report list must include each Subcontractor's name, address, location, evidence of valid Alaska Business License, and valid Alaska Contractor's Registration under AS 08.18. ***If no Subcontractors are to be utilized in the performance of the WORK, write in ink or type "NONE" on line (1) below.***

SUBCONTRACTOR / ADDRESS	[1] AK Contractor License No. / [2] AK Business License No.	[1] Contact Name / [2] Phone No.	Type of Work	Contract Amount	✓ if DBE
1. HARRI Plumbing + HEATING, INC. 809 West 12TH Street Juneau, AK 99801	1 0474 2 5820	JEFF DUVERNAY 907-321-0249	MECHANICAL	$248,353.00	☐
2. ANDERSON Brothers Electric, LLC 16300 OCEAN VIEW DRIVE JUNEAU, AK 99801	1 CONE 39888 2 1013169	PETER ANDERSON 907-209-7129	Electrical	$496,837.00	☐
3. J.W. BEAN PROF. SURVEYORS, INC. 1070 Arctic Circle Juneau, AK 99801	LS3650 2 272554	JOHN BEAN 907-723-3610	SURVEY	$10,650.00	☐
4.	1 2			$	☐

I certify that the above listed Alaska Business License(s) and CONTRACTOR Registration(s), if applicable, were valid at the time Bids were opened for this Project.

[signature]
CONTRACTOR, Authorized Signature

GARRETT McCORMICK
CONTRACTOR, Printed Name

NORTHERN CONSTRUCTION SERVICE
COMPANY

THE STATE of ALASKA
GOVERNOR BILL WALKER

Department of Commerce, Community, and Economic Development
ALCOHOL & MARIJUANA CONTROL OFFICE
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

March 10, 2017

City & Borough of Juneau
Attn: Beth McEwen
Via Email: beth.mcewen@juneau.org
Cc: City.Clerk@juneau.org

Re: Notice of 2017/2018 Liquor License Renewal Application

License Type:	Club	**License Number:**	5414
Licensee:	BPO Elks Lodge #420		
Doing Business As:	Juneau Elks Club No. 420		

We have received a completed renewal application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under AS 04.11.480.

A local governing body may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of receipt of this notice, and by allowing the applicant a reasonable opportunity to defend the application before a meeting of the local governing body, as required by 3 AAC 304.145(d). If a protest is filed, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

To protest the application referenced above, please submit your written protest within 60 days, and show proof of service upon the applicant and proof that the applicant has had a reasonable opportunity to defend the application before a meeting of the local governing body.

Sincerely,

Jedediah Smith

Jedediah Smith, Local Government Specialist
amco.localgovernmentonly@alaska.gov

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
alcohol.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-17: Renewal License Application

What is this form?

This renewal license application form is required for all individuals or entities seeking to apply for renewal of an existing liquor license that will expire on December 31, 2016. All fields of this form must be complete and correct, or the application will be returned to you in the manner in which it was received, per AS 04.11.270 and 3 AAC 304.105. The Community Council field only needs to be verified/completed by licensees whose establishments are located within the Municipality of Anchorage or outside of city limits within the Matanuska-Susitna Borough.

This form must be completed correctly and submitted to the Alcohol & Marijuana Control Office (AMCO)'s main office, along with all other required documents and fees, before any renewal license application will be considered complete.

Section 1 – Establishment and Contact Information

Enter information for the business seeking to have its license renewed.

Licensee:	BPO Elks Lodge #420	**License #:**	5414
License Type:	Club	**Statute:**	AS 04.11.110
Doing Business As:	Juneau Elks Club No. 420		
Premises Address:	9321 Glacier Highway		
Local Governing Body:	City & Borough of Juneau		
Community Council:	None		

Mailing Address:	9321 Glacier Highway				
City:	Juneau	**State:**	Alaska	**ZIP:**	99801

Enter information for the licensee who will be designated as the primary point of contact regarding this application and the license.

Designated Licensee:	Keith Wertheimer		
Contact Phone:	(907) 209-4813	**Business Phone:**	(907) 209-4813
Contact Email:	bad2thebone17@hotmail.com		

Seasonal License? Yes ☐ No ☒ **If "Yes", write your six-month operating period:** ____________________

RECEIVED
FEB 27 2017
ALCOHOL MARIJUANA CONTROL OFFICE
STATE OF ALASKA

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
alcohol.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-17: Renewal License Application

Section 2 – Sole Proprietor Ownership Information

This section must be completed by any sole proprietor who is applying for a license. Entities should skip to Section 3.
If more space is needed, please attach a separate sheet with the required information.
The following information must be completed for each licensee and each affiliate (spouse).

This individual is an: ☐ applicant ☐ affiliate

Name:					
Address:					
City:		**State:**		**ZIP:**	
Email:					
Contact Phone:					

This individual is an: ☐ applicant ☐ affiliate

Name:					
Address:					
City:		**State:**		**ZIP:**	
Email:					
Contact Phone:					

Section 3 – Entity Ownership Information

This subsection must be completed by any licensee that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC). Partnerships may skip to Page 3. Sole proprietors should skip to Section 4.

Alaska DOC Entity #:	67139D

Alaska Division of Corporations:	Yes	No
Is your entity in good standing with the Alaska Division of Corporations?	X	☐

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
alcohol.licensing@alaska.gov
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Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-17: Renewal License Application

This subsection must be completed by any entity, including a corporation, limited liability company (LLC), partnership, or limited partnership, that is applying for renewal. If more space is needed, please attach additional completed copies of this page.

- If the applicant is a corporation, the following information must be completed for each ***stockholder who owns 10% or more*** of the stock in the corporation, and for each ***president, vice-president, secretary,*** and ***managing officer***.
- If the applicant is a limited liability organization, the following information must be completed for each ***member with an ownership interest of 10% or more***, and for each ***manager***.
- If the applicant is a partnership, including a limited partnership, the following information must be completed for each ***partner with an interest of 10% or more***, and for each ***general partner***.

Entity Official:	Keith Werthheimer				
Title(s):	President	**Phone:**	(907) 209-4813	**% Owned:**	
Address:	PO Box 331221				
City:	Juneau	**State:**	Alaska	**ZIP:**	99803

Entity Official:	Galadriel D. Morales				
Title(s):	Vice-President	**Phone:**	(907) 738-0630	**% Owned:**	
Address:	PO Box 20112				
City:	Juneau	**State:**	Alaska	**ZIP:**	99802

Entity Official:	Ricardo M. Morales				
Title(s):	Secretary	**Phone:**	(907) 738-3832	**% Owned:**	
Address:	PO Box 20112				
City:	Juneau	**State:**	Alaska	**ZIP:**	99801

Entity Official:					
Title(s):		**Phone:**		**% Owned:**	
Address:					
City:		**State:**		**ZIP:**	

Entity Official:					
Title(s):		**Phone:**		**% Owned:**	
Address:					
City:		**State:**		**ZIP:**	

RECEIVED
FEB 27 2017
ALCOHOL MARIJUANA CONTROL OFFICE
STATE OF ...

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
alcohol.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-17: Renewal License Application

Section 4 – Authorization

Communication with AMCO staff:

	Yes	No
Does any person other than a licensee named in this application have authority to discuss this license with AMCO staff?	X	☐

If "Yes", disclose the name of the individual and the reason for this authorization:

Steven Hinckle, Trustee and Point of Contact

Section 5 – License Operation

Check the box that best describes your liquor license operations in calendar years 2015 and 2016:

The license was regularly operated continuously throughout each year, for 8 or more hours each day.	X
The license was regularly operated during a specific season each year, for 8 or more hours each day.	☐
The license was only operated to meet the minimum requirement of 30 days each year, 8 hours each day. *If this box is checked, an AMCO employee will contact you after reviewing your application.*	☐
The license was not operated at all or was not operated for at least the minimum requirement of 30 days each year, 8 hours each day, during one or both of the calendar years. *If this box is checked, an AMCO employee will contact you after reviewing your application.*	☐

Section 6 – Convictions

Applicant convictions in calendar years 2015 and 2016:

	Yes	No
Has any person named in this application been convicted of a violation of Title 04, of 3 AAC 304, or a local ordinance adopted under AS 04.21.010 in the calendar years 2015 or 2016?	☐	X

If "Yes", list all convictions:

RECEIVED
FEB 27 2017
ALCOHOL MARIJUANA CONTROL OFFICE
STATE OF ALASKA

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
alcohol.licensing@alaska.gov
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Phone: 907.269.0350

ALCOHOL & MARIJUANA CONTROL · STATE OF ALASKA

Alaska Alcoholic Beverage Control Board

Form AB-17: Renewal License Application

Section 7 – Certifications

Read each line below, and then sign your initials in the box to the right of each statement: Initials

Statement	Initials
I certify that all current licensees (as defined in AS 04.11.260) and affiliates have been listed on this application, and if the licensee is an organized entity, that all current entity officials and stakeholders are listed with the Alaska Division of Corporations.	KW
I certify on behalf of myself or of the organized entity that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.	KW
I certify that in accordance with AS 04.11.450, no one other than the licensee(s) has a direct or indirect financial interest in the licensed business.	KW
I certify that I have not altered the functional floor plan or reduced or expanded the area of the licensed premises, and I have not changed the business name or the ownership (including officers or stakeholders) from what is currently on file with the Alcoholic Beverage Control Board.	KW
I certify that I have not violated any restrictions pertaining to this particular license type, and that this license has not been operated in violation of a condition or restriction imposed by the Alcoholic Beverage Control Board.	KW

As an applicant for a liquor license renewal, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application and understand that failure to do so by any deadline given to me by AMCO staff will result in this application being returned to me as incomplete.

Keith Wertheimer
Signature of licensee

Keith Wertheimer
Printed name of licensee

Lani Albay
Signature of Notary Public

Notary Public in and for the State of Alaska.

LANI ALBAY · NOTARY PUBLIC · STATE OF ALASKA · June 17, 2017

My commission expires: June 17, 2017

Subscribed and sworn to before me this 23rd day of February, 2017.

License Fee:	$ 1200.00	Filing Fee:	$ 200.00	TOTAL:	$ 1400.00
Late Fee of $500.00 – if received or postmarked after 01/03/2017:					500.00
Miscellaneous Fees: ($47.00 x 3 = $141.00					141.00
GRAND TOTAL (if different than TOTAL):					2041.00

THE STATE of ALASKA
GOVERNOR BILL WALKER

Department of Commerce, Community, and Economic Development
ALCOHOL & MARIJUANA CONTROL OFFICE
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

March 14, 2017

City & Borough of Juneau
Attn: Beth McEwen
Via Email: beth.mcewen@juneau.org
Cc: City.Clerk@juneau.org

Re: Notice of 2017/2018 Liquor License Renewal Application

License Type:	Restaurant/Eating Place	**License Number:**	4584
Licensee:	Doug Trucano		
Doing Business As:	(TBD, no d.b.a)		

We have received a completed renewal application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under AS 04.11.480.

A local governing body may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of receipt of this notice, and by allowing the applicant a reasonable opportunity to defend the application before a meeting of the local governing body, as required by 3 AAC 304.145(d). If a protest is filed, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

To protest the application referenced above, please submit your written protest within 60 days, and show proof of service upon the applicant and proof that the applicant has had a reasonable opportunity to defend the application before a meeting of the local governing body.

Sincerely,

Jedediah Smith

Jedediah Smith, Local Government Specialist
amco.localgovernmentonly@alaska.gov

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
alcohol.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Renewal License Application

Form AB-17a: Restaurant / Eating Place

What is this form?

This renewal license application form is required for all individuals or entities seeking to apply for renewal of an existing restaurant / eating place license that will expire on December 31, 2016. All fields of this form must be complete and correct, or the application will be returned to you in the manner in which it was received, per AS 04.11.270 and 3 AAC 304.105. The Community Council field only needs to be verified/completed by licensees whose establishments are located within the Municipality of Anchorage or outside of city limits within the Matanuska-Susitna Borough.

This form must be completed correctly and submitted to the Alcohol & Marijuana Control Office (AMCO)'s main office, along with all other required documents and fees, before any renewal license application will be considered complete.

Section 1 – Establishment and Contact Information

Enter information for the business seeking to have its license renewed.

Licensee:	FORMALLY (ZEPHYR)	**License #:**	4584
License Type:	Restaurant/Eating Place	**Statute:**	AS 04.11.100
Doing Business As:	(T.B.D)		
Premises Address:	No Premises		
Local Governing Body:	City & Borough of Juneau		
Community Council:	None		

Mailing Address:	3560 N. Douglas RD				
City:	JUNEAU	**State:**	AK	**ZIP:**	99801

Enter information for the licensee who will be designated as the primary point of contact regarding this application and the license.

Designated Licensee:	DOUG TRUCANO		
Contact Phone:	907-321-2680	**Business Phone:**	907 586 2444
Contact Email:			

Seasonal License? Yes ☐ No ☒ **If "Yes", write your six-month operating period:** ____________

RECEIVED
FEB 27 2017
ALCOHOL MARIJUANA CONTROL
STATE

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
alcohol.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Renewal License Application

Form AB-17a: Restaurant / Eating Place

Section 2 – Sole Proprietor Ownership Information

This section must be completed by any sole proprietor who is applying for a license. Entities should skip to Section 3.
If more space is needed, please attach a separate sheet with the required information.
The following information must be completed for each licensee and each affiliate (spouse).

This individual is an: ☒ applicant ☐ affiliate

Name:	DOUG TRUCANO				
Address:	3560 N. Douglas RD				
City:	JUNEAU	**State:**	AK	**ZIP:**	99801
Email:					
Contact Phone:	907-321-2680 or 907-586-2444				

This individual is an: ☐ applicant ☐ affiliate

Name:					
Address:					
City:		**State:**		**ZIP:**	
Email:					
Contact Phone:					

Section 3 – Entity Ownership Information

This subsection must be completed by any licensee that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC). Partnerships may skip to Page 3. Sole proprietors should skip to Section 4.

Alaska DOC Entity #:	

Alaska Division of Corporations:	Yes	No
Is your entity in good standing with the Alaska Division of Corporations?	☐	☐

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550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
alcohol.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Renewal License Application

Form AB-17a: Restaurant / Eating Place

This subsection must be completed by any entity, including a corporation, limited liability company (LLC), partnership, or limited partnership, that is applying for renewal. If more space is needed, please attach additional completed copies of this page.

- If the applicant is a **corporation**, the following information must be completed for each ***stockholder who owns 10% or more*** of the stock in the corporation, and for each ***president, vice-president, secretary,*** and ***managing officer***.
- If the applicant is a **limited liability organization**, the following information must be completed for each ***member with an ownership interest of 10% or more***, and for each ***manager***.
- If the applicant is a **partnership**, including a **limited partnership**, the following information must be completed for each ***partner with an interest of 10% or more***, and for each ***general partner***.

