

THE CITY AND BOROUGH OF JUNEAU, ALASKA

Meeting Minutes - May 2, 2016

MEETING NO. 2016-21: 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 7:00 p.m. by Mayor Ken Koelsch.

I. ROLL CALL

Assembly Present: Mary Becker, Jamie Bursell, Maria Gladziszewski, Loren Jones, Jesse Kiehl, Ken Koelsch, Jerry Nankervis, Kate Troll and Debbie White.

Assembly Absent: None.

Staff Present: Rorie Watt, City Manager; Amy Mead, Municipal Attorney; Laurie Sica, Municipal Clerk; Bob Bartholomew, Finance Director; Jane Sebens, Deputy Attorney; Cheryl Crawford, Treasurer; Greg Chaney, Lands and Resources Manager; Carl Uchytel, Port Director; Patricia Wahto, Airport Manager; Jean Hodges and Sam Muse, Accountants; Mary Norcross, Controller (retired).

II. SPECIAL ORDER OF BUSINESS

A. Proclamation - Public Service Recognition Week

Mayor Koelsch proclaimed May 1 - May 7, 2016 as Public Service Recognition Week, and thanked government employees who were committed to excellence in public service.

B. Proclamation - Kids to Parks Day

Mayor Koelsch proclaimed May 21, 2016 as Kids to Parks Day, and encouraged residents of Juneau to make time on May 21, 2016 to take the children in their lives to a neighborhood, state or national park.

C. Special Recognition - Finance Department

Bob Bartholomew recognized Mary Norcross, Retiring Controller, Jean Hodges, Assistant Controller, Sam Muse, and Kathleen Jorgensen, Accountants, and Cheryl Crawford, Treasurer, and Mayor Koelsch presented a National Government Finance Officer's award to CBJ staff for their work on preparing the annual financial statement.

Mr. Bartholomew said Ms. Norcross has been with CBJ for 31 years and has served as Controller for 28 years. This is the 28th year for CBJ to receive this award, which demonstrates the high standards and excellent work Ms. Norcross provided to the community. He congratulated her upon her retirement.

D. Proclamation - Letter Carriers Food Drive Day

Mayor Koelsch proclaimed Saturday, May 14, as Letter Carrier Food Drive Day in CBJ and encouraged people to place non-perishable food items near their mailboxes on that day for collection by Juneau letter carriers.

III. APPROVAL OF MINUTES

A. April 11, 2016 Regular Assembly Meeting 2016-17

Hearing no objection, the minutes of the April 11, 2016 Regular Assembly Meeting 2016-17 were approved.

B. April 20, 2016 Special Assembly Meeting 2016-18

Hearing no objection, the minutes of the April 20, 2016 Special Assembly Meeting 2016-18 were approved.

C. April 25, 2016 Special Assembly Meeting 2016-19

Hearing no objection, the minutes of the April 25, 2016 Regular Assembly Meeting 2016-19 were approved.

IV. MANAGER'S REQUEST FOR AGENDA CHANGES

Mr. Watt noted a request to move Ordinance 2016-06 up in the agenda.

MOTION, by Gladziszewski, to make Ordinance 2016-06 the first item discussed under Public Hearing. Hearing no objection, it was so ordered.

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

William Leighty requested that the Assembly terminate or postpone the North Douglas Road extension, either by not putting it out to bid, or until postponing the project until there was a better report from the Community Development Department and a master plan for North Douglas. The Assembly should allow public participation on this significant project. The purpose of the road seems to have changed. The original intent was to facilitate a partnership with Goldbelt and CBJ and the alignment of the road has changed. Public money is involved and there is a better use for those funds. There will be significant damage to old growth forest. We do not want to entice people to drive further. It is contrary to our climate change implementation plan because building and using this road extension requires more fuel, and we need to consider the embodied energy in every project - the fuel used to build the road. We need to determine the long term life cycle costs of a pioneer and long term road. He asked the Assembly to begin a North Douglas Master Plan and use the funds more wisely.

VI. CONSENT AGENDA

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

None.

B. Assembly Requests for Consent Agenda Changes

Mr. Kiehl requested that Resolution 2753 and Transfer T-798 Jesse be removed from the consent agenda. Hearing no objection, it was so ordered.

C. Assembly Action

MOTION, by Kiehl, to adopt the consent agenda as amended with the removal of Resolution 2753 and Transfer T-978. Hearing no objection, the consent agenda was adopted as amended.

