

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

August 22, 2016 7:00 PM

City Hall Assembly Chambers
Regular Meeting 2016-29

Submitted By:

Duncan Rorie Watt
City and Borough Manager

I. FLAG SALUTE

II. ROLL CALL

III. SPECIAL ORDER OF BUSINESS

- A. Recognition - See Ya Crew
- B. Recognition - Steve Hamilton's Lifesavers
- C. Recognition - Andy Migel
- D. Recognition - Sherri Layne

IV. APPROVAL OF MINUTES

- A. August 1, 2016 Regular Assembly Meeting 2016-28

V. MANAGER'S REQUEST FOR AGENDA CHANGES

- A. The City Manager requests that Ordinance 2016-09(F) be pulled and reset for public hearing at the September 12, 2016, regular Assembly meeting.

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(H) An Ordinance Appropriating to the Manager the Sum of \$73,344 as Funding for the Juneau International Airport Aircraft Rescue and Fire Fighting (ARFF) Building Modifications Capital Improvement Project; Funding Provided by the State of Alaska Department of Transportation.**

This ordinance would appropriate \$73,344 to the Aircraft Rescue and Fire Fighting (ARFF) Building Modifications capital improvement project. Funding is provided as follows: Alaska Department of Transportation grant: \$73,344. The FAA funds 93.75% of the project with the remainder being split between State of Alaska Dept. of Transportation (ADOT) and Juneau International Airport. FAA and JIA funding has previously been appropriated. The Public and Facilities Committee reviewed this action at its June 27, 2016, meeting. The Airport Board approved this action at its August 9, 2016 meeting.

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

- b. **Ordinance 2016-30 An Ordinance Amending the Comprehensive Plan by Adopting the Housing Action Plan.**

This ordinance would adopt the Housing Action Plan, and amend the CBJ's Comprehensive Plan to include the Housing Action Plan.

On October 26, 2015, the draft plan was presented to the Assembly Committee of the Whole. The Affordable Housing Commission and staff further refined the plan, and at its June 7, 2016, meeting, the Affordable Housing Commission voted to move the plan to the Planning Commission. On July 12, 2016, the Planning Commission, by unanimous vote, recommended that the Assembly adopt the plan as an addition to the City and Borough Comprehensive Plan.

The Housing Action Plan will be referred to the Committee of the Whole for consideration at its August 29, 2016, meeting.

The City Manager recommends this ordinance be introduced and referred to the Committee of the Whole.

- c. **Ordinance 2016-31 An Ordinance Providing for the Issuance and Sale of a General Obligation School Refunding Bond in the Aggregate Principal Amount of Not to Exceed \$18,900,000; and Providing for the Form and Terms of the Bond and for Unlimited Tax Levies to Pay the Bond.**

This ordinance would authorize the issuance of up to \$18.9 million in bonds to refund (refinance) the 2006A general obligation school bonds. The original \$44 million in bonds were sold September 15, 2006. The original bonds were sold directly into the market by CBJ but the refunding is being done through the Alaska Municipal Bond Bank.

The amount being refunded is \$18.8 million plus issuance costs. If CBJ issues the refunding bonds in October 2016 the refunding will result in an estimated total savings of \$1.4 million over the remaining life of the bonds. The term of the new issue will be the same as the original (final payment December 2021).

These bonds qualify for 70% reimbursement under the State's School Construction Bond Debt Reimbursement Program. However, the reimbursement under the State's Debt Reimbursement Program is subject to annual appropriation by the Legislature. The debt service component of the property tax mill rate funds the remaining portion of the payments.

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

2. Other Items for consent

a. **CBJ Review of State of Alaska - Standard Marijuana Cultivation Facility License #10270 TOP HAT, LLC**

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 Standard Marijuana Cultivation Facility License #10270 from TOP HAT, LLC to be located at 2315 Industrial Blvd. Juneau, AK 99801.