Entity Official:	N/A				
Title(s):		**Phone:**		**% Owned:**	
Address:					
City:		**State:**		**ZIP:**	

Entity Official:					
Title(s):		**Phone:**		**% Owned:**	
Address:					
City:		**State:**		**ZIP:**	

Entity Official:					
Title(s):		**Phone:**		**% Owned:**	
Address:					
City:		**State:**		**ZIP:**	

Entity Official:					
Title(s):		**Phone:**		**% Owned:**	
Address:					
City:		**State:**		**ZIP:**	

Entity Official:					
Title(s):		**Phone:**		**% Owned:**	
Address:					
City:		**State:**		**ZIP:**	

RECEIVED
FEB 27 2017
ALCOHOL MARIJUANA CONTROL OFFICE
STATE OF ALASKA

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Anchorage, AK 99501
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Alaska Alcoholic Beverage Control Board

Renewal License Application

Form AB-17a: Restaurant / Eating Place

Section 4 – Authorization

Communication with AMCO staff:

	Yes	No
Does any person other than a licensee named in this application have authority to discuss this license with AMCO staff?	☒	☐

If "Yes", disclose the name of the individual and the reason for this authorization:

DAVID MCGIVNEY

Section 5 – License Operation

Check the box that best describes your liquor license operations in calendar years 2015 and 2016:

The license was regularly operated continuously throughout each year, for 8 or more hours each day.	☐
The license was regularly operated during a specific season each year, for 8 or more hours each day.	☐
The license was only operated to meet the minimum requirement of 30 days each year, 8 hours each day. *If this box is checked, an AMCO employee will contact you after reviewing your application.*	☐
The license was not operated at all or was not operated for at least the minimum requirement of 30 days each year, 8 hours each day, during one or both of the calendar years. *If this box is checked, an AMCO employee will contact you after reviewing your application.*	☒

Section 6 – Convictions

Applicant convictions in calendar years 2015 and 2016:

	Yes	No
Has any person named in this application been convicted of a violation of Title 04, of 3 AAC 304, or a local ordinance adopted under AS 04.21.010 in the calendar years 2015 or 2016?	☐	☒

If "Yes", list all convictions:

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
alcohol.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Renewal License Application

Form AB-17a: Restaurant / Eating Place

Section 7 – Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Statement	Initials
I certify that all current licensees (as defined in AS 04.11.260) and affiliates have been listed on this application, and if the licensee is an organized entity, that all current entity officials and stakeholders are listed with the Alaska Division of Corporations.	D.T.
I certify on behalf of myself or of the organized entity that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.	D.T.
I certify that in accordance with AS 04.11.450, no one other than the licensee(s) has a direct or indirect financial interest in the licensed business.	D.T.
I certify that I have not altered the functional floor plan or reduced or expanded the area of the licensed premises, and I have not changed the business name or the ownership (including officers or stakeholders) from what is currently on file with the Alcoholic Beverage Control Board.	D.T.
I certify that I have not violated any restrictions pertaining to this particular license type, and that this license has not been operated in violation of a condition or restriction imposed by the Alcoholic Beverage Control Board.	D.T.
I certify that the gross receipts for the sale of food at the restaurant equal at least 50% of the total gross receipts for calendar years 2015 and 2016. N/A	D.T.

As an applicant for a liquor license renewal, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application and understand that failure to do so by any deadline given to me by AMCO staff will result in this application being returned to me as incomplete.

Douglas Trucano
Signature of licensee

Douglas Trucano
Printed name of licensee

Jerrie Jensen
Signature of Notary Public

JERRIE JENSEN
My Commission Expires
NOTARY PUBLIC
Jan. 22, 2018
STATE OF ALASKA

Notary Public in and for the State of Alaska.

My commission expires: Jan 22 2018

Subscribed and sworn to before me this 24 day of Feb, 2017.

License Fee:	$ 600.00	**Filing Fee:**	$ 200.00	**TOTAL:**	**$ 800.00**
Late Fee of $500.00 – if received or postmarked after 01/03/2017:					
Miscellaneous Fees:					
GRAND TOTAL (if different than TOTAL):					800.–

RECEIVED
FEB 27 2017
ALCOHOL MARIJUANA CONTROL OFFICE
STATE OF ALASKA

Presented by: The Manager
Introduced: 3/6/2017
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2016-09(AG)

An Ordinance Appropriating to the Manager the Sum of $100,000 as Funding for the Manager's Office Operating Budget; Funding Provided by the Sales Tax Fund's Fund Balance.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriate. There is appropriated to the Manager the sum of $100,000 for the Manager's Office Operating Budget.

Section 3. Source of Funds.

Sales Tax Fund's Fund Balance	$ 100,000

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this __ day of _________, 2017.

____
Kendell D. Koelsch, Mayor

Attest:

____
Laurie J. Sica, Municipal Clerk

Presented by:	The Manager
Introduced:	3/6/2017
Drafted by:	Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2016-09(AH)

An Ordinance Appropriating to the Manager the Sum of $309,578 as Funding for the Juneau International Airport Part 121 Ramp Capital Improvement Project; Funding Provided by Passenger Facility Charges.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of $309,578 for the Juneau International Airport Part 121 Ramp capital improvement project.

Section 3. Source of Funds

Passenger Facility Charges	$309,578

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this ________ day of ____________, 2017.

____
Kendell D. Koelsch, Mayor

Attest:

____
Laurie J. Sica, Municipal Clerk

FISCAL NOTE **ORDINANCE #: 2016-09(AH)**

OPERATIONAL IMPACT Check No/Yes ☑ No ☐ Yes, explain in detail

Explanation of Impact: There is no operational impact with this ordinance.

(Attach Additional Pages as Necessary)

FINANCIAL IMPACT Check No/Yes ☐ No ☑ Yes (if Yes, complete the following)

	FY17	FY18	FY19	FY20	FY21
Expenditure Budget					
	$ -	$ -	$ -	$ -	$ -
		-	-	-	-
		-	-	-	-
Total Expenditures	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
	-	-	-	-	-
Total Funding Sources	$ -	$ -	$ -	$ -	$ -
Personnel					
Full-Time FTE's	-	-	-	-	-
Part-Time FTE's	-	-	-	-	-
Temporary FTE's	-	-	-	-	-

CAPITAL IMPROVEMENT PROJECTS (CIP)

Project Budget — **Juneau International Airport Part 121 Ramp CIP**

Direct Project Costs	$ -	$ -
		-
Total Project Budget	$ -	$ -

Amounts noted at left are 100% of the project total expenses

Project Totals Before Appropriation:	$ -
This Appropriation *	309,578
Total Project:	$ 309,578

Funding Sources	**Original Budget**	**2016-09(AH)**	**New Budget**
Federal Grant	$ -	$ -	$ -
State Grant	-	-	-
Alaska Airlines	-		-
PFC7	-	309,578	309,578
JNU Revolving Funds	-	-	-
	-	-	-
	-	-	-
	-	-	-
Total Funding Sources	**$ -**	**$ 309,578**	**$ 309,578**
Total Project Expenses			**309,578**
Available Budget after Ordinance			**$ -**

Comment: **This will be a new airport capital project A50-089 to correct paving and drainage on the Part 121 air carrier ramp.**

Personnel		
Full-Time FTE's	-	-
Part-Time FTE's	-	-
Temporary FTE's	-	-

Prepared by:	John Coleman	Date:	2/17/2017
Affected Depts a)	Airport	Date:	
(Dir/Dept): b)	Patricia deLaBruere	Date:	
Finance Dir:	Bob Bartholomew	Date:	
City Manager:	Rorie Watt	Date:	

Presented by: The Manager
Introduced: 3/6/2017
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2016-09(AI)

An Ordinance Appropriating to the Manager the Sum of $15,000 as Funding for the Jensen-Olson Arboretum Parking & Conservatory Capital Improvement Project; Funding Provided by the Jensen-Olson Arboretum Fund's Fund Balance.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of $15,000 for the Jensen-Olson Arboretum Parking & Conservatory Capital Improvement Project.

Section 3. Source of Funds

Jensen-Olson Arboretum Fund's Fund Balance	$15,000

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this ________ day of ____________, 2017.

____
Kendell D. Koelsch, Mayor

Attest:

____
Laurie J. Sica, Municipal Clerk

Presented by: The Manager
Introduced: 3/6/2017
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2016-09(AJ)

An Ordinance Appropriating to the Manager the Sum of $127,000 as Funding for the Jensen-Olson Arboretum Residence Deferred Maintenance Capital Improvement Project; Funding Provided by the Jensen-Olson Arboretum Fund's Fund Balance.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of $127,000 for the Jensen-Olson Arboretum Residence Deferred Maintenance Capital Improvement Project.

Section 3. Source of Funds

Jensen-Olson Arboretum Fund's Fund Balance	$127,000

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this ________ day of ____________, 2017.

____
Kendell D. Koelsch, Mayor

Attest:

____
Laurie J. Sica, Municipal Clerk

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2016-26(b)

An Ordinance Amending the Land Use Code Relating to Access Standards.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Repeal of Section. CBJ 49.15.424 Access, is repealed and reserved.

Section 3. Repeal of Division. CBJ 49.15 Article IV, Division 4, Privately Maintained Access in Rights-of-way, is repealed and reserved.

Section 4. Amendment of Section. CBJ 49.15.442 Improvement Standards, is amended to read:

49.15.442 Improvement standards.

The following improvement standards apply to remote subdivisions:

(1) CBJ 49.35.250, ~~49.15.424~~ Access.

(2) CBJ 49.35.240, Improvement standards.

(3) CBJ 49.35.310, Water systems.

(4) CBJ 49.35.410, Sewer systems.

Section 5. Amendment of Chapter. CBJ 49.35 Public Improvements, is amended to read:

Chapter 49.35

Public<u> and Private </u>Improvements

Section 6. Amendment of Section. CBJ 49.35.110 Purpose, is amended to read:

49.35.110 Purpose.

The purpose of this chapter is to:

(1) Establish design and development criteria for public <u>and private</u> improvements; and

(2) Outline the procedures and responsibilities of the developer for furnishing plans and completing the improvements.

Section 7. Amendment of Section. CBJ 49.35.120 Public improvements; generally, is amended to read:

49.35.120 <u>Improvements;</u> ~~Public improvements;~~ generally.

(a) The developer must install all of the required improvements within the boundaries of the development, and may be required to make improvements beyond the development boundary in order for all of the improvements to function properly. In addition, improvements must be designed and constructed to provide for future extension to adjoining lands.

(b) If a publicly-maintained street serves an area outside the roaded service area boundary as a result of a subdivision, the roaded service area boundary, and if appropriate, the fire service area, shall be extended to include the roaded area and newly-created subdivision.

Section 8. Amendment of Table. 49.35.240 Table of roadway construction standards, is amended to read:

Avg. Daily Trips (ADT)	*Adopted Traffic Impact Analysis Required*	*Sidewalks*	*Travel Way width*	*Street lights*	*~~ROW~~ Width~~[ii]~~*	*Paved Roadway Required*	*Publicly maintained*
≥ 500	Yes	Both sides	26 ft.	At all intersections	60 ft. Public ROW[ii]	Yes	Yes
212 to 499	Maybe	One side	24 ft.	At all intersections	60 ft. Public ROW[ii]	Yes	Yes
0 to 211	No	Not required	22 ft.	At intersection of subdivision street(s) and external street system	60 ft. Public ROW[ii]	Yes	Yes
0 to 211	No	Not required	20 ft.[i]	At intersection of subdivision street(s) and external street system	60 ft. Public ROW[ii]	No, if outside the urban service area~~[iii]~~	No
0 to 70	No	Not required	20 ft.[i]	No	50 ft. private easement	No[iii]	No

Notes:

[i] Or as required by the Fire Code at CBJ 19.10.

[ii] ROW width may be reduced as prescribed at CBJ. 49.35.240.

[iii] Except as provided by CBJ 49.35.262(b)(9). ~~Paving of roadway is required for any street type located within the urban service area or within the Juneau PM-10 Non-Attainment Area - Maintenance Area Boundary map.~~

Section 9. Amendment of Article. CBJ 49.35, Article II, is amended by adding a new section to read:

49.35.250 Access.

(a) *Principal access to the subdivision.* Except as provided below, the department shall designate one right-of-way as principal access to the entire subdivision. Such access, if not already accepted for public maintenance, shall be improved to the applicable standards for public acceptance and maintenance. It shall be the responsibility of the subdivider to pay the cost of the right-of-way improvements.

(1) Principal access to remote subdivisions. The department shall designate the principal access to the remote subdivision. Such access may be by right-of-way.

(b) *Publicly maintained access within a subdivision.* Unless otherwise provided in this section or in 49.15.420(a)(1), all lots must satisfy the minimum frontage requirement and have direct and practical access to the right-of-way through the frontage. The minimum frontage requirement on a right-of-way is 30 feet or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400. These requirements for frontage and access can be accomplished by:

(1) Dedication of a new right-of-way with construction of the street to public standards. This street must connect to an existing publicly maintained street;

(2) Use of an existing publicly maintained street;

(3) Upgrading the roadway within an existing right-of-way to public street standards. This existing right-of-way must be connected to another publically maintained street; or

(4) A combination of the above.

(c) *Privately maintained access within a subdivision.* Lots shall front and have direct access to a publically maintained street except as:

(1) *Privately maintained public access.* A subdivision may create new lots served by a privately maintained access within a public right-of-way not maintained by an agency of government as provided by CBJ 49.35, Article II, Division 2. All lots must have either a minimum of 30 feet of frontage on a right-of-way, or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400.

(2) *Private shared access.* A lot in a subdivision is exempt from having the minimum frontage on a public right-of-way when a shared access is approved pursuant to CBJ 49.35, Article II, Division 1. All lots served by a shared access shall have a minimum of 30 feet of frontage on the shared access.

(d) *Remote subdivisions accessible by navigable waterbodies.* All lots in a remote subdivision solely accessible by navigable waterbodies must have a minimum of 30 feet of frontage on, and direct and practical access to, either the navigable water or a right-of-way. The right-of-way must have direct and practical access to the navigable water.

(e) *Access within remote subdivisions accessible by pioneer paths.* All lots must either have direct and practical access with a minimum of 30 feet of frontage on the right-of-way, or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400.

Section 10. Amendment of Article. CBJ 49.35, Article II, is amended by adding a new division to read:

DIVISION 1. PRIVATE SHARED ACCESS

49.35.260 Purpose.

Shared access serving four or fewer lots without frontage on a right-of-way may be constructed within a private easement consistent with this division.

49.35.261 Application.

An applicant must submit the following to request shared access:

(1) A preliminary plan and profile of the proposed shared access; and

(2) A proposed access easement, drainage and utility agreement.

49.35.262 Standards.

(a) *Agency review*. The director shall forward the complete application to the fire department and to the engineering and public works department for review.

(b) *Approval criteria*. The director may approve a subdivision, with or without conditions, that has a shared access if all of the following criteria are met:

(1) The shared access will be located in a private easement completely on the lots served.