1. Ordinances for Introduction

- a. Ordinance 2016-15 An Ordinance Amending the Traffic Code Relating to Driver License Violations, and Providing for a Penalty.

This ordinance would amend the Traffic code by making the code sections relating to driving without a valid license and driving with a canceled, suspended or revoked license identical to State law (AS 28.15.011 and 28.15.291, respectively), and by making the penalties to be imposed consistent with State law. With these changes, CBJ code will be in compliance with AS 28.01.010, which provides that the provisions of Title 28, Motor Vehicles, are applicable within all municipalities, and that municipalities may not enact an ordinance inconsistent with Title 28.

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

- b. Ordinance 2016-16 An Ordinance Amending the Official Zoning Map of the City and Borough to Change the Zoning of Lots 26 through 38 and 40A, of Block C, Vintage II Subdivision, Located on Clinton Drive and at 2797 Postal Way, from LC (Light Commercial), to MU (Mixed Use).

In January 2016, the applicant applied to have Lots 26 through 38 and 40A, of Block C, Vintage II Subdivision, located on Clinton Drive and at 2797 Postal Way, rezoned from LC (Light Commercial) to MU (Mixed Use). On March 1, 2016, staff held an informational meeting to discuss the proposed rezoning with all property owners in the affected area.

The area surrounding the lot at issue is zoned LC. There is vacant land, office buildings, and True North Credit Union in the LC surrounding neighborhood, with a D-18 multi-family affordable housing complex east of the proposed rezone.

The Planning Commission, at its regular meeting on April 12, 2016, recommended approval of the proposed rezone to the Assembly.

The rezone from LC to MU conforms to CBJ Land Use Code requirements as follows:

1. The request is more than 2 acres.
2. No similar request has been made in the past year.
3. This request substantially conforms to the land use maps of the 2013 Comprehensive Plan.

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

- c. Ordinance 2016-17 An Ordinance Amending the Uniform Sales Tax Code to Include a Definition for Gross Income.

Finance staff has determined that it is necessary to formally define “gross income” for purposes of the Senior Citizen Sales Tax Hardship Rebate program by including a definition of “gross income” in CBJ 69.05.010.

This definition of gross income will be based on the definition of “gross household income” as found in CBJ 69.10.005 in order to maintain consistency with the CBJ Assessor’s office hardship property tax exemption.

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

- d. Ordinance 2016-18 An Ordinance Repealing and Readopting the City and Borough of Juneau Land Management Plan.

This ordinance repeals the 1999 Land Management Plan and adopts the 2016 Land Management Plan.

The 2016 Land Management Plan provides direction on the best use of City-owned land, continues the land disposal program, promotes compact urban growth and is a comprehensive reference document including maps and tables for all City-owned property.

The Planning Commission reviewed the Plan at the December 22, 2015 meeting and recommended that the Assembly adopt the Plan. On March 14, 2016, the Assembly Committee of the Whole adopted a motion to forward the draft 2016 Land Management Plan to the full Assembly for adoption.

<http://www.juneau.org/lands/documents/DraftLandManagementPlan.pdf>

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

- e. Ordinance 2015-20(AN) An Ordinance Appropriating to the Manager the Sum of \$312,205 as Funding for the Runway Safety Area Construction Capital Improvement Project; Funding Provided by the Juneau International Airport.

The Juneau International Airport Match represents the value of fill material provided by JNU to the Runway Safety Area capital project. The Federal Aviation Administration has authorized the in-kind contribution of fill material to be reported as local match on the CIP. This is the final appropriation of fill material revenues to the project, and will bring the total up to \$2,015,325, as approved by the Federal Aviation Administration (FAA).

The Airport Board approved this action at its April 12, 2016 meeting.

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

- f. Ordinance 2015-20(AO) An Ordinance Transferring \$357,400 from the Fire Service Area, the Roaded Service Area, and the Port Development Fee Fund's Fund Balance to the General Debt Service Fund's Fund Balance.

This ordinance is a housekeeping measure to appropriate \$357,400 to the General Debt Service Fund to cover capital lease payments for bunker gear, in-car video equipment, and payments for port revenue bonds. Funding is provided by the Fire Service Area, the Roaded Service Area, and the Port Development Fee (PDF) Fund's Fund Balance.

In FY15 and FY16 Capital City Fire/Rescue and Juneau Police departmental operating budgets included expenditure budget for the lease payments. The budgeted amounts were lapsed back to fund balance and the lease payments were paid out of the General Debt Service Fund, per Governmental Accounting Standards. This ordinance moves the \$112,600 (FY15 and FY16 were each \$56,300) from fund balances to the General Debt Service Fund and makes it whole.