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 the Assembly may protest a license for an applicant's failure to obtain a local license, in this case, even though the applicant does not yet have a local license, CDD recommends allowing the applicant to move forward. The applicant has secured a conditional use permit. Once the CUP is approved and the state license is received, CDD will issue the local license after an inspection. Should the applicant fail the inspection, the local license will not be issued and the applicant will be prohibited from operating in the CBJ despite having obtained a state license.

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

State of Alaska Alcohol & Marijuana Control Office Notice to local governing body and the License Application #10270 online form

Form MJ-01: Marijuana Establishment Operating Plan

Form MJ-02: Premises Diagram

Form MJ-04: Marijuana Cultivation Facility Operating Plan Supplemental Conditional Use Permit 2016-0013 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 license.

VIII. PUBLIC HEARING

A. Ordinance 2016-23(d) An Ordinance Amending the City and Borough of Juneau Code to Add a New Title on Equal Rights.

This ordinance would make discrimination based on race, color, age, religion, sex, familial status, disability, sexual orientation, gender identity, gender expression, or national origin unlawful. By policy, CBJ finds such discrimination a threat to the health, safety and general welfare of the citizens of the City and Borough.

The Committee of the Whole discussed this ordinance at its June 21, 2016, July 25, 2016, and August 15, 2016, meetings and recommended forwarding it to the full Assembly for public hearing.

Version (d) of the ordinance reflects the change to section 41.05.025(e) made by the Committee of the Whole at its August 15 meeting.

The City Manager recommends this ordinance be adopted.

B. Ordinance 2015-20(AV) An Appropriation Transferring to the Manager the Sum of \$42,233 as FY16 Supplemental Funding for the Law Department; Funding Provided by the Open Space Waterfront Land Acquisition Capital Improvement Project.

This ordinance would transfer \$42,233.07 from the Open Space Waterfront Land Acquisition Capital Improvement Project to the Law Department.

The FY16 supplemental funding is needed for legal representation in the case: CRUISE LINES INTERNATIONAL ASSOCIATION ALASKA, and CRUISE LINES INTERNATIONAL ASSOCIATION v. THE CITY AND BOROUGH OF JUNEAU, ALASKA, et al.

The City Manager recommends this ordinance be adopted.

C. Ordinance 2016-09(G) An Appropriation Transferring to the Manager the Sum of \$250,000 as Funding for the Manager's Office Operating Budget; Funding Provided by the Open Space Waterfront Land Acquisition Capital Improvement Project.

This ordinance would appropriate \$250,000 of Marine Passenger Fees from the Open Space Waterfront Land Acquisition capital improvement project 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.

D. Ordinance 2016-09(C) An Ordinance Appropriating to the Manager the Sum of \$2,000,000 as Partial Funding for Construction of the Aurora Small Boat Harbor Re-Build Project Phase II; Funding Provided by the Alaska Department of Transportation, Public Facilities, Municipal Harbor Facility Grant Program.

Grant funding in the amount of \$2 million provided by the Alaska Department of Transportation & Public Facilities, Municipal Harbor Facility Grant Program. Matching grant funds of \$2 million have already been provided by the Harbors Enterprise Fund Balance. CBJ Docks and Harbors received notice of award of a \$2 million Municipal Harbor Facility Grant for phase two of the reconstruction of Aurora Harbor. The funding would be used to replace failing infrastructure of the current facility including new piling, floats, electrical wiring, pedestals, water lines, and hydrants. Phase two would complete the main float, and head floats E, F, and G including mooring finger floats on one side and provisions for current boat shelters on the other side. This ordinance would appropriate \$2 million into the overall budget of the project.

The City Manager recommends this ordinance be adopted.

E. Ordinance 2016-09(D) An Ordinance Appropriating to the Manager the Sum of \$76,050 as Funding for Enhanced Security and Monitoring Capabilities at the Downtown Cruise Ship Docks; Grant Funding is Provided by a US Department of Homeland Security Port Security Grant.