(2) The shared access serves four or fewer lots. If a subsequent common wall residential subdivision is intended to be served by shared access, the common wall parent lot shall count as two lots.

(3) The shared access does not endanger public safety or welfare.

(4) The shared access complies or can be improved to comply with the emergency service access requirements of CBJ 19.10.

(5) The use of each lot served by the shared access shall be limited to one single family residence and an accessory apartment.

(6) The total Average Daily Trips resulting from the subdivision shall not exceed 70.

(7) Shared access is only allowed in RR and D-1, D-3, D-5, and D-10 SF zoning districts defined by CBJ 49.25.210.

(8) Shared access is prohibited if the subdivision abuts a parcel that does not have alternative and practical frontage on a publicly maintained right-of-way.

(9) The portion of the shared access in the right of way or the first 20 feet from the edge of the public roadway shall be paved, whichever length is greater.

(10) Lots must meet the minimum standards for the zone district according to the Table of Dimensional Standards excluding the shared access easement. A buildable area must exist without the need for a variance.

(c) *Approval process.*

(1) Upon preliminary plat approval by the director, the applicant shall construct the shared access pursuant to the corresponding standard in Table 49.35.240 for a roadway with 0 to 70 average daily trips. A financial guarantee cannot be used as a condition of construction.

(2) The shared access easement shall be recorded.

(3) The following shall be noted on a plat or in a recorded decision that contains a shared access:

(i) The private easement is for access, drainage, and utilities and shall be specifically identified.

(ii) The owner(s) of the lots served by the private access easement acknowledge the City and Borough is not obligated and will not provide any maintenance or snow removal in the private easement.

(iii) The owner(s) of the lots served by the private access easement shall be responsible and liable for all construction and maintenance of the shared access from the edge of the publically maintained travel lane.

(iv) Except a subsequent common wall subdivision depicted on this plat, the lots served by the private access easement are prohibited from subdividing unless the access is upgraded to a public street, dedicated to, and accepted by the City and Borough.

(v) Owner of a lot served by the private access easement shall automatically abandon all rights to and usage of the private access easement except for utilities, if any, if a publically maintained street serves that lot.

(vi) A lot with frontage on a public street and on the shared access is prohibited from having vehicular access to the public street except through the shared access.

49.35.263 Other Shared Access Requirements.

(a) If a shared access is approved, the applicant must apply for and receive a right-of-way permit to construct the shared access.

(b) If the director determines that a street sign is required for a health, safety, or welfare reason, the applicant shall install a street sign provided by the City and Borough at the applicant's expense.

(c) The front yard setback shall be measured from the shared access easement.

(d) The width of the shared access easement may be reduced up to 20 feet if the director finds there is sufficient area for the provision of utilities, drainage, snow storage, and that it is unlikely for the shared access easement to expand in the future to a public street.

(e) The director shall determine the placement location of mailboxes. The director may require additional improvements and design changes to enable efficient mail delivery and minimize traffic interferences.

(f) The standards identified in this article do not apply to any preexisting shared access previously permitted by the department.

Section 11. Amendment of Article. CBJ 49.35, Article II, is amended by adding a new division to read:

DIVISION 2. PRIVATELY MAINTAINED ACCESS IN A RIGHT-OF-WAY

49.35.270 Purpose.

A privately maintained access road serving 13 or fewer lots located outside the urban service area may be constructed within a public right-of-way and constructed to less than full public street construction standards.

49.35.271 Application.

On a preliminary plat application, the applicant must submit the following to request approval for a privately maintained access in a right-of-way:

(1) A preliminary plan and profile of the proposed privately maintained access road and any proposed public or private utilities; and

(2) A proposed access agreement as required by 49.35.272.

49.35.272 Access agreement.

(a) An access agreement must be executed between the City and Borough and all property owners proposed to be served by a privately maintained access road. The agreement must identify the parties and the property, all signatures must be notarized, and the agreement must include the following provisions:

(1) In exchange for the grantee not being required to construct a road that can be accepted for maintenance by the City and Borough, and for the City and Borough not being responsible for maintaining the privately maintained access road, the parties execute this agreement with the intent for it to run with the land and bind all heirs, successors, and assigns consistent herein;

(2) The grantee acknowledges that the City and Borough is not obligated to provide any maintenance, including snow removal, for the privately maintained access. The grantee is required to arrange for year-round reasonable maintenance for the privately maintained access, including snow removal, sufficient to meet weather conditions and to allow for safe vehicular traffic;

(3) The grantee and the grantee's heirs, successors, and assigns will defend, indemnify, and hold harmless the City and Borough from any claim or action for any injury, loss, or damage suffered by any person arising from the location, design, maintenance, or use of the privately maintained access;

(4) The grantee will ensure that use of the privately maintained access road will not block vehicular or pedestrian access by the public in the right-of-way;

(5) The City and Borough will have unimpeded access in the right-of-way.

(6) The grantee is required to arrange for maintenance of the right-of-way. The grantee and the grantee's heirs, successors, and assigns will maintain the privately maintained access road and public right-of-way according to the conditions established in this agreement;

(7) The City and Borough will record a copy of the agreement, at the grantee's expense, with the state recorder's office for each lot or parcel of land either, in the case of existing lots, those adjoining the segment of right-of-way in which the privately maintained access is to be located; or, in the case of lots created by subdivision and served by the privately maintained access, those lots so created;

(8) The owners of the lots subject to this agreement are required to pay for right-of-way upgrades when existing or proposed development served by the privately maintained access exceeds 211 average daily trips as determined by the director;

(9) The owners of the lots subject to this agreement are prohibited from subdividing unless the privately maintained access is upgraded or all the property owners served by the privately maintained access execute a new access agreement;

(10) Any development that increases the estimated traffic above 211 average daily trips, as determined by the director, shall pay a proportionate share of the costs of the right-of-way upgrades, which will offset the costs imposed on the existing owners served by the privately maintained access. The proportionate share shall be the percentage increase in average daily trips;

(11) The owners of the lots subject to this agreement authorize the City and Borough to amend this access agreement by adding a new owner only upon presentation of a written and fully executed maintenance agreement between all the existing property owners subject to the original access agreement and the new property owner proposing to be served by the existing privately maintained access. Any amended access agreement supersedes an existing access agreement. After recording, the new access agreement shall be sent to all the owners subject to it; and

(12) The owners agree to maintain in full force and effect any insurance policy required by the City and Borough until and unless the roadway is accepted for maintenance by the City and Borough.

(b) Prior to the City and Borough executing the access agreement:

(1) The owners of the lots subject to the agreement shall create an owner's association for the purpose of continuing the duties contained in the agreement; and

(2) The association shall obtain liability insurance of a type and in the amount deemed necessary by the City and Borough to provide coverage for claims arising out of or related to the use, occupancy, and maintenance of the privately maintained access road. The City and Borough shall be named as an additional insured on any required policy.

49.35.273 Standards.

(a) *Agency review*. The director shall forward the complete application to the fire department and to the engineering and public works department for review.

(b) *Approval criteria*. A subdivision may be approved, with or without conditions, with privately maintained access in a public right-of-way if all of the following criteria are met:

(1) The subdivision is located outside of the Urban Service Boundary;

(2) The proposed privately maintained access would abut and provide access to 13 or fewer lots each limited to a single-family residence, or the proposed access road could serve 13 or fewer lots;

(3) The proposed privately maintained access will be located in a public right-of-way that has not been accepted for public maintenance;

(4) The proposed privately maintained access does not endanger public safety or welfare;

(5) The proposed privately maintained access will be improved to provide for emergency service access;

(6) A privately maintained access shall only serve property in which the maximum allowable residential density uses do not exceed 211 average daily trips as determined by the director; and

(7) Property served by the privately maintained access shall include accessory apartment traffic, if allowed with or without a conditional use permit, even if accessory apartments are not currently proposed.

(8) Privately maintained access is prohibited unless:

(A) The abutting parcels have alternative and practical frontage on a publicly maintained right-of-way; or

(B) The property owners of all abutting parcels are signatories of the access agreement required by CBJ 49.35.272.

(c) *Approval process.*

(1) All of the requirements of this Title and the conditions identified in the preliminary plat notice of decision have been satisfied.

(2) Area for the right-of-way has been dedicated to the City and Borough. The privately maintained access has been constructed consistent with corresponding standard in 49.35.240 for a roadway with 0 to 211 average daily trips.

(3) The access agreement is recorded prior to recording the final plat.

(4) The director may impose conditions necessary for public, health, safety, and welfare upon approving the subdivision.

49.35.274 Other requirements.

(a) If a preliminary plat with a privately maintained access in the public right-of-way is approved, the applicant must apply to the engineering and public works department for a permit to construct the privately maintained access as required by CBJ 62.05, accompanied by final construction plans. Additional fees and bonding may be required for final plan review, inspection, and construction of the access road and utilities.

(b) The applicant shall install a street sign, to be provided by the City and Borough, which shall indicate that the privately maintained access is not maintained by the City and Borough.

(c) The director shall determine the placement location of mailboxes. The director may require additional improvements and design changes to enable efficient mail delivery and minimize traffic interferences.

Section 12. Amendment of Section. CBJ 49.80.120 is amended by the addition of the following definitions to be incorporated in alphabetical order:

Access point means any improvement designed for a motor vehicle to travel from or onto a right-of-way including, a driveway, a parking area, or street that intersects an existing street, and any similar improvements.

Travel way means the portion of the roadway for the movement of vehicles, exclusive of shoulders.

Section 13. Amendment of Section. CBJ 49.80.120 is amended to read as follows:

Common driveway means a commonly shared or used pedestrian or vehicular way that connects or serves two or more properties within a common wall development.

. . .

Roadway means that portion of a street intended for vehicular traffic,~~;~~ including shoulders. ~~where curbs are laid, the portion of the street between the back of the curbs.~~ The sum of the traveled way and shoulder widths constitutes the roadway width.

. . .

~~*Roadway width* is measured as the paved section of a paved street or from shoulder to shoulder on a gravel street~~.

Section 14. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this ___ day of _________________, 2016.

____
Kendell D. Koelsch, Mayor

Attest:

____
Laurie J. Sica, Municipal Clerk

CITY/BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY

Law Department
City & Borough of Juneau

MEMORANDUM

TO: Borough Assembly

FROM: Amy Gurton Mead, Municipal Attorney

DATE: March 29, 2017

SUBJECT: 2016-26 Shared Access Ordinance – Version b

The purpose of this memo is to identify the amendments made in version (b) of the ordinance. Version (a), the version that forwarded by the Planning Commission and introduced, is attached to this memo.

1. Section 7 (49.35.120(a)) at p.2. The last sentence of subsection (a) was changed back to the current code language (reading to "provide for future expansion") instead of "to allow the potential".

2. Section 8 (Amendment of Table) at p. 3. The street standards table was amended to make clear that paving of the shared access is not required except as required by 49.35.262(b)(9) (requiring paving of that portion of the shared access located in the right of way or the first 20 feet, whichever is greater.)

3. Section 10 (49.35.262(b)(1)) at p. 6. Requires that shared access be located on a private easement located completely on the lots served, but removes the requirement that the easement fully cross all lots served by the shared access.

4. Section 10 (49.35.262(b)(5) and (6)) at p. 7. Amended to limit use to single family homes with accessory apartments and capping the subdivision to an ADT of 70.

5. Section 10 (49.35.262(b)(7)) at p. 7. Amended to allow shared access only in single family districts (RR, D1, D3, D4 and D10 SF).

6. Section 10 (49.35.263(f)) at p. 9. Adopts the vested rights language recommended by staff.

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2016-26

An Ordinance Amending the Land Use Code Relating to Access Standards.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Repeal of Section. CBJ 49.15.424 Access, is repealed and reserved.

Section 3. Repeal of Division. CBJ 49.15 Article IV, Division 4, Privately Maintained Access in Rights-of-way, is repealed and reserved.

Section 4. Amendment of Section. CBJ 49.15.442 Improvement Standards, is amended to read:

49.15.442 Improvement standards.

The following improvement standards apply to remote subdivisions:

(1) CBJ 49.35.250, ~~49.15.424~~ Access.

(2) CBJ 49.35.240, Improvement standards.

(3) CBJ 49.35.310, Water systems.

(4) CBJ 49.35.410, Sewer systems.

Section 5. Amendment of Chapter. CBJ 49.35 Public Improvements, is amended to read:

Chapter 49.35

Public and Private Improvements

Section 6. Amendment of Section. CBJ 49.35.110 Purpose, is amended to read:

49.35.110 Purpose.

The purpose of this chapter is to:

(1) Establish design and development criteria for public and private improvements; and

(2) Outline the procedures and responsibilities of the developer for furnishing plans and completing the improvements.

Section 7. Amendment of Section. CBJ 49.35.120 Public improvements; generally, is amended to read:

49.35.120 Improvements; ~~Public improvements;~~ generally.

(a) The developer must install all of the required improvements within the boundaries of the development, and may be required to make improvements beyond the development boundary in order for all of the improvements to function properly. In addition, improvements must be designed and constructed to allow the potential ~~provide~~ for future extension to adjoining lands.

(b) If a publicly-maintained street serves an area outside the roaded service area boundary as a result of a subdivision, the roaded service area boundary, and if appropriate, the fire service area, shall be extended to include the roaded area and newly-created subdivision.

Section 8. Amendment of Table. 49.35.240 Table of roadway construction standards, is amended to read:

Avg. Daily Trips (ADT)	*Adopted Traffic Impact Analysis Required*	*Sidewalks*	*Travel Way width*	*Street lights*	*~~ROW~~ Width[ii]*	*Paved Roadway Required*	*Publicly maintained*
≥ 500	Yes	Both sides	26 ft.	At all intersections	60 ft. Public ROW[ii]	Yes	Yes
212 to 499	Maybe	One side	24 ft.	At all intersections	60 ft. Public ROW[ii]	Yes	Yes
0 to 211	No	Not required	22 ft.	At intersection of subdivision street(s) and external street system	60 ft. Public ROW[ii]	Yes	Yes
0 to 211	No	Not required	20 ft.[i]	At intersection of subdivision street(s) and external street system	60 ft. Public ROW[ii]	No, if outside the urban service area~~[iii]~~	No
0 to 70	No	Not required	20 ft.[i]	No	50 ft. private easement	Yes	No

Notes:

[i] Or as required by the Fire Code at CBJ 19.10.

[ii] ROW width may be reduced as prescribed at CBJ. 49.35.240.

~~[iii] Paving of roadway is required for any street type located within the urban service area or within the Juneau PM-10 Non-Attainment Area - Maintenance Area Boundary map.~~

Section 9. Amendment of Article. CBJ 49.35, Article II, is amended by adding a new section to read:

49.35.250 Access.

(a) *Principal access to the subdivision.* Except as provided below, the department shall designate one right-of-way as principal access to the entire subdivision. Such access, if not already accepted for public maintenance, shall be improved to the applicable standards for public acceptance and maintenance. It shall be the responsibility of the subdivider to pay the cost of the right-of-way improvements.