The FY16 PDF support to General Debt Service for the 2015-II revenue bond payments was underestimated by \$244,800. Sufficient PDF revenues were collected in FY16 to cover the increased debt service payment.

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

- g. Ordinance 2015-20(AP) An Ordinance Appropriating to the Manager the Sum of \$100,000 as Partial Funding for Eaglecrest's 2016 Operating Budget; Funding Provided by the General Fund's Fund Balance and a Restricted Donation from the Eaglecrest Foundation.

This ordinance will transfer \$50,000 from the General Fund's Fund Balance to the Eaglecrest Fund and also add the receipt of \$50,000 in a restricted donation from Eaglecrest Foundation to Eaglecrest Fund.

Due to low snowfall, Eaglecrest revenues were below operating expenditures in FY16. This will bring it to the correct amount.

The Eaglecrest Board approved this action at its April 7, 2016 meeting.

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

- h. Ordinance 2015-20(AQ) An Ordinance Appropriating to the Manager the Sum of \$12,767 as Funding for Seatbelt Enforcement; Grant Funding Provided By the Alaska Department of Transportation and Public Facilities, Alaska Highway Safety Office.

This ordinance would appropriate \$12,766.80 to conduct seatbelt enforcement under the Click It or Ticket High Visibility Enforcement Program. Grant

funding is provided by the State of Alaska, Department of Transportation and Public Facilities, Alaska Highway Safety Office. Funding will cover the cost of overtime and benefits to officers working the grant, as well as the costs associated with vehicle use.

There is no match required for this grant.

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

2. Resolutions

- a. Resolution 2751 A Resolution Reestablishing the Fisheries Development Committee, and Repealing Resolution 2418.

Due to vacant seats on the Fisheries Development Committee (FDC), the committee has had a difficult time in obtaining a quorum for meetings during the past year. The FDC presented its annual report to the Assembly Human Resources Committee on February 29, 2016, at which time they requested the committee membership be changed from a seven-member committee to a five-member committee. The Assembly Human Resources Committee at its meetings of February 29 and April 11, 2016 reviewed this request and recommended adoption of this resolution reducing the membership on the Fisheries Development Committee from seven to five members.

The Manager recommends this resolution be adopted.

- b. Resolution 2755 A Resolution Reestablishing the Juneau Commission on Sustainability, and Repealing Resolution 2718.

The Juneau Commission on Sustainability was originally established through Resolution 2401am on July 9, 2007. The membership of the commission has gone through a number of changes since then with the adoption of Resolutions 2528 (May 19, 2010) and 2718 (March 16, 2015).

Prior to the adoption of Resolution 2718, the commission was made up of nine public members and one voting liaison each from the Assembly and Planning Commission. The purpose of Resolution 2718 was to designate the Assembly and Planning Commission liaisons as non-voting members but it also inadvertently changed the total number of public members from nine to seven. The Juneau Commission on Sustainability has requested this resolution to be drafted to increase their public membership back to a total of nine voting seats along with the two non-voting Assembly and Planning Commission seats.

The Assembly Human Resources Committee, at its meeting on April 11, 2016, requested this resolution be drafted and forwarded to the Assembly for adoption.

The Manager recommends this resolution be adopted.

- c. Resolution 2754 A Resolution De-Appropriating \$110,775 from the Runway Safety Area Capital Improvement Project, Grant Funding was Provided by

Federal Aviation Administration and Alaska Department of Transportation and Public Facilities Grants.

This resolution would de-appropriate \$110,775 from the Runway Safety Area (RSA) CIP, as follows:

Federal Aviation Administration (FAA):

\$107,935

State of Alaska Department of Transportation and Public Facilities

(ADOTPF): \$ 2,840

This de-appropriates one of nine FAA Airport Improvement Program (AIP) grants in the CIP, to the approved final closeout amount. Two grants remain open for continuing expenses on the project, for the closeout of state and federal permit conditions.

The Airport Board approved this action at its April 12, 2016 Meeting.

The Manager recommends this resolution be adopted.

- d. Resolution 2752 A Resolution De-Appropriating \$300,000 from the Airport Operations and Maintenance Department, Funding will be returned to the Airport Fund's Fund Balance.

This resolution would de-appropriate \$300,000 from the Airport Maintenance and Operations Budget.