This ordinance would appropriate \$76,050 for the design, procurement and installation of security cameras for the new cruise ship berths. Grant funding is provided by the US Department of Homeland Security – Port Security Grant Program. This is an operating grant and requires a \$25,350 match for a total approved project amount of \$101,400. This match will be met with the Docks Fund's existing FY17 adopted budget; thus there is no need to appropriate the \$25,350 from the Docks Fund. This project will provide greater security and monitoring capabilities consistent with federal law and the CBJ Docks & Harbors Facility Security Plan. The Docks & Harbors Board reviewed this appropriation ordinance at its July 28, 2016, regular public meeting.

The City Manager recommends this ordinance be adopted.

F. Ordinance 2016-09(F) An Ordinance Appropriating to the Manager the Sum of \$14,382,817 as Funding for the Juneau International Airport to Construct a Snow Removal Equipment Building Capital Improvement Project; Funding Provided by the Federal Aviation Administration.

This ordinance would appropriate \$14,382,817 to Construct a Snow Removal Equipment Building (SREB) capital improvement project. Funding is provided as follows: Federal Aviation Administration grant: \$14,382,817. The FAA funds 93.75% of the project with the remainder being split between State of Alaska Dept. of Transportation (ADOT) and Juneau International Airport local match. Airport local match has been previously appropriated, and an ADOT matching grant is anticipated shortly. The Public Works and Facilities Committee reviewed this action at its June 27, 2016, meeting. The Airport Board approved this action at its July 28, 2016, special meeting.

The City Manager recommends this ordinance be pulled and reset for public hearing at the September 12, 2016, regular Assembly meeting.

G. Ordinance 2016-22 An Ordinance Amending the Business Regulations Code Relating to Marijuana and Alcohol.

This ordinance would accomplish two things: (1) update the alcohol license review process by removing antiquated language and clarifying the grounds for protest consistent with state law; and (2) provide a process for the review of state marijuana establishment license applications similar to the process used by the CBJ to review alcohol license applications.

With respect to the review of alcohol license applications, the suggested changes do not limit or change the scope of review the Assembly currently has under the code as provided by state law.

With respect to the review of marijuana license applications, the proposed review process is designed to avoid duplicating the State's regulation on license restrictions (3 AAC 306.010), and to create a process for the CBJ that complies with the local government protest process identified in 3 AAC 306.060.

The Assembly Human Resources Committee will be reviewing this ordinance at its meeting immediately preceding this Assembly meeting.

The City Manager recommends this ordinance be adopted.

H. Ordinance 2016-27 An Ordinance Authorizing the Manager to Convey Lot 6 and Lot 7 of the Renninger Subdivision to the Alaska Housing Development Corporation.

At the Assembly's direction, staff solicited letters of interest for the disposal of six lots in the Renninger Subdivision. The Lands Committee reviewed four proposals at its April 25, 2016, meeting and as a result, directed staff to work with the Affordable Housing Development Corporation (AHDC) to purchase two of the lots at fair market value.

At its May 16, 2016, meeting, the Lands Committee passed a motion of support for the sale of Lots 6 and 7 to AHDC. At its meeting on May 23, 2016, the Assembly authorized the City Manager to negotiate the sale.

This ordinance would authorize the City Manager to finalize negotiations and enter into an agreement with AHFC for the sale of the two lots at fair market value, and provides for certain terms in the event the sale is financed by the CBJ.

The City Manager recommends this ordinance be adopted.

I. Ordinance 2016-28 An Ordinance Amending the City and Borough Code Relating to Criminal Offenses and Penalties.

The primary purpose of this ordinance is to amend the City and Borough code consistent with changes made by the State with the omnibus crime bill, SB 91. Per SB 91, if state law provides for a comparable state offense, a municipality may not impose a greater punishment by ordinance than that imposed for a violation of the similar state law. This requirement under SB 91 specifically applies to home rule municipalities such as the CBJ.

This ordinance makes a few additional housekeeping changes, outlined in the memorandum from the City Attorney included in your packet.

The City Manager recommends this ordinance be adopted.

J. Ordinance 2016-29 An Ordinance Amending the Uniform Sales Tax Code Relating to the Senior Citizen Sales Tax Exemption and Marijuana.