(1) Principal access to remote subdivisions. The department shall designate the principal access to the remote subdivision. Such access may be by right-of-way.

(b) *Publicly maintained access within a subdivision.* Unless otherwise provided in this section or in 49.15.420(a)(1), all lots must satisfy the minimum frontage requirement and have direct and practical access to the right-of-way through the frontage. The minimum frontage requirement on a right-of-way is 30 feet or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400. These requirements for frontage and access can be accomplished by:

(1) Dedication of a new right-of-way with construction of the street to public standards. This street must connect to an existing publicly maintained street;

(2) Use of an existing publicly maintained street;

(3) Upgrading the roadway within an existing right-of-way to public street standards. This existing right-of-way must be connected to another publically maintained street; or

(4) A combination of the above.

(c) *Privately maintained access within a subdivision.* Lots shall front and have direct access to a publically maintained street except as:

(1) *Privately maintained public access*. A subdivision may create new lots served by a privately maintained access within a public right-of-way not maintained by an agency of government as provided by CBJ 49.35, Article II, Division 2. All lots must have either a minimum of 30 feet of frontage on a right-of-way, or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400.

(2) *Private shared access*. A lot in a subdivision is exempt from having the minimum frontage on a public right-of-way when a shared access is approved pursuant to CBJ 49.35, Article II, Division 1. All lots served by a shared access shall have a minimum of 30 feet of frontage on the shared access.

(d) *Remote subdivisions accessible by navigable waterbodies*. All lots in a remote subdivision solely accessible by navigable waterbodies must have a minimum of 30 feet of frontage on, and direct and practical access to, either the navigable water or a right-of-way. The right-of-way must have direct and practical access to the navigable water.

(e) *Access within remote subdivisions accessible by pioneer paths*. All lots must either have direct and practical access with a minimum of 30 feet of frontage on the right-of-way, or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400.

Section 10. Amendment of Article. CBJ 49.35, Article II, is amended by adding a new division to read:

DIVISION 1. PRIVATE SHARED ACCESS

49.35.260 Purpose.

Shared access serving four or fewer lots without frontage on a right-of-way may be constructed within a private easement consistent with this division.

49.35.261 Application.

An applicant must submit the following to request shared access:

(1) A preliminary plan and profile of the proposed shared access; and

(2) A proposed access easement, drainage and utility agreement.

49.35.262 Standards.

(a) *Agency review*. The director shall forward the complete application to the fire department and to the engineering and public works department for review.

(b) *Approval criteria*. The director may approve a subdivision, with or without conditions, that has a shared access if all of the following criteria are met:

(1) The shared access will be located in a private easement completely on and fully crossing all of the lots served.

(2) The shared access serves four or fewer lots. If a subsequent common wall residential subdivision is intended to be served by shared access, the common wall parent lot shall count as two lots.

(3) The shared access does not endanger public safety or welfare.

(4) The shared access complies or can be improved to comply with the emergency service access requirements of CBJ 19.10.

(5) The total Average Daily Trips resulting from the subdivision shall not exceed 70 and no use of any subdivided parcel shall prevent construction of a single-family home with an accessory apartment on any other parcel.

(6) Shared access is only allowed in RR and the Residential zoning districts defined by CBJ 49.25.210.

(7) Shared access is prohibited if the subdivision abuts a parcel that does not have alternative and practical frontage on a publicly maintained right-of-way.

(8) Lots must meet the minimum standards for the zone district according to the Table of Dimensional Standards excluding the shared access easement. A buildable area must exist without the need for a variance.

(c) *Approval process.*

(1) Upon preliminary plat approval by the director, the applicant shall construct the shared access pursuant to the corresponding standard in Table 49.35.240 for a roadway with 0 to 70 average daily trips. A financial guarantee cannot be used as a condition of construction.

(2) The shared access easement shall be recorded.

(3) The following shall be noted on a plat or in a recorded decision that contains a shared access:

(i) The private easement is for access, drainage, and utilities and shall be specifically identified.

(ii) The owner(s) of the lots served by the private access easement acknowledge the City and Borough is not obligated and will not provide any maintenance or snow removal in the private easement.

(iii) The owner(s) of the lots served by the private access easement shall be responsible and liable for all construction and maintenance of the shared access from the edge of the publically maintained travel lane.

(iv) Except a subsequent common wall subdivision depicted on this plat, the lots served by the private access easement are prohibited from subdividing unless the access is upgraded to a public street, dedicated to, and accepted by the City and Borough.

(v) Owner of a lot served by the private access easement shall automatically abandon all rights to and usage of the private access easement except for utilities, if any, if a publically maintained street serves that lot.

(vi) A lot with frontage on a public street and on the shared access is prohibited from having vehicular access to the public street except through the shared access.

49.35.263 Other Shared Access Requirements.

(a) If a shared access is approved, the applicant must apply for and receive a right-of-way permit to construct the shared access.

(b) If the director determines that a street sign is required for a health, safety, or welfare reason, the applicant shall install a street sign provided by the City and Borough at the applicant's expense.

(c) The front yard setback shall be measured from the shared access easement.

(d) The width of the shared access easement may be reduced up to 20 feet if the director finds there is sufficient area for the provision of utilities, drainage, snow storage, and that it is unlikely for the shared access easement to expand in the future to a public street.

(e) The director shall determine the placement location of mailboxes. The director may require additional improvements and design changes to enable efficient mail delivery and minimize traffic interferences.

(f) Shared access existing on the effective date of Ordinance 2016-26 is exempt from the requirements of this division.

Section 11. Amendment of Article. CBJ 49.35, Article II, is amended by adding a new division to read:

DIVISION 2. PRIVATELY MAINTAINED ACCESS IN A RIGHT-OF-WAY

49.35.270 Purpose.

A privately maintained access road serving 13 or fewer lots located outside the urban service area may be constructed within a public right-of-way and constructed to less than full public street construction standards.

49.35.271 Application.

On a preliminary plat application, the applicant must submit the following to request approval for a privately maintained access in a right-of-way:

(1) A preliminary plan and profile of the proposed privately maintained access road and any proposed public or private utilities; and

(2) A proposed access agreement as required by 49.35.272.

49.35.272 Access agreement.

(a) An access agreement must be executed between the City and Borough and all property owners proposed to be served by a privately maintained access road. The agreement must identify the parties and the property, all signatures must be notarized, and the agreement must include the following provisions:

(1) In exchange for the grantee not being required to construct a road that can be accepted for maintenance by the City and Borough, and for the City and Borough not being responsible for maintaining the privately maintained access road, the parties execute this agreement with the intent for it to run with the land and bind all heirs, successors, and assigns consistent herein;

(2) The grantee acknowledges that the City and Borough is not obligated to provide any maintenance, including snow removal, for the privately maintained access. The grantee is required to arrange for year-round reasonable maintenance for the privately maintained access, including snow removal, sufficient to meet weather conditions and to allow for safe vehicular traffic;

(3) The grantee and the grantee's heirs, successors, and assigns will defend, indemnify, and hold harmless the City and Borough from any claim or action for any injury, loss, or damage suffered by any person arising from the location, design, maintenance, or use of the privately maintained access;

(4) The grantee will ensure that use of the privately maintained access road will not block vehicular or pedestrian access by the public in the right-of-way;

(5) The City and Borough will have unimpeded access in the right-of-way.

(6) The grantee is required to arrange for maintenance of the right-of-way. The grantee and the grantee's heirs, successors, and assigns will maintain the privately

maintained access road and public right-of-way according to the conditions established in this agreement;

(7) The City and Borough will record a copy of the agreement, at the grantee's expense, with the state recorder's office for each lot or parcel of land either, in the case of existing lots, those adjoining the segment of right-of-way in which the privately maintained access is to be located; or, in the case of lots created by subdivision and served by the privately maintained access, those lots so created;

(8) The owners of the lots subject to this agreement are required to pay for right-of-way upgrades when existing or proposed development served by the privately maintained access exceeds 211 average daily trips as determined by the director;

(9) The owners of the lots subject to this agreement are prohibited from subdividing unless the privately maintained access is upgraded or all the property owners served by the privately maintained access execute a new access agreement;

(10) Any development that increases the estimated traffic above 211 average daily trips, as determined by the director, shall pay a proportionate share of the costs of the right-of-way upgrades, which will offset the costs imposed on the existing owners served by the privately maintained access. The proportionate share shall be the percentage increase in average daily trips;

(11) The owners of the lots subject to this agreement authorize the City and Borough to amend this access agreement by adding a new owner only upon presentation of a written and fully executed maintenance agreement between all the existing property owners subject to the original access agreement and the new property owner proposing to be served by the existing privately maintained access. Any amended access agreement

supersedes an existing access agreement. After recording, the new access agreement shall be sent to all the owners subject to it; and

(12) The owners agree to maintain in full force and effect any insurance policy required by the City and Borough until and unless the roadway is accepted for maintenance by the City and Borough.

(b) Prior to the City and Borough executing the access agreement:

(1) The owners of the lots subject to the agreement shall create an owner's association for the purpose of continuing the duties contained in the agreement; and

(2) The association shall obtain liability insurance of a type and in the amount deemed necessary by the City and Borough to provide coverage for claims arising out of or related to the use, occupancy, and maintenance of the privately maintained access road. The City and Borough shall be named as an additional insured on any required policy.

49.35.273 Standards.

(a) *Agency review.* The director shall forward the complete application to the fire department and to the engineering and public works department for review.

(b) *Approval criteria.* A subdivision may be approved, with or without conditions, with privately maintained access in a public right-of-way if all of the following criteria are met:

(1) The subdivision is located outside of the Urban Service Boundary;

(2) The proposed privately maintained access would abut and provide access to 13 or fewer lots each limited to a single-family residence, or the proposed access road could serve 13 or fewer lots;

(3) The proposed privately maintained access will be located in a public right-of-way that has not been accepted for public maintenance;

(4) The proposed privately maintained access does not endanger public safety or welfare;

(5) The proposed privately maintained access will be improved to provide for emergency service access;

(6) A privately maintained access shall only serve property in which the maximum allowable residential density uses do not exceed 211 average daily trips as determined by the director; and

(7) Property served by the privately maintained access shall include accessory apartment traffic, if allowed with or without a conditional use permit, even if accessory apartments are not currently proposed.

(8) Privately maintained access is prohibited unless:

(A) The abutting parcels have alternative and practical frontage on a publicly maintained right-of-way; or

(B) The property owners of all abutting parcels are signatories of the access agreement required by CBJ 49.35.272.

(c) *Approval process.*

(1) All of the requirements of this Title and the conditions identified in the preliminary plat notice of decision have been satisfied.

(2) Area for the right-of-way has been dedicated to the City and Borough. The privately maintained access has been constructed consistent with corresponding standard in 49.35.240 for a roadway with 0 to 211 average daily trips.

(3) The access agreement is recorded prior to recording the final plat.

(4) The director may impose conditions necessary for public, health, safety, and welfare upon approving the subdivision.

49.35.274 Other requirements.

(a) If a preliminary plat with a privately maintained access in the public right-of-way is approved, the applicant must apply to the engineering and public works department for a permit to construct the privately maintained access as required by CBJ 62.05, accompanied by final construction plans. Additional fees and bonding may be required for final plan review, inspection, and construction of the access road and utilities.

(b) The applicant shall install a street sign, to be provided by the City and Borough, which shall indicate that the privately maintained access is not maintained by the City and Borough.

(c) The director shall determine the placement location of mailboxes. The director may require additional improvements and design changes to enable efficient mail delivery and minimize traffic interferences.

Section 12. Amendment of Section. CBJ 49.80.120 is amended by the addition of the following definitions to be incorporated in alphabetical order:

<u>*Access point* means any improvement designed for a motor vehicle to travel from or onto a right-of-way including, a driveway, a parking area, or street that intersects an existing street, and any similar improvements.</u>

Travel way means the portion of the roadway for the movement of vehicles, exclusive of shoulders.

Section 13. Amendment of Section. CBJ 49.80.120 is amended to read as follows:

Common driveway means a commonly shared or used pedestrian or vehicular way that connects or serves two or more properties within a common wall development.

. . .

Roadway means that portion of a street intended for vehicular traffic, ~~;~~ including shoulders. ~~where curbs are laid, the portion of the street between the back of the curbs.~~ The sum of the traveled way and shoulder widths constitutes the roadway width.

. . .

~~*Roadway width* is measured as the paved section of a paved street or from shoulder to shoulder on a gravel street~~.

Section 14. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this ___ day of _________________, 2016.

____
Kendell D. Koelsch, Mayor

Attest:

____
Laurie J. Sica, Municipal Clerk

BEFORE THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU

SOUTHEAST ALASKA LAND TRUST Appellant, vs. CITY AND BOROUGH OF JUNEAU ASSESSOR Appellee,	Appeal of CBJ Assessor Decisions: 2016-03-29 Email 2016-07-28 Letter

[Proposed] DECISION ON APPEAL

I. Introduction

This appeal seeks Assembly review of the CBJ Assessor's decision denying Appellant Southeast Alaska Land Trust ("SEAL Trust") a charitable purpose property tax exemption under AS 29.45.030(a)(3), with respect to 14 parcels of property.[1] Both parties were represented by counsel.[2] Based on careful review and consideration of the agency record, the parties' briefing, and the oral arguments presented at a February 1, 2017 hearing, the Assembly[3] sets aside the Assessor's charitable purpose legal conclusion and remands this matter for further proceedings consistent with this decision.

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[1] The initial Notice of Appeal filed April 18, 2016, challenged the Assessor's decisional March 29, 2016 email. [R. 98-102] On August 15, 2016, following a stay of the appeal to facilitate the parties' further exchange of information and resolution efforts, SEAL Trust filed a revised Notice of Appeal which added the Assessor's July 28, 2016 letter to the decision being challenged. We consider this formal, more comprehensive July document to be the Assessor's final decision (hereafter "Assessor Decision").

[2] Attorney Lael Harrison represented the Appellant and Assistant Municipal Attorney Robert Palmer represented the Assessor.

[3] Seven of nine Assembly members participated in this appeal.