These funds were recently appropriated to the Airport M&O Budget from the Airport Fund's Fund Balance to pay for roof repairs to the existing Airfield Maintenance Shop Roof. The Airport Board has since recommended the alternate use of Sales Tax funds from the Snow Removal Equipment Facility (SREF) CIP. The Airfield Maintenance Shop currently serves as the SREF.

The Airport's Fund Balance is currently \$3,828,100.

The Airport Board approved this action at its April 1, 2016 Special Meeting.

The Public Works and Facilities Committee approved this action at its April 25, 2016 Meeting.

The Manager recommends this resolution be adopted.

Removed from the Consent Agenda:

- e. Resolution 2753 A Resolution De-Appropriating \$1,893,119 from the Runway Safety Area Capital Improvement Project, Grant Funding was Provided by Federal Aviation Administration and Alaska Department of Transportation and Public Facilities Grants.

This resolution would de-appropriate \$1,893,119 from the Runway Safety Area (RSA) CIP, as follows:

Federal Aviation Administration (FAA AIP 50):

\$1,844,577

State of Alaska Department of Transportation and Public Facilities
(ADOTPF Match): \$ 48,542

This de-appropriates FAA and ADOTPF grants in the amount of disallowed expenses, which resulted from the relocation of the Snow Removal Equipment Facility (SREF) site.

Transfer T-978 has been submitted separately for local Sales Tax funding from the SREF CIP to cover these expenses.

The Airport Board approved this action at its April 12, 2016 meeting.

The Manager recommends this resolution be adopted.

MOTION, by Kiehl, to refer Resolution 2753 to the Committee of the Whole.

Mr. Kiehl said he had a series of questions about the recommendation from the Airport Board, including why sales tax was being used rather than a state grant. The facility was needed, but he would like to look at the full financing plan.

Ms. Troll asked about any timing issues on this action, and any result of delay. Ms. Wahto said she would need to speak with the FAA. This action was discussed in the fall and the airport layout plan was scheduled to be released this spring.

Mr. Nankervis asked if Ms. Wahto could speak to Mr. Kiehl's questions. She said that this amount was brought up at the June 22, 2015 Assembly Committee of the Whole meeting with the Airport Board. The Board was interested in doing a few projects in a general obligation bond package, but were told it was not a good time for that and was directed to proceed with existing funds. That is when the Board formed a subcommittee on the project, airport staff worked with the FAA to determine what was eligible or not for FAA funds.

Hearing no objection, the matter was referred the the Committee of the Whole on May 16.

3. Transfers

- a. Transfer T-978 It is hereby ordered by the Assembly of the City and Borough of Juneau, Alaska, that \$1,893,119 be transferred from the Snow Removal Equipment Facility Capital Improvement Project (CIP) to the Runway Safety Area CIP; funding provided by Temporary Sales Tax.

This transfer would increase the Runway Safety Area (RSA) CIP budget by \$1,893,119, as follows:

SREF CIP Sales Tax budget:
\$1,893,119

This transfer of non-federal (Sales Tax) funds from the Snow Removal Equipment Facility (SREF) CIP, will cover disallowed project costs, which resulted from the relocation of the Snow Removal Equipment Facility (SREF) site which was paid for out of the RSA CIP. Res. 2753 is being presented at this meeting to de-appropriate the FAA AIP grant and DOTPF match.

The Airport Board approved this action at its April 12, 2016 meeting.

The Manager recommends approval of this transfer.

MOTION, by Kiehl, to refer Transfer T-978, to the May 16, 2016 Committee of the Whole meeting. Hearing no objection, it was so ordered.

VII. PUBLIC HEARING

- A. Ordinance 2016-06 An Ordinance Amending Title 40 of the City and Borough Code of Ordinances Relating to Hospitals.

This ordinance would amend Title 40 to make the hospital organization and meeting provisions more consistent with those of other enterprise boards. It removes unnecessary redundancies as well as provisions required to be in medical staff bylaws, and it updates medical staff provisions to reflect the current healthcare industry and to comply with the requirements of The Joint Commission, the Center for Medicare and Medicaid Services, and the Alaska Department of Health and Social Services. This ordinance also brings the BRH personnel rule adoption process into conformity with the general CBJ process for adopting personnel rules.