This ordinance would amend the sales tax code with respect to the senior sales tax exemption to require that the taxation of marijuana and marijuana products be handled in the same way as alcohol sales. Under current code, the sale of alcohol is not an exempt sale. This ordinance would treat marijuana and marijuana products similarly, unless the product is purchased with a prescription.

The City Manager recommends this ordinance be adopted.

IX. UNFINISHED BUSINESS**X. NEW BUSINESS****A. Resolution 2765 A Resolution of the City and Borough of Juneau in Support of the Acquisition of the Auke Bay Marine Station Through the Maritime Administration (MARAD) Port Conveyance Program.**

On April 18, 2016, Docks & Harbors learned from the Maritime Administration (MARAD) that the former NOAA Fisheries Lab (aka the Auke Bay Marine Station) would be available to governmental entities through a competitive process under the federal Port Conveyance program.

The property consists of approximately four acres of land, multiple buildings, a dock, and access to the ocean. It is immediately contiguous to land, tidelands, and facilities managed by CBJ and by the University of Alaska Southeast. Both the CBJ and UA agree that there are multiple benefits to having the property remain in public ownership given its prominent coastal location and long history of use by public agencies and that it could potentially contribute to shared community goals of expanding and enhancing marine-related education, research and economic development, fisheries development, and harbor development.

Both the CBJ and University submitted notices of interest advising their intent to seek receipt of the surplus property. Given that neither party needed exclusive use of the property to achieve their desired goals, and given that the parties' intended uses were not mutually exclusive, the parties jointly requested an extension to the August 29, 2016, deadline for submission of applications with a goal of exploring mutually-beneficial use of the property, but that extension request was denied.

The Docks and Harbors Board is prepared to submit a timely application to the federal government. Concurrently, the City Manager and UA President are negotiating a memorandum of agreement that would allow both entities to benefit from the property consistent with each entity's needs.

By this resolution, the Assembly would be expressing its support for the submission of an application so that the property can be secured for the mutually beneficial use by the CBJ and UAS.

The City Manager recommends this resolution be adopted.

B. Notice of Appeal - Southeast Alaska Land Trust v CBJ Assessor - Charitable Property Tax Exempt Status Determination.

On March 29, 2016, the CBJ Assessor denied an application for a charitable exemption status for Southeast Alaska Land Trust pertaining to 14 parcels of land. On April 18, 2016, a timely appeal of the Assessor's decision was filed. The appeal was stayed while the parties attempted to resolve the issues. Resolution could not be reached and the appeal is now back before the Assembly for action.

In accordance with the Appeals Code, the Assembly must decide whether to accept or reject the appeal. If you determine, after liberally construing the notice of appeal in order to preserve the rights of the appellant, that there has been a failure to comply with the appellate rules, or if the notice of appeal does not state grounds upon which any of the

relief requested may be granted, you may reject the appeal.

If the appeal is accepted, you must decide whether the Assembly will hear the appeal itself or if it will assign the appeal to a hearing officer. If you decide to hear the appeal yourselves, a presiding officer should be appointed.

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

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

C. Notice of Appeal - Nestler v Planning Commission - USE2016 0020 Pet Grooming & Boarding.

On July 26, 2016, the CBJ Planning Commission approved an application for a pet grooming and boarding facility at 8757 Dudley Street with conditions. On August 15, 2016, a timely appeal of the conditions of the Planning Commission's decision was filed.

In accordance with the Appeals Code, the Assembly must decide whether to accept or reject the appeal. If you determine, after liberally construing the notice of appeal in order to preserve the rights of the appellant, that there has been a failure to comply with the appellate rules, or if the notice of appeal does not state grounds upon which any of the relief requested may be granted, you may reject the appeal.

If the appeal is accepted, you must decide whether the Assembly will hear the appeal itself or if it will assign the appeal to a hearing officer. If you decide to hear the appeal yourselves, a presiding officer should be appointed.

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

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

D. Senior Citizen Late File - Bosworth

E. Senior Citizen Late File - Poitra

F. Senior Citizen Late File - Williams

G. Hardship Late File - Powers

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