II. Appeal Issues Stipulated to by the Parties

1. Whether the SEAL Trust has a nonprofit charitable purpose.

2. Whether each of SEAL Trust's 14 properties are being used for an exempt purpose.

III. Statement of the Case

The facts in this appeal are largely undisputed. SEAL Trust is an Alaska non-profit corporation "organized exclusively for educational, scientific, and charitable purposes within the meaning of §501(c)(3) of the United States Internal Revenue Code" with its "purposes [being] "to conserve Alaska's lands and natural and cultural resources for the benefit of the general public." [R. 74; 30; 50-55] The Assessor has also not challenged SEAL Trust's statement that the subject properties:

> "were acquired for the purpose of protecting natural resources, habitat, and open natural space as well as for public recreation, scientific study, and education . . . [and that] [a]ll of the 14 parcels are presently being conserved in their natural, undeveloped condition and provide natural habitat for wildlife as well as open space for public recreation, scientific study, and education, furthering SEAL Trust's conservation purposes and mission."[4]

Thirteen of the lots abut[5] the Mendenhall Wetlands State Game Refuge ("Refuge") and the other lot buffers Montana Creek. [R. 402-403]

From 2011 through 2015, SEAL Trust applied for and was granted the community purpose exemption under CBJ 69.10.020(8), an optional local exemption under State law that the Assessor indicated would have also been granted in 2016, had SEAL Trust applied for it.[6] Instead, in 2016 SEAL Trust applied for the charitable purpose exemption in AS 29.45.030(a)(3), which exempts

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[4] Opposition Brief of CBJ Assessor ("Assessor's Brief") at 2 [citing SEAL Trust at R. 402]
[5] The Assessor's Brief indicates that twelve of these thirteen parcels are located ***"within"*** the Refuge, while the SEAL Trust refers to all thirteen of these lots being "***adjacent***" to the Refuge. *Cf.* Assessor Brief at 4, 6 and SEAL Trust Brief at 3-4.
[6] Assessor Decision at 2.

from taxation "property used exclusively for non-profit religious, charitable, cemetery, hospital, or educational purposes."

The Assessor denied the application concluding SEAL Trust did not have a nonprofit charitable purpose because recreational facilities are required to qualify recreational use as a charitable purpose, and land preservation alone, is not a charitable purpose.[7] The Assessor further concluded that even if a charitable purpose could be established, denial was appropriate because there was "no evidence of any use, let alone charitable use of the parcels."[8] Quoting the Appellant, the Assessor added, "'SEAL Trust does not keep records of who actually used the parcel and how often the parcel was used.'"[9]

IV. Standard of Review and Burden of Proof

This administrative appeal is governed by CBJ 01.50. The Assembly's decision "may affirm, modify or set aside the [Assessor's] decision in whole or part."[10] The Assembly may also "remand any issue to the agency."[11]

The Assessor's interpretation of the charitable purpose exemption presents primarily a question of law. We concur with the parties that the substitution of judgment standard applies to questions of law, whereby deference is not given to the Assessor's interpretation of law.[12] Rather we are to apply our independent judgment and adopt the rule of law most persuasive in light of precedent, reason and policy.[13]

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[7] See Assessor Decision at 3-5.
[8] Assessor Decision at 5.
[9] Assessor Decision at 5.
[10] CBJ 01.50.140(a).
[11] *Id.*
[12] *Fairbanks N. Star Borough v. Dena Nena Henash*, 88 P.3d 124, 128 (Alaska 2004); Assessor Brief at 10-11; SEAL Trust Brief at 2.
[13] *Id.*

To the extent we review a factual finding of the Assessor, we agree with the Assessor that the substantial evidence standard applies. As defined by the Alaska Supreme Court, "[s]ubstantial evidence is evidence that a reasonable mind might accept as adequate to support a conclusion."[14]

The burden of proof is on SEAL Trust, both as the appellant in this administrative appeal, and as the taxpayer seeking a tax exemption.[15]

V. The Charitable Purpose Exemption Law

The charitable purpose exemption originates in the Alaska Constitution, Article IX §4:

> The real and personal property of the State or its political subdivisions shall be exempt from taxation under conditions and exceptions which may be provided by law. All, or any portion of, property used exclusively for non-profit religious, charitable, cemetery, or educational purposes, as defined by law, shall be exempt from taxation . . .

This mandatory exemption is codified in Alaska Statutes 29.45.030:

> (a) The following property is exempt from general taxation:
>
> . . .
>
> (3) property used exclusively for nonprofit religious, charitable, cemetery, hospital or educational purposes.

The Alaska Supreme Court has interpreted the charitable purpose exemption to require a two-part analysis: "first, whether there is a nonprofit, charitable purpose, and second, whether the property is being exclusively used for an exempt purpose."[16]

Neither the Constitution nor the Alaska Statutes defines "charitable purposes." Citing to this lack of a definition, in charitable purpose tax exemption cases the Alaska Supreme Court has approvingly repeated the following statement as "typifying the 'broad scope' given to [the terms 'charity' and 'charitable']:

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[14] Assessor's Brief at 10 (citing *Williams v. Ketchikan Gateway Borough*, 295 P.3d 374, 375 (Alaska 2013) (internal citations omitted).
[15] CBJ 01.50.070(b); *Dena Nena Henash*, 88 P.3d at 129.
[16] *Dena Nena Henash*, 88 P.3d at 130.

> It is quite clear that what is done out of good will and a desire to add to the improvement of the moral, mental, and physical welfare of the public generally comes within this meaning of the word ‘charity.’ To crowd out coarseness, cruelty, brutality from social man undoubtedly results in this this betterment.”[17]

The Court has gone on to observe:

> “We later characterized this statement as ‘the broad common law definition of “charity”’. . . This definition provides some guidance, but it does not purport to specify prerequisites for eligibility. It provides only a general framework for determining eligibility. Applying this framework, we have concluded that properties used for a youth summer recreational camp, a youth hostel, and a church radio station were being used for charitable purposes.”[18]

CBJ Code 69.10.020(1) incorporates into local law the mandatory State law exemptions, including the charitable purpose exemption, by a single generic reference to “property exempted by state or federal law.”

CBJ 69.10.005, the Definition section, includes some phraseology from Alaska case law:

> *Property used exclusively* means
>
> . . .
>
> 2) For charitable use, that property owned by a nonprofit charitable corporation and which is used only for the purpose of improving the moral, mental and physical welfare of the public generally.

VI. FINDINGS AND CONCLUSIONS

A. WHETHER SEAL TRUST HAS A NONPROFIT CHARITABLE PURPOSE.

The first issue we are asked to review is the Assessor’s conclusion that the SEAL Trust failed to show it had a nonprofit charitable purpose. The Assessor Decision provides:

> In summary, I cannot find a charitable purpose based on recreational use or land preservation because the evidence submitted by SEAL Trust describes that public use is prohibited in all or portions of the parcels and describes that there are no recreational facilities. Furthermore, state law does not authorize land preservation as an exemption, and exemptions are strictly construed. Ultimately the legislature is uniquely suited to determine if land protection efforts confer significant economic and social benefit to warrant exempting those parcels from taxation. As evidenced

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[17] *Dena Nena Henash*, 88 P.3d at 132 (Alaska 2004)(citing *Matanuska-Susitna Borough v. King’s Lake Camp*, 439 P.2d 441, 445 (Alaska 1968) (citation omitted).

[18] *Id.*

by AS 29.45.062, the legislature reached a different determination.

We conclude the Assessor's nonprofit charitable purpose determination was in error for the following reasons.

1. SEAL Trust's organizational documents reflect the twofold nonprofit purpose SEAL Trust asserts should qualify as charitable: conservation and public recreation.

SEAL Trust asserts it has a twofold nonprofit charitable purpose: conserving lands in Alaska with significant natural and cultural values for the benefit of the general public, and making that land open and available in its natural condition for public recreational use consistent with conservation. Without reaching the 'charitable' character question, we find these two nonprofit purposes are well documented in SEAL Trust's organizational documents and elsewhere in the record.[19]

2. Recreational use can qualify as a charitable purpose under Alaska law.

The parties agree that recreational use can qualify as a charitable purpose under Alaska law, as recognized by the Alaska Supreme Court in the *Matanuska-Susitna Borough v. King's Lake Camp*.[20] The disagreement is with the Assessor's statement, "I find that recreational use can be a charitable purpose *when recreational facilities are provided*."[21]

3. The criteria the Assessor applied to determine whether SEAL Trust established recreational use as a nonprofit charitable purpose were flawed.

SEAL Trust's legal argument on this point has merit.[22] While there were recreational facilities in the *King's Lake Camp* case, and the court observed "it has frequently been held that the providing of recreational facilities, such as accommodations for campers, is a charitable use of

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[19] See [R. 30-34, 49]
[20] See 430 P.2d 441 (Alaska 1968), Assessor Decision at 3 and SEAL Trust Brief at 9-11.
[21] *Id.* (emphasis added)
[22] See SEAL Trust Brief, at 10-11, 10.

the property,"[23] neither the Legislature nor the Alaska Supreme Court have dictated that facilities are *required* to establish public recreational use of land as a charitable purpose. We do not interpret the charitable purpose exemption to require recreational facilities either.

Because outdoor recreational activities like walking, hiking, birdwatching and wildlife viewing do not depend on the provision of facilities, facilities are but one consideration and not a prerequisite to finding a nonprofit charitable purpose based on recreational use. Noteworthy is that the Mendenhall Wetlands State Game Refuge is considered by the State to have a recreational purpose though, as SEAL Trust points out, it lacks facilities.[24]

It also appears the Assessor put significant weight on the lack of signage indicating the undeveloped parcels were "available for public use."[25] There is no bright line test that *requires* signage to be posted showing property is open to public use in order to find a nonprofit charitable purpose. Considering Alaska's common law definition for finding a charitable purpose "does not purport to specify prerequisites for eligibility,"[26] we hold facilities and signage are factors to consider, but not legal prerequisites to finding outdoor recreational use as a nonprofit charitable purpose.

4. The finding in the Assessor's charitable purpose analysis that public use is prohibited in all or a portion of the SEAL Trust parcels is not supported by substantial evidence.

We do not find substantial evidence in the record showing SEAL Trust prohibits public use of its properties. We therefore cannot uphold denial of SEAL Trust's nonprofit charitable purpose claim for that reason. The Assessor relies largely on a SEAL Trust comment that, "[t]o achieve its

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[23] *King's Lake,* 439 P.2d. at 446.
[24] See SEAL Trust Brief at n.63 and Reply Brief at 10.
[25] Assessor Decision at 3.
[26] *Dena Nena Henash*, 88 P.3d at 132.

conservation purpose, allowing public access is not required, and in some cases may be prohibited in order to protect sensitive or important resources for the good of the entire community."[27] In light of the rest of the record, we do not find this statement constitutes *substantial evidence* that SEAL Trust does in fact prohibit public use of all or a portion of its property.

Rather, SEAL Trust described how each parcel can be accessed by the public and answered "yes" to whether members of the public could reasonably access each parcel without trespassing.[28] There is also nothing in the record showing the Assessor disputed these descriptions of dispersed footpaths and public access to the parcels.[29]

5. Because SEAL Trust adequately established a nonprofit charitable purpose based on recreational use, we need not decide whether conservation *alone* is a charitable purpose under the Alaska Constitution 9.4 and AS 29.45.030(a).

We expressly decline to decide whether conservation alone is a charitable purpose under the Alaska Constitution 9.4 and AS 29.45.030(a). The answer is not ascertainable from the plain language of either the Constitution or the Statute, nor has the issue ever been addressed by the Alaska Supreme Court in interpreting the charitable purpose exemption. It is an undecided question under state law.

6. We do not, however, interpret AS 29.45.062(a), which provides for the reduction in assessed value of property subject to a conservation easement, to prevent an otherwise qualified taxpayer, from receiving a charitable purpose exemption under AS 29.45.030(a).

Because both the taxpayer qualifications and the substantive requirements of these two statutory provisions are very different, we do not agree with Appellee's argument that AS 29.45.062(a) legally precludes a qualified taxpayer with a conservation easement from seeking to

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[27] [R. 403]
[28] [R. 404-405]
[29] SEAL Trust Brief at 4-5; SEAL Trust Reply Brief at 8.

qualify for a charitable purpose exemption. No particular taxpayer status is required to obtain a reduced assessment on account of a conservation easement under that statute. In fact, the property can be use for entirely private purposes. The charitable purpose exemption, on the other hand, requires exclusive nonprofit charitable use of property for the broader public good. We see no legal reason why a nonprofit corporation could not seek to qualify for tax relief under either or both provisions.

B. WHETHER EACH OF SEAL TRUST'S 14 PROPERTIES ARE BEING USED FOR AN EXEMPT PURPOSE.

The charitable purpose exemption analysis requires a two-part inquiry: "first, whether there is a nonprofit, charitable purpose, and second, whether the property is being exclusively used for an exempt purpose."[30] The Assessor answered the second prong of the exemption question in this summary fashion:

> Even if there was a nonprofit, charitable purpose of each parcel, I cannot grant the exemption because SEAL Trust has not provided evidence of any use. Notably, SEAL Trust provided no evidence of any use, let alone charitable use of the parcels: "SEAL Trust does not keep records of who actually used the parcel and how often the parcel was used." Without evidence of actual charitable use, I cannot grant an exemption.[31]

Having found SEAL Trust to have a nonprofit charitable purpose, and having reviewed the Assessor's findings with respect to the exclusive use test, we remand to the Assessor to take additional evidence on the question of whether each of SEAL Trust's 14 properties is being used for an exempt purpose, in keeping with the following findings:

1. The Assessor is correct to require evidence of actual use of the property.

[30] *Dena Nena Henash at 130* Alaska 2004.
[31] Assessor Decision at 5

To the extent SEAL Trust urged that conservation alone should be a sufficient charitable purpose, it appears SEAL Trust believed that showing its parcels were *available* for public use was sufficient for satisfying the actual, exclusive use for exempt purposes.[32] However, Alaska law requires evidence of actual use for the exempt purposes, so on remand SEAL Trust must provide evidence that each of the subject parcels is actually used for conservation and public recreational purposes.

2. Records specifically identifying who used the property and/or how often the property was used are not required to show the property is actually and exclusively used for exempt purposes.

The exclusive use test requires analysis of whether the property is being used exclusively for a charitable purpose.[33] The Alaska Supreme Court has "interpreted 'exclusive use' to require that all uses of the property be for the 'direct and primary' exempt purpose." The SEAL Trust's charitable purpose is conservation and public recreation. When asked by the Assessor whether any commercial uses or other non-exempt uses occur on the parcel, SEAL Trust responded: "No commercial uses or other non-exempt uses occur on any of SEAL Trust's 14 properties."[34] The Assessor has not disputed this statement or identified *nonexempt* purposes for which the SEAL Trust property is used.

On remand, SEAL Trust must still show *actual use* of the 14 parcels for its exempt purpose. For this part of the analysis, we do not believe SEAL Trust's failure to "keep records of who actually used the parcel and how often the parcel was used," is fatal to satisfying the actual use test. Such

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[32] See [R.400-401] and SEAL Trust Brief at 5.
[33] See *Dena Nena Henash*, 88 P3d. 124, 132 (Alaska 2004).
[34] [R. 404]

documentation might make it easier to prove actual use for exempt purposes, but is not a legal requirement.