An Ad Hoc Governance Committee of the Hospital proposed these Title 40 revisions to the Hospital Board, which at its February 23, 2016 meeting approved forwarding the proposed revisions to the Manager for an ordinance to be adopted by the Assembly. This ordinance was referenced at the Special Assembly Meeting - Joint Meeting with Hospital Board on March 14, 2016, and reviewed by the Human Resource Committee at its April 11, 2016 meeting.

The Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Gladziszewski, to adopt Ordinance 2016-06. Hearing no objection, it was so ordered.

- B. Ordinance 2015-38(b) An Ordinance Amending the Land Use Code to Provide for the Regulation of Marijuana Use and Marijuana Establishments, and Providing for a Penalty.

This ordinance would amend the Land Use code to provide for the regulation of marijuana establishments in two ways:

(1) It expands upon the conditional use permit application process by requiring marijuana establishments to provide certain industry-specific information (such as odor, waste, and security plans); and

(2) It establishes certain generally applicable regulations that will apply to all establishments, such as the requirement that certain signs be posted.

In addition to the enforcement options already available under Title 49, the ordinance would require marijuana businesses to obtain a CBJ marijuana business license in

order to operate. In this instance, the license acts as an enforcement mechanism to facilitate voluntary compliance with the new regulations.

The Assembly sitting as the Committee of the Whole reviewed the ordinance at its April 4, 2016, meeting. The changes recommended by the Committee of the Whole appear as the italicized in version (b) of the ordinance.

The Manager recommends this ordinance be adopted as amended by the Committee of the Whole at its April 4, 2016 meeting.

Public Comment:

Shawn Cone said he has discussed this ordinance with many of his neighbors and most were not aware of the changes to zoning in the area until after it was done. This will be the only place in the United States that commercial marijuana uses will be allowed in a residential area. Such precedent setting legislation deserves more public notice, such as direct mailers. CBJ would be advised to have a mechanism for revocation of this ordinance in the event that this use becomes incompatible with residential use. He encouraged the Assembly to adopt that this is an accessory use and it must not be allowed to be a stand alone operation without being subsidiary to a residence on the property.

Jim Hildre spoke about his concern regarding marijuana cultivation in Industrial and Commercial zones. He said there should be a similar accessory apartment on the premises of that type of marijuana operation.

Mitch Knottingham said he has a pre-application meeting for his marijuana cultivation conditional use permit soon and has done significant work and made significant investment in his business to date. They planned to use an existing garage that is 12 feet from the side property line and 20 feet from the front property line and explained how the proposed 25 foot set backs could not be met. They are not able to build a new building on the site. He expressed concerns about changing rules and that ever-changing rules were a disincentive to business. He asked the Assembly to allow for these businesses to start and see how things go.

Lisa Cone said she felt strongly that the individuals that are going to have marijuana establishments in D-1 should live on the property.

Benjamin Wilcox said that Juneau was not the only place that would allow marijuana cultivation in a residential zone and said that Oregon allowed persons with medical marijuana permits to grow their own crops on their property and to introduce their products into the market. He spoke against additional regulations and read from an email he sent to the Assembly quoting John Ehrlichman and the history of criminalizing marijuana and heroin.

Tom Kawakami said he lives in North Douglas and his concerns were personal. He has three teenage children. He has heard the Assembly say the majority want this, but if a decision affects 10% or more of the people in the area, that is a concern. He said he was sure he could get significant signatures on a petition. He bought property, built his house with most of his savings, and now this use will be allowed because a "majority" wants this. He asked how the minority is represented and for the Assembly to amend this ordinance at least to require a homeowner to live on the site of this activity.

Assembly Action:

MOTION, by Kiehl, to adopt Ordinance 2015-38(b).

Mr. Kiehl said this version of the ordinance included the requirement that in D-1 residential zoning a marijuana grow can only be an accessory use to a residence and that an owner or operator must live on site.

MOTION, by Jones, to amend by adding, in 49.65.1145 (c) on page 9, line 5, after the word law, to delete the period and add "or designed to mitigate impacts of the development on surrounding residences."

He said he was familiar with the marijuana establishment that Mr. Hildre spoke about in public testimony and said currently in industrial zoning, a residence has to be incidental to the use of the property and is considered a caretaker. He would like to send a message to CDD that the impact of this type of cultivation or retail facility impacts residences close by and to allow the Planning Commission to be able to add conditions to mitigate any impacts.

Ms. Gladziszewski objected if this amendment referred to industrial zones. Industrial zones are zoned for industrial uses and one residence per property was allowed but they were considered caretaker residences. Industry is a primary use and it is the expectation that Industrial zoning is the place for the smelliest, loudest uses.