To the extent SEAL Trust did not think it needed to show evidence of actual use at all, and that the Assessor appears to have found SEAL Trust's lack of specific records to be dispositive, on remand SEAL Trust should be given the opportunity to provide the Assessor with any reasonable form of evidence of actual use for public recreational purposes, on each of its 14 parcels.

DATED this ___ day of March 2017.

ASSEMBLY OF THE CITY AND BOROUGH
OF JUNEAU, ALASKA

By: ________________________________
Jesse Kiehl, Presiding Officer

BEFORE THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU

SOUTHEAST ALASKA LAND TRUST,)
Appellant,)
)
v.)
) Appeal of: CBJ Assessor Decisions:
CITY AND BOROUGH OF JUNEAU) 2016-03-29 Email
ASSESSOR,) 2016-07-28 Letter
Appellee.)
)

City & Borough Attorney
City & Borough of Juneau, Alaska
155 South Seward Street, Juneau, Alaska 99801
ph: 907-586-5242 *CBJLaw.Service@juneau.org*

ASSESSOR'S OBJECTION TO THE 3/14/17 PROPOSED DECISION

The Assembly's 3/14/17 Proposed Decision epitomizes the fatal flaw with SEAL Trust's appeal: SEAL Trust failed to provide any evidence that each property was actually used for a charitable purpose. The 3/14/17 Proposed Decision is fatally flawed.

Just before oral argument, the Assembly correctly prohibited SEAL Trust from supplementing the record with witness testimony or introducing exhibits that were not in the record. The Assembly's decision was well supported in law and fact:

1. SEAL Trust was already given the opportunity to supplement its initial exemption application[1] (and the 3/14/17 Proposed Decision demonstrates that SEAL Trust still failed to submit a complete application);
2. Pre-Hearing Order §4 prohibits either party from supplementing the record because neither party motioned to do so;[2]
3. CBJ 01.50.030(f)[3] explicitly requires the Assembly to decide this case on the existing record unless a narrow exception to CBJ 01.50.110(e) applies; and

[1] *E.g.*, Stipulation to Stay Appeal (April 28, 2016); *see also* R. 395-396; R. 399-411; R. 412-416.

[2] Pre-Hearing Order (Sept. 2, 2016).

[3] CBJ 01.50.030(f) "*Scope of review*. The appeal will be heard on the record supplemented by such new information as the appeal agency or hearing officer finds relevant and admissible under section 01.50.110. "New information" means information that was not presented to the

4. SEAL Trust never argued a narrow exception to CBJ 01.50.110(e)[4] could be satisfied.[5]

Thus, the Assembly correctly prohibited SEAL Trust from adding new facts to the record, and there is no reason for the Assembly to reverse itself.

Neither SEAL Trust nor the 3/14/17 Proposed Decision provide any facts or legal basis to arbitrarily ignore Pre-Hearing Order §4, CBJ 01.50.030(f), or CBJ 01.50.110(e).

Importantly, the 3/14/17 Proposed Decision affirms that SEAL Trust—not the Assessor—committed the fatal flaw that the proposed remand is premised upon. The Assembly correctly states that SEAL Trust has the burden of proof.[6] The Assembly correctly states that the substantial evidence standard governs factual findings of the Assessor in this appeal.[7] The Assembly correctly states that SEAL Trust was required to provide evidence that every property was being exclusively used for an exempt

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agency whose decision is being appealed and which the appeal agency finds could not have been so presented for reasons beyond the control of the party seeking to submit it to the appeal agency."

[4] CBJ 01.50.110(e) "No issue, and no testimonial, physical or documentary evidence may be advanced or introduced at the hearing or included in the submission to the appeal agency or hearing officer which was not previously submitted to the agency whose decision is being appealed. The presiding officer or the hearing officer may waive this prohibition if the failure previously to submit or disclose was due to:

> (1) Newly discovered evidence which by due diligence could not have been discovered previously and disclosed during the prehearing process, and further could not have been submitted to the agency whose decision is being appealed; or
>
> (2) Fraud, misrepresentation, or other misconduct of an opposing party."

[5] *Compare* Assessor Expedited Motion in Limine to Prohibit Use or Introduction of "New Information" at 1-4: (Jan. 31, 2017) *with* SEAL Trust Opposition to CBJ's Expedited Motion in Limine to Prohibit Use or Introduction of "New Information" (Feb. 1, 2017).

[6] 3/14/17 Proposed Decision at 4.

[7] 3/14/17 Proposed Decision at 4.

(charitable) purpose.[8] The Assembly correctly states that SEAL Trust failed to provide evidence each property was actually used for a tax exempt (charitable) purpose.[9] Thus, the 3/14/17 Proposed Decision clearly describes the Assessor did not err in her factual finding that SEAL Trust failed to provide any evidence that each property was actually used for a charitable purpose:

> **"1. The Assessor is correct to require evidence of actual use of the property.**
>
> To the extent SEAL Trust urged that conservation alone should be a sufficient charitable purpose, it appears SEAL Trust believed that showing its parcels were *available* for public use was sufficient for satisfying the actual, exclusive use for exempt purposes.32 However, Alaska law requires evidence of actual use for the exempt purposes, so on remand SEAL Trust must provide evidence that each of the subject parcels is actually used for conservation and public recreational purposes."[10]

Despite correctly stating the law and affirming the Assessor's factual finding, the 3/14/17 Proposed Decision blatantly refuses to apply the governing law by remanding, so SEAL Trust can attempt to supplement the record again. <u>There is no factual or legal basis for a remand so SEAL Trust can undertake further fact gathering.</u>[11] A remand impermissibly allows SEAL Trust to refile its 2016 exemption application more than a year after it was due[12] with evidence that was never presented to the Assessor and when the failure to include such evidence, if any, was wholly due to SEAL Trust.

[8] 3/14/17 Proposed Decision at 9-10.

[9] 3/14/17 Proposed Decision at 10-11.

[10] 3/14/17 Proposed Decision at 9-10.

[11] Pre-Hearing Order §4, CBJ 01.50.110(e); CBJ 01.50.030(f).

[12] R. 94 (stating that exemption applications must be submitted before January 31).

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The Assembly's role in this administrative appeal is to review if the Assessor erred.[13] While reasonable people can disagree as to the first issue (whether SEAL Trust has a nonprofit charitable purpose),[14] the independent judgment standard gives the reviewing body great deference. The opposite is true for the second issue (whether each of SEAL Trust's 14 properties are being used for an exempt purpose).[15] As described above, the Assessor did not err as to issue two; SEAL Trust erred. When an applicant fails to provide sufficient information to grant a property tax exemption, the appropriate remedy is to deny the exemption application as the Assessor did.

Like the Assessor, the Assembly is required to follow the governing law. The Assembly has no legal choice but to amend the 3/14/17 Proposed Decision and deny this appeal because SEAL Trust failed to provide evidence that each property was exclusively used for a charitable purpose. Like SEAL Trust's case, the 3/14/17 Proposed Decision is fatally flawed.

DATED: March 21, 2017

Robert Palmer
AK Bar No. 1405032
Attorney for CBJ Assessor

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[13] *See* CBJ 01.50.070.

[14] 3/14/17 Proposed Decision at 5-9.

[15] 3/14/17 Proposed Decision at 9-11.

Certificate of Service

I hereby certify that on March 21, 2017, a true and correct copy of the attached Motion was served on the following via Electronic Mail:

Municipal Clerk, City.clerk@juneau.org
Jane Sebens, Assembly's Attorney Advisor, Jane.Sebens@juneau.org
Lael Harrison, Attorney for Appellant, lharrison@faulknerbanfield.com

Robert H Palmer III

City & Borough Attorney
City & Borough of Juneau, Alaska
155 South Seward Street, Juneau, Alaska 99801
ph: 907-586-5242 CBJLaw.Service@juneau.org

Memorandum

City & Borough of Juneau
155 S. Seward Street • Juneau, AK 99801

From: Greg Chaney, Greg Chaney
Lands and Resources Manager

To: Assembly

Date: April 3rd, 2017

Re: Chris and Elizabeth Siddon application to acquire City Property
Juneau Townsite, Block 115, Lot 6
1-C04-0-A15-001-0; LND-1039

The CBJ Lands Office received an application from Chris and Elizabeth Siddon to acquire a City lot in the vicinity of the Fourth Street stairs in downtown Juneau. On February 27th, 2017, the CBJ Lands Committee made a motion of support to bring Chris and Elizabeth Siddon's application before the Assembly for approval of a negotiated sale regarding the lot adjacent to their home.

The Siddons' home is located at the top of the Fourth Street stairs but it is also accessible along a relatively level pedestrian path from the end of Kennedy Street. The application states that the Siddons are interested in purchasing Lot 6, Block 115, Juneau Townsite, which is adjacent to the property where their house is located. The area is within a mapped hazard zone. Their plan is to consolidate the CBJ lot with their current property (Lot 7) to provide room for making structural improvements to their existing home. Modifications to their home would to be designed to mitigate against natural hazards and allow for single-level living for a family member who is unable to navigate stairs.

CBJ§53.09.260 Negotiated sales, leases, and exchanges stipulates that once an application has been received, it must first be determined by the Assembly whether the proposal should be further considered by direct negotiation with the original proposer or if the property should be offered for public sale to other individuals. In this case, the hillside behind the subject property is very steep and has been designated as a hazard zone. Due to the "hazard" designation, it is listed in the Land Management Plan for retention. However, by selling this lot to the applicants, a defensive structure could be built to help reduce the hazard risk to the Siddon's existing home as well as for the downhill neighboring homes.

Since this lot is not intended to be used for any other purpose within the foreseeable future, and it could be used by the applicants to reduce the natural hazard risk to their home, Lands staff is recommending that this lot be disposed to the original proposers.

The parcel of land requested by the Siddon family is managed by the Lands and Resources Division. CBJ code 53.09.260 states that Planning Commission review would be required.

Lands staff is requesting that the Assembly dispose of this property to the adjacent property owners so that they may remodel their home for accessibility and build a protective structure to safeguard their home from natural hazards.

Suggested Motion: A motion of support directing staff to enter into direct negotiations for the fair market value sale of City property located at Juneau Townsite, Block 115, Lot 6 to the original applicants, Chris and Elizabeth Siddon. Final sale of the property will be reviewed by the Planning Commission and approved by the Assembly by ordinance.

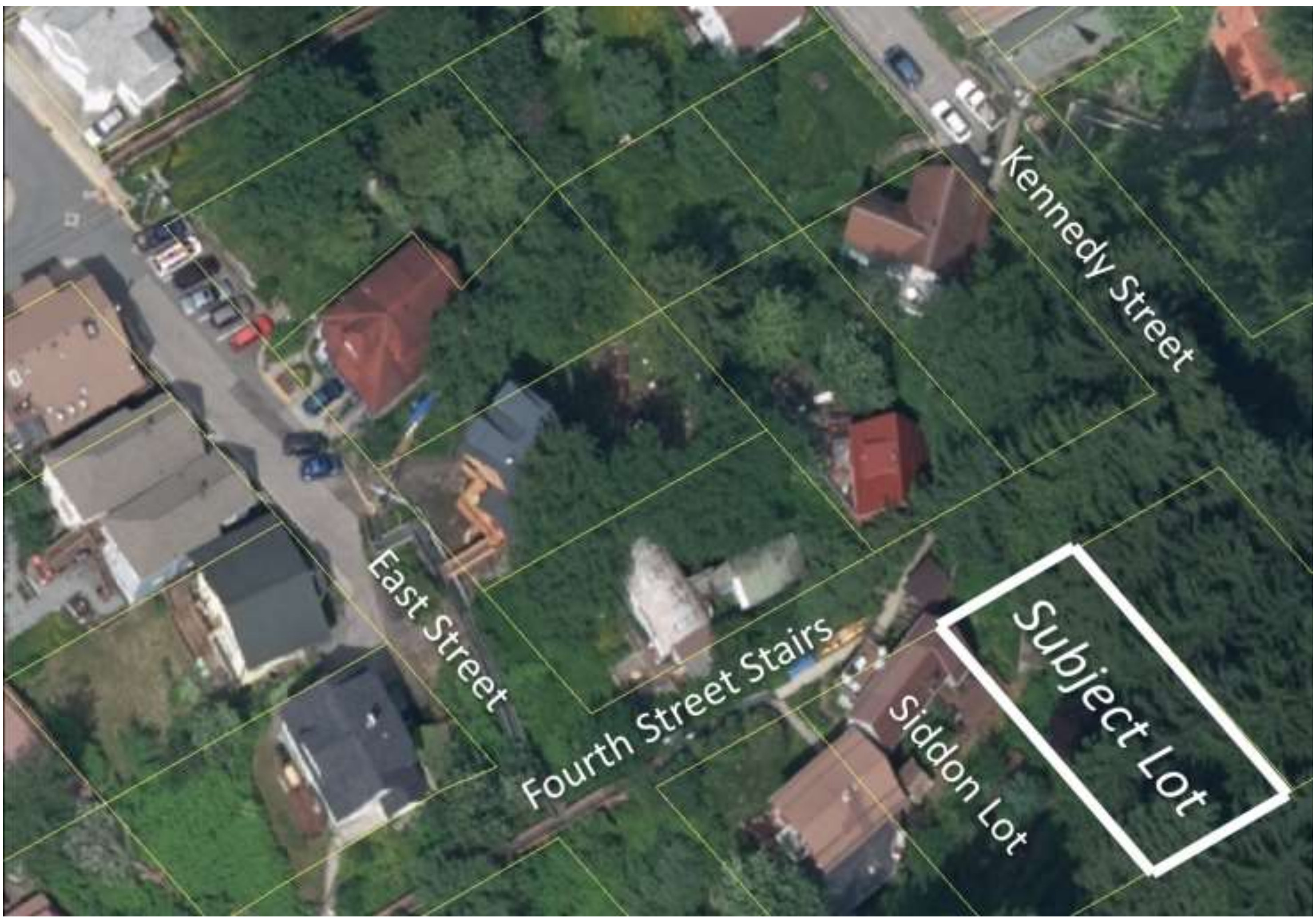


Figure 1. The subject property is located adjacent to the Siddon family‘s home.

MEMORANDUM

CITY/BOROUGH OF JUNEAU
Lands and Resources Office
155 S. Seward St., Juneau, Alaska 99801
Dan.Bleidorn@juneau.org
(907) 586-5252

TO: **Assembly**

FROM: **Dan Bleidorn, Deputy Lands Manager**

SUBJECT: **Ruth Pedersen application to acquire City Property**

DATE: **March 24, 2017**

The Lands Office received an application to acquire City park property in the vicinity of Savikko Park from Ruth Pedersen. The application states that there was an agreement between the City of Douglas and her family to exchange property to accommodate the widening of St. Ann's Avenue in the 1960s. The application states that the records and written agreement have been lost and the applicant is requesting that the City uphold this agreement and offer a comparable strip of land. The application also requests that the $500.00 application fee be refunded.

Hans V. Pedersen purchased lots 2 and 3, Block 42A from the City of Douglas in 1960. The notice of sale of municipal property for this sale stated "except 10 feet reserved for street widening" (See attachment 2). In March of 1964, Hans Pedersen requested that the City offer lot 1 for sale, which adjoins the other properties he purchased in 1960. A motion was made and passed at the March 10, 1964 regular meeting to "offer lot 1, Block 42A for sale for not less than $500.00 with a 10 foot reservation for street widening." (See Attachment 3) The combined Pederson property is at 522 St. Anne's Avenue.

In 1977, the neighboring property at 504 St. Anne's was replatted and a 10' strip of property along the south property line was transferred to the St. Anne's ROW and a 20' strip of municipal land along the north property line was transferred to this lot, giving you the property that exists today. The neighboring property on the other side of the Pedersen's lot at 600 St, Anne's was replatted in 1981. This replat transferred a 10' strip of property to the St Anne's ROW and the northern lot line was not adjusted.

The sale documents account for the planned widening of St. Anns Ave. When the City of Douglas sold these properties to the Pedersen family, the councilmen accounted for the fact that St. Anne's would need to be widened and included this as part of the original sales. Staff did not find reference to an obligation to transfer additional municipal property along the north boundary of the Pedersen property. Instead the City of Douglas advertised the reservation of a 10' reservation in the notice of sale for all three of the lots that Mr. Pedersen purchased.

The strip of property behind the Pedersen's property is on a slope and although it is technically part of Savikko Park, it is not being actively used for park functions.

The Lands Committee and the PRAC reviewed the application and both passed motions of support to the Assembly for this disposal at fair market value. The Lands Committee Motion included "As a gesture of good will, the applicant's $500 application fee and surveying costs could be credited toward the purchase of this property". Since this is a lot line adjustment, this disposal will need to be completed by minor subdivision. The Lands Committee packet contains the researched history and the entire 48 page staff report are included in the Lands Packet from January 30, 2016 located here:
http://agenda.cbjak.org/CoverSheet.aspx?ItemID=3695&MeetingID=571

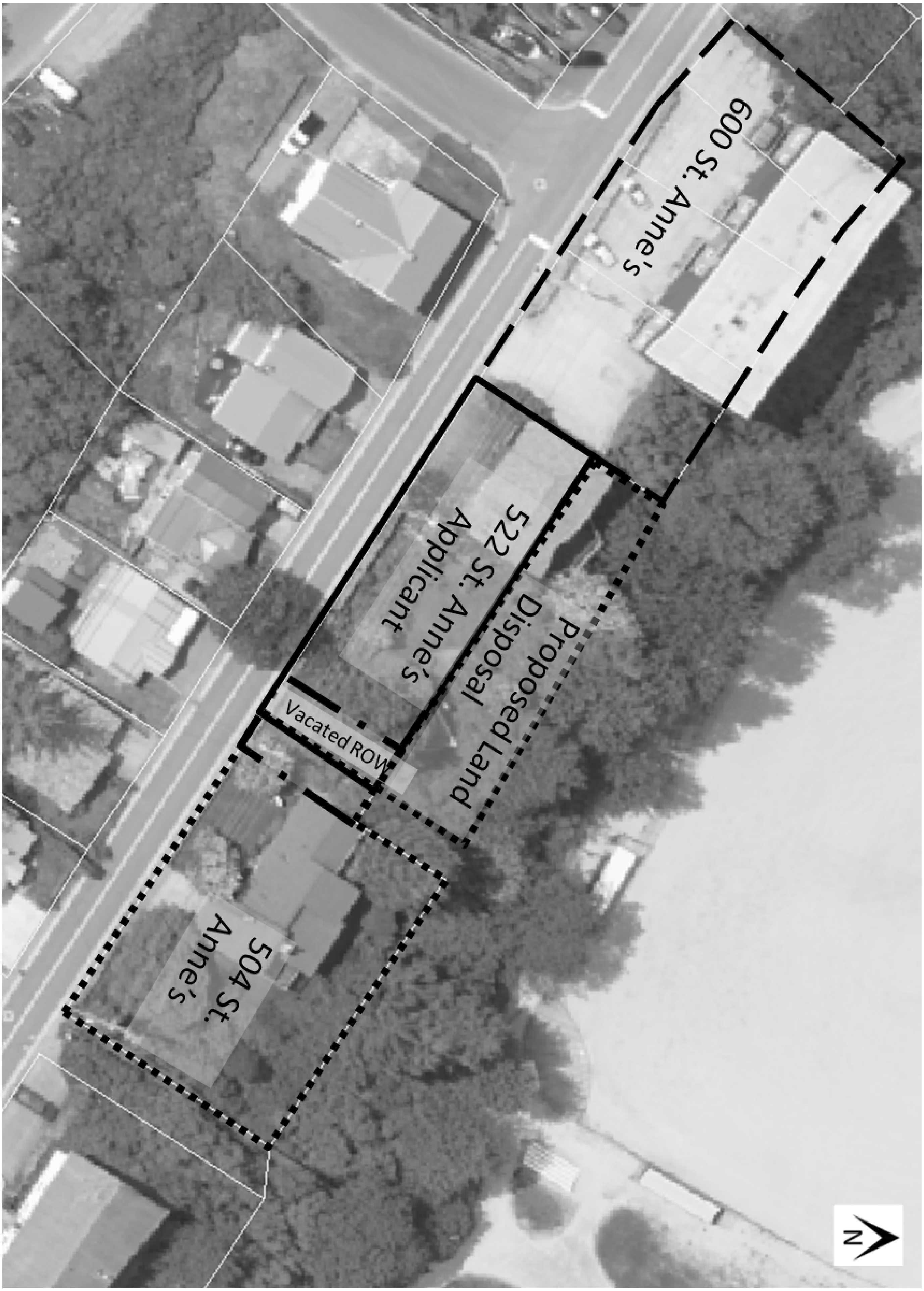
Staff requests a motion of support to enter into negotiations for the disposal of a Fraction of ATS 14, to Ruth Pedersen for fair market value

Attachments:

Attachment 1: Application with cover letter addressed to Greg Chaney

Attachment 2: 11/3 & 11/14/60 Douglas Common Council minutes pertaining to the Pedersen Land

Attachment 3: 03/10 & 7/13/64 Douglas Common Council minutes pertaining to the Pedersen Land


600 St. Anne's
522 St. Anne's
Applicant
Proposed Land
Disposal
Vacated ROW
504 St.
Anne's
N

January 10, 2017

Mr. Greg Chaney
Lands and Resources Manager City/Borough of Juneau
155 South Seward Street
Juneau, Alaska 99801

Dear Mr. Chaney,

Thank you for taking the time to meet with my mother, Ruth Pedersen, and me last week regarding issues related to 522 St. Ann's Avenue in Douglas. We are also very appreciative for Mr. Steedle's presence and participation.

As we discussed, my mother is appealing to the City and Borough of Juneau to grant property on the beach side of 522 St. Ann's Avenue in exchange for the deduction of 10 ft. due to widening of St. Ann's Avenue.

Our appeal is based on a verbal understanding. It's unfortunate, but after endless inquiry we haven't been able to locate a copy of the minutes that record the resolution confirming the exchange.

However, two examples of a verbal agreement or promise by city officials are as follows:

1. At one time, my mother spoke with Virginia Post who was the Douglas city clerk. Ms. Post noted that "everyone" received additional land in exchange for the widening of St. Ann's Avenue. Ms. Post also communicated that paperwork was lost or misplaced when Douglas and Juneau became a Borough.

2. My mother recalls when two former mayors, Bill Boehl (1953-1961, of Douglas) and Lauris "Larry" Parker (1959-1961, of Juneau), stopped by to see how construction on our family home was progressing. My parents inquired how far the property extended down the hill and Mr. Boehl and Mr. Parker both pointed halfway down.

Furthermore, a precedent has been set because the two properties located on each side of 522 St. Ann's Avenue have received additional property on the beach side. Early plat renderings indicate the plat currently known as the Cliff House (600 St. Ann's Avenue) and 504 St. Ann's Avenue had lot lines that aligned with 522 St. Ann's Avenue. Additionally, quitclaim deeds describing the neighbor properties refer to plats approved by City of Douglas, May 27, 1936 recorded July 27, 1936 and filed in the front pocket of Deed Book 34. The two maps readily available at the recorder's office that relate to Deed Book 34 filings on July 27, 1936 are attached.

(Attachment 1. Plat of the Town of Douglas showing Mill Site Tyee Additions Block 32)
(Attachment 2. Map of Alaska Douglas Addition to Douglas Townsite Block 48)

As further evidence, a Map of the City of Douglas dated 1954 illuminates Lots 1,2,3,4,5,6,7,8 of Block 42 all to be aligned on the beach side.

(Attachment 3. 1954 Map of Douglas and Magnification of 1954 Map of Douglas)

A Quitclaim deed executed on March 3, 1965, conveys property (600 St. Ann's Avenue) from Juneau Credit Services Co. to husband and wife, Claude Millsap, Jr. and Gloria Millsap, and John Grant and Hugh Grant, with 10 ft. excepted. A Correctional Quitclaim deed issued on June 18, 1965 has the City of Douglas grant Juneau Credit Services Co. the same property. An additional tract of land is included and recorded. My understanding is that St. Ann's street widening began at the Cliff House. Claude Millsap, Jr. held the title of Mayor of the Greater Juneau Borough, 1963-1967.

(Attachment 4. ***Quitclaim Deed****, Deed Book 77, Page 185,* ***Correctional Quitclaim Deed****, Deed Book 77, Page 187, and* ***Quitclaim Deed****, Deed Book 79, Page 98, Attachment 4.a. Exhibit of more recent street view displaying area where street widening begins)*

Paul Williams, the previous owner of 504 St. Ann's Avenue, petitioned CBJ in 1977 and received 20 feet of municipal land on the beach side in exchange for 10ft. widening of St. Ann's Avenue.

(Attachment 5. February 28, 1977 Memorandum: To Assembly/ From Planning Commission) (Attachment 6. Paul Williams Petition before the CBJ Planning Commission and Platting Board) (7. Plat of Subdivision of Block 41-A Tyee Addition to the City of Douglas) (8. ***Original Quitclaim Deed*** *description spanning back to 1936)*

It is our hope that the Planning Commission will adjust the property lines in accordance with our neighbors and officially honor the agreement, which was verbally communicated to my parents. This appeal is being made in consideration of the possibility that my mother might eventually sell her property.

There is concern because my parents built a deck and small children's playhouse (A-frame) overlooking the beach. Both structures have been in existence since construction of the home in the early 1960's. The structures were built on property that my parents had been advised was theirs.

(Attachment 9. Image captured via CBJ Parcel Viewer)

Thanks again for being so generous with your time and please let me know if there is any additional information that might be helpful. We look forward to a positive resolution of this longstanding property grievance.

Regards,

Annetta Love

Annetta Love

cc: Mr. Ken Koelsch, Mayor, City and Borough of Juneau
Mr. Rob Steedle, Community Development Director

CITY/BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY

APPLICATION FOR A NEGOTIATED FAIR MARKET VALUE SALE OF LANDS OWNED BY THE CITY AND BOROUGH OF JUNEAU

Application No.
Staff only

Assesor's No.
Assessor's number available using the CBJ Assessor's Database: http://www.juneau.org/assessordata/sqlassessor.php

Legal name of applicant(s) Ruth Pedersen

Mailing address P. O. Box 240-377, Douglas, Alaska 99824

1. Legal description of property to purchase (attach map)

Parcel # 2D04042A0133
Tyee Addition Douglas Townsite
Block 42A LT1B

2. Existing parcel size
Square feet: Acres: Lot size: 4630
Parcel (lot) size available using the CBJ Assessor's Database: http://www.juneau.org/assessordata/sqlassessor.php

3. Existing utilities

	On Site	Public	None
Water:	☐	☒	☐
Sewer:	☐	☒	☐

Utilities information available using the CBJ Assessor's Database: http://www.juneau.org/assessordata/sqlassessor.php

4. Access St. Ann's Avenue

5. Provide a brief description of your proposal to purchase CBJ land(s)

This matter pertains to an old agreement that was never finalized. An agreement was proposed between the City of Douglas and Ruth and H.V. Pedersen, which offered hill side land (on the beach side) in exchange for reserving a 10 ft. strip of land for street widening of St. Ann's Avenue. The agreement was proposed in the 1960's, but was never completed. The longstanding agreement is evident because parallel properties on both sides each received additional land. Records pertaining to the old arrangement seem to have been lost. The current homeowner, Ruth Pedersen, is requesting that CBJ uphold the agreement and offer a comparable strip of land equivalent to her neighbors.

5. Continued

Attachments:
Letter to Greg Chaney
Letter from Heather Marlow

Since agreement was already approved Ruth Pedersen requests that the $500 application fee bee refunded.

6. Comprehensive plan designation for property *(Staff only)*

7. Zoning designation

multi family/5000 sq. ft. minimum lot size/ 18 units per acre

Zoning designation available using the CBJ Assessor's Database: http://www.juneau.org/assessordata/sqlassessor.php

I HEREBY CERTIFY THAT all of the statements made in this application and its incorporated attachments are true and correct.

Ruth Pedersen (Homeowner)
Name and Title (Please Print)
Ruth Pedersen
Signature

Annetta Love (Daughter)
Name and Title (Please Print)
Annetta Love
Signature

Return application to the Lands and Resources Office, 105 Municipal Way, Third Floor or Lands_Office@juneau.org

Staff only

RECEIPT of the above application and attachments together with filing fee (non-refundable) in the amount of   is hereby acknowledged.

FULL APPLICATION RECEIVED by Lands staff on 01 / 23 / 2017 by:
MM/DD/YYYY

RACHEL FRIEDLANDER, LANDS AND RESOURCES SPECIALIST
Name and Title (Please Print)

Signature

CITY/BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY

CITY OF DOUGLAS

OFFICE OF CITY CLERK

DOUGLAS, ALASKA

NOTICE OF SALE OF MUNICIPAL PROPERTY

Pursuant to Resolution No. 268 of the City of Douglas, passed on October 24, 1960, the following described properties are offered for sale:

Sold

Lot 2 in Block 42A, except 10 feet reserved for street widening.

Lot 3 in Block 42A, except 10 feet reserved for street widening.

Both in Tyee & Millsite Addition.

Minimum p_rice for each lot is $300.00.

Offers for the purchase of the above lots will be considered by the Common Council at the Council Meeting scheduled for November 14, 1960, or subsequent meetings of the Council.

Persons interested in purchasing any of the above-listed parcels, are hereby requested to submit, in writing, to the City Clerk in person or mailed to Box 447, Douglas, their offers of purchase prior to the time for convening of the Council at 7:30 p.m.

The Council reserves the right to reject any or all offers; and also shall have the right to establish any conditions with respect to the purchase of said properties at the time of sale.

All costs of the sale, including attorneys' fees for the preparation of deeds or other legal documents shall be paid by the purchaser.

CITY OF DOUGLAS, ALASKA

By Virginia B. Post
City Clerk

I submit herewith to bid on
Lot 2 in Block 42A and
Lot 3 in Block 42A.
to the valuated price $300 for each lot.

Hans V. Pedersen
Cedar Park G.C.
Juneau.

Accepted
11/14/60

Statutory Quitclaim Deed

Deed Book 75 / Page 319
Juneau Recording Dist.

(CORPORATE FORM)

THE GRANTOR CITY OF DOUGLAS, ALASKA

whose principal office is at Douglas, Alaska

for and in consideration of Ten Dollars and other valuable consideration

conveys and quitclaims to HANS V. PEDERSEN AND RUTH M. PEDERSEN, husband and wife, of Douglas, Alaska, as tenants by the entirety, with right of survivorship,

all interest which it has, if any, in the following described real estate:

Parcel 1
Lots Two (2) and Three (3), Block 4/A, of the City of Douglas, Alaska, according to the official plat of the Tyee and Millsite Addition to the Townsite of Douglas, Alaska, which plat is on file in the office of the Recorder for the Juneau Recording District of Alaska,

EXCEPTING therefrom a strip of land ten (10) feet in width along St. Ann's Avenue extending the distance of said Lots Two (2) and Three (3), Block 4/A, the same being reserved for widening of St. Ann's Avenue.

Parcel 2
Lot One (1) Block 4/A of the City of Douglas, Alaska, according to the official plat of the Tyee and Millsite Addition to the Townsite of Douglas, Alaska, which plat is on file in the office of the Recorder for the Juneau Recording District of Alaska.

42-A

EXCEPTING therefrom a strip of land ten (10) feet in width along St. Ann's Avenue extending the distance of said Lot One (1) Block 4/A, the same being reserved for widening of St. Ann's Avenue.

The Sale of said Parcel 1 was authorized by Resolution No. 269, adopted on November 14, 1960, and the Sale of said Parcel 2 was authorized by Resolution No. 338, adopted on July 15, 1964.

situated in the State of Alaska.

DATED this 14th day of November, 1967

RECORDED - FILED
Juneau Rec. Dist.
DATE 12 13 1967
TIME 11:15 A.M.
Address Hans V. Pedersen
Box 377 Douglas

Mayor
City Clerk

ACKNOWLEDGEMENT

STATE OF ALASKA
CITY OF DOUGLAS

THIS CERTIFIES that on this ... day of November 19 67, before me, a Notary Public in and for the State of Alaska, personally appeared Guy A. Russo and Virginia B. Post and known to me to be the persons whose names are subscribed to the foregoing deed, and to me known, first duly sworn according to law they stated to me under oath that they are the Mayor and Clerk respectively of the City of Douglas a corporation organized under the laws of Alaska, that they have been authorized by said corporation to execute the foregoing deed on its behalf and they executed the same freely and voluntarily as the free act and deed of said corporation.

WITNESS my hand and official seal the day and year in this certificate first above written.

(CORPORATE FORM)

THE GRANTOR CITY OF DOUGLAS, ALASKA

whose principal office is at Douglas, Alaska

for and in consideration of Ten Dollars and other valuable consideration

conveys and quitclaims to HANS V. PEDERSEN AND RUTH M. PEDERSEN, husband and wife, of Douglas, Alaska, as tenants by the entirety, with right of survivorship,

all interest which it has, if any, in the following described real estate:

Parcel 1
Lots Two (2) and Three (3), Block 42A, of the City of Douglas, Alaska, according to the official plat of the Tyee and Millsite Addition to the Townsite of Douglas, Alaska, which plat is on file in the office of the Recorder for the Juneau Recording District of Alaska,

EXCEPTING therefrom a strip of land ten (10) feet in width along St. Ann's Avenue extending the distance of said Lots Two (2) and Three (3), Block 42A, the same being reserved for widening of St. Ann's Avenue.

Parcel 2
Lot One (1) Block 42A of the City of Douglas, Alaska, according to the official plat of the Tyee and Millsite Addition to the Townsite of Douglas, Alaska, which plat is on file in the office of the Recorder for the Juneau Recording District of Alaska,

EXCEPTING therefrom a strip of land ten (10) feet in width along St. Ann's Avenue extending the distance of said Lot One (1) Block 42A, the same being reserved for widening of St. Ann's Avenue.

The Sale of said Parcel 1 was authorized by Resolution No. 269, adopted on November 14, 1960, and the Sale of said Parcel 2 was authorized by Resolution No. 338, adopted on July 13, 1964.

situated in the State of Alaska.

DATED this 17th day of November, 1967

Guy A. Russo (seal) Mayor

Virginia B. Post (seal) City Clerk

RECORDED - FILED
Juneau REC. DIST.
DATE 12-15 19 67
TIME 11:15 A M
Hans Pedersen
Address Box 377
DOUGLAS Douglas

ACKNOWLEDGEMENT

STATE OF ALASKA

CITY OF DOUGLAS } ss

THIS CERTIFIES that on this 17th day of November 19 67, before me, a Notary Public in and for the State of Alaska, personally appeared Guy A. Russo and Virginia B. Post, to me known and known to me to be the persons whose names are subscribed to the foregoing deed, and after being first duly sworn according to law they stated to me under oath that they are the Mayor and Clerk respectively of the City of Douglas, a corporation organized

Mayor Boehl had requested Toner & Nordling to draw up the plat for the Douglas Tidelands for establishing a Director's line, application for which must be made at once as outlined in the above-noted correspondence from Mr. Nordling. The preliminary plats were reviewed by the Council and a change proposed. Councilman Henkins moved that the Applications be completed for the Director's line as shown on Sheet 1 of the Preliminary Plat of the Survey of Douglas Tidelands, as amended by agreement of the Council. Seconded by Russo and carried.

OLD BUSINESS

A number of offers were received for the purchase of lots and were opened at this time. Hans V. Pedersen offered the minimum of $300 each for Lots 2 and 3 Block 42A. Joe Senatori offered the minimum of $500 each for Lots 17 and 19 Block 39, and enclosed payment in full. James T. Bones offered to buy Lots 13 and 15 in Block 39 for $500. (presumably for each lot as listed in the notice of sale.)

Councilman Isaac moved to adopt Resolution No. 269 to sell Lots 2 and 3 Block 42A to Hans V. Pedersen for $300 each, with the two year building clause and 10 feet withheld for street right of way, as per proposed widening of St. Ann's Avenue accepted by the Planning Commission and Council. Motion seconded by Henkins and carried by unanimous roll call vote.

Councilman Russo moved to adopt Resolution No. 270 to sell Lots 17 and 19 Block 39 for $500 each to Joe Senatori, with the two year building clause. Seconded by Isaac and carried by unanimous roll call vote.

Councilman Savikko moved to adopt Resolution No. 271 to sell to James T. Bones Lots 13 and 15 Block 39 for $500 each, with the two year building clause. Seconded by Russo and carried by unanimous vote.

Lot 1 in Block 42A, in which Mr. Pedersen is also interested, but which was not reposted because of its irregular size, was referred to the Planning Commission to straighten out the lot lines, upon motion by Councilman McLean, seconded by Isaac and carried.

Councilman Isaac moved that the Mayor be authorized to execute the Quitclaim Deed to Lots 11 and 12 in Block 48, Alaska-Douglas Addition, as requested by the Executor and Attorney for the Estate of Edith Barras. Motion seconded by McLean and carried.

A discussion over the City's obtaining Lot 8 from the Estate, which had been mentioned in conversations with various city officials, brought about a motion made by Councilman Russo that the Quitclaim Deed to Lots 11 and 12 Block 48 be withheld until a letter of transmittal is received from the administrator for the transfer of Lot 7, now known as Lot 8 Block 48, to the City is received. Seconded by Henkins and carried.

Councilman McLean moved that the city renew the Liability Policy with Great American Insurance Co. in the amount of $794.07 through Grummett Insurance Agency. Seconded by Russo and carried.

NEW BUSINESS

Maintenance Chief Fleek brought up the matter of payment to the boat operators who twice a year move the float. He explained that the boats are put up for the winter before the float is moved, and must be brought out for the two or three

MINUTES OF REGULAR MEETING HELD MARCH 10, 1964 (continued)

Hans Pedersen asked the City to offer for sale Lot 1 Block 42A, which adjoins his property on the south, in order to give him additional ground. In the discussion to offer the Lot for sale, it was with the understanding that the unpaid balance on his purchase of Lots 2 and 3 should be paid before the additional purchase is permitted. However, a motion was made by Councilman Isaac to adopt Resolution No. 334 to offer Lot 1 Block 42A for sale for not less than $500.00 with a 10 foot reservation for street widening. Seconded by Coffman and carried by unanimous roll call vote of Councilman Hall, Coffman, Isaac and Hermann. This lot is to be offered as too small for a separate building lot.

Councilman Isaac then made a motion to have the necessary steps taken to vacate Kinzie St. to the end of Lot 12 Block 31, seconded by Coffman and carried.

The meeting was then adjourned.

Virginia B Post
City Clerk

Date: 3-23-64
Approved:

MINUTES OF JULY 13, 1964 (continued)

Mayor Jensen mentioned that the papers have not been drawn for the easement from Bill Boehl in return for a deed to clear action taken on Lot 4 Block 46, which Bob Thibodeau sold to Boehl prior to the repossession by the City. The check to Thibodeau has not been returned or cashed.

Councilman Coffman moved to approve the bills, seconded by Isaac and carried.

An offer from Hans Pedersen for the purchase of Lot 1 Block 42A was read. The lot had been offered under Resolution No. 334. Councilman Isaac made a motion to adopt Resolution No. 338 to sell Lot 1 Block 42A to Hans Pedersen for $500.00 under the terms stated in the offer for sale, seconded by Coffman and carried by unanimous roll call vote.

Councilman Hermann spoke of the information received on the tranquilizer gun. Also he had discussed its use with Capt. Trafton, who had operated the one in Fairbanks. Capt. Trafton had stated that it was used only in difficult cases and required practice in its use. He knew of other such guns that are available and will get information/.

Because of the excessive speed of many cars on 5th St., it was suggested that Commissioner Underwood be contacted regarding changing the trooper's hours to permit patrol on 5th St. during morning and evening rush hours.

John Doogan came before the Council to ask that easements be drawn to cover the sewer lines as they exist. On the extension to build on Lot 16 Block 31, he said because of his child's health he had to buy a home and sell the one he built, and is not financially able to start construction now. He requested the removal of the building clause, as had been done in other instances he knew of, from the terms under which he purchased the lot. Councilman Coffman made a motion to waive the building restriction clause from the records pertaining to Lot 16 Block 31, purchased by John Doogan. Seconded by Isaac and carried.

The need for telephone reminders for fire and police numbers which was brought out at the time of the recent fire was discussed. A sticker type with both numbers was to be looked into and the correct police number obtained. A sticker on the phone similar to the boat stall stickers could be used.

The meeting was then adjourned.

Virginia B Post
City Clerk

APPROVED:

Date: July 27, 1964

A REGULATION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Amendment of Title 05, Chapter 15 Fees and Charges and Title 05, Chapter 20 Small Boat Harbor Fees and Charges

PURSUANT TO AUTHORITY GRANTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, THE DOCKS AND HARBORS BOARD IS PROPOSING TO ADOPT THE FOLLOWING AMENDMENT TO REGULATIONS:

Section 1. Authority. These regulations are proposed for adoption pursuant to CBJ 01.60 and CBJ 85.02.060, and CBJ 85.02.100.

Section 2. Adoption of Regulations. The City and Borough of Juneau Administrative Code is amended by the repeal and adoption of regulations in Title 05, Chapters 15 and 20 as follows:

...

05 CBJAC 15.050 Potable water fee.

(a) *Definition.* The charge assessed to vessels for taking on potable water through a metered connection at the Port.

(b) *Basis for computing charges.* The charge shall be assessed based on water meter readings recorded by the Port staff.

(c) *Potable water fees assessment:* The fee shall be 150 percent of the CBJ Water Utility Rate for the Metered Commercial customer class.

~~Unit~~	~~Charge~~
~~Each 1,000 U.S. gallons or portion thereof~~	~~$4.67~~

...

05 CBJAC 20.100 Grid usage fees.

(a) *Definition.* The fees assessed to an owner for using ~~the Douglas Grid or~~ the Harris Harbor Grid.

(b) *Grid usage period and requirements.* The period for grid usage is a 24-hour period, or portion thereof. The grid fee is based on the silhouette length of the vessel. All grid usage fees must be paid in advance. Owners of vessels may reserve use of the grid. Payment of grid usage fees is required to obtain a reservation. The Harbormaster will require the owner of a vessel to post a bond or other guaranty before using the grid when the Harbormaster believes such security is necessary.

(c) *Refunds.* CBJ will refund grid fees for unused grid usage periods if the owner notifies the Harbormaster at least 24 hours before the start of the reservation period.

(d) *Grid usage fees.* Grid usage fees shall be assessed as follows:

$ per foot per day	~~$.95~~ $1.00

...

~~05 CBJAC 20.120 - Pump use fees.~~

~~Dewatering pumps are available for rent from the Docks and Harbors Department. The fee for rent of a dewatering pump is $20.00 per hour with a $40.00 minimum charge.~~

Section 3. Notice of Proposed Adoption of a Regulation. The notice requirements of CBJ 01.60.200 were followed by the agency. The notice period began on __________, which is not less than 21 days before the date of adoption of these regulations as set forth below.

Adoption by Agency

After considering all relevant matter presented to it, the agency hereby amends these regulations as set forth above. The agency will next seek Assembly review and approval.

Date: 3/30/2017

Carl Uchytil
Port Director

Legal Review

These regulations have been reviewed and approved in accordance with the following standards set forth in CBJ 01.60.250:

(1) Consistency with federal and state law and with the charter, code, and other municipal regulations;

(2) The existence of code authority and the correctness of the required citation of code authority; and

(3) Its clarity, simplicity of expression, and absence of possibility of misapplication.

Date: 3/31/2017

Robert H Palmer III

Robert H. Palmer, III
Assistant Municipal Attorney

Assembly Review

These regulations were presented to the Assembly at its meeting of ____________. They were adopted by the Assembly.

Date: ____________________________

____
Laurie J. Sica, Municipal Clerk

Filing with Clerk

I certify, as the clerk of the City and Borough of Juneau, that the following statements are true:

1. These regulations were accepted for filing by the office of the clerk at ___:___ a.m./p.m. on the _____ day of __________________, _________.
2. After signing I will immediately deliver or cause to be delivered copies of this regulation to the attorney and the director of libraries.
3. A permanent file of the signed originals of these regulations will be maintained in this office for public inspection.
4. Effective date: ______________________________________.

Date: ____________________________

____
Laurie J. Sica, Municipal Clerk