Mr. Jones said that CBJ 49.15.330(g) was a list of conditions for all zoning districts and said that CDD needed some ability to address impacts.

Mr. Kiehl said that CBJ 49.15.330(f) allowed conditions based on health, safety and neighborhood harmony and seemed to address Mr. Hildre's concern. Ms. Mead said that the motion does not add to or increase CDD's or the Planning Commission's discretion. She said the motion was a "highlighter" to call attention to existing law.

Ms. Troll supported the motion to address public concerns as an appropriate refinement.

Ms. Gladziszewski said grandfathered uses were difficult, however, industrial zones were for industrial uses and those needed to be protected.

Roll call

Aye: Becker, Bursell, Jones, Troll, Koelsch

Nay: Gladziszewski, Kiehl, Nankervis, White

Motion passed, 5 aye, 4 nay.

Mr. Nankervis spoke about his opposition to the ordinance. He opposed requiring a separate business license for a marijuana establishment. He opposed having a requirement that the ordinance be reviewed every five years, as this was not the norm for ordinances. The industry could be regulated through the conditional use permit process.

Ms. Troll supported the ordinance and said it tried to strike a balance and was based upon community input by adding in the provision that people need to live on site, by adding the setbacks, and in licensing as an enforcement tool. It is a new venture for the community and we are proceeding cautiously. We are honoring the vote of the majority of the voters and we are trying to figure out how to make this work.

Ms. White said every change to the ordinances added another layer of complexity and she had concerns about a local license. She felt this would lead to requiring business licenses for all businesses. She said too much time had been spent on this topic and continual changes were leading to instability and frustration on the part of the public.

Ms. Gladziszewski said significant time was needed to respond to a new industry. The license was a tool. She supported the ordinance and if this ordinance was not passed the Assembly would be back to the drawing board, requiring even more time.

Ms. Becker did not support the ordinance. The Assembly had tried to make corrections however she could not support the allowance of the marijuana cultivation in D-1 zoning. The time needed to craft an ordinance was needed, however, re-reviewing and changing ordinances changed the playing field for those in the business and the Assembly needed to get it right the first time.

Mr. Kiehl supported the ordinance. The businesses were legal in the state and the state had a solid package of regulations, the city had good zoning rules and this local license was an important tool for compliance. He reiterated that the requirement for an owner or manager to live on site in version (b) was only required in the D-1 zoning outside of the urban service boundary. He offered examples of other businesses that would be required to apply for a conditional use permit in a D-1 residential zone and how the Planning Commission might act on those permits. He urged passage of the ordinance.

Roll call:

Aye: Bursell, Jones, Gladziszewski, Kiehl, Troll, White, Koelsch

Nay: Becker, Nankervis

Motion passed, 7 ayes, 2 nays. Ordinance 2015-38(b) was adopted as amended.

C. Ordinance 2016-11(b) An Ordinance Amending Title 11 of the City and Borough of Juneau Code of Ordinances Relating to the Filling of Vacancies on the Assembly.

Upon the succession of the deputy mayor to the office of mayor in November 2015, it became apparent that an amendment to Title 11, establishing a process for mayoral succession and making other clarifying changes, would be appropriate. This ordinance amends Title 11 with respect to the filling of vacancies on the assembly as follows:

1. It provides that in the event of a vacancy in the office of mayor, the deputy mayor would succeed to the mayoral office.
2. It specifies that if a vacancy in the office of mayor occurs with more than eight months before the next regular election, that a special election would be called.
3. It would require that upon the succession of deputy mayor to the office of mayor, the Assembly fill the vacancy left by the deputy mayor's succession by majority vote.
4. It provides that the deputy mayor may return to his or her seat once a new mayor is elected.
5. It amends current code to delete the provision allowing the assembly to call a special election to fill a vacancy other than a mayoral vacancy.

At the March 14, 2016 Committee of the Whole meeting, the Assembly considered Ordinance 2016-11, suggesting a number of changes to the ordinance. Those changes were made and are reflected in version (b) of the ordinance. Included in your packet is a memorandum from the City Attorney dated April 5, 2016, with a marked-up copy of version (b) showing the changes made by the C.O.W. in italics. The ordinance for public hearing is a "clean copy" of version (b).

The Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Bursell, to adopt Ordinance 2016-11(b).

MOTION, by Gladziszewski, to amend in Section 2 (b) to add the words "or if the mayoral term to be filled will end with the next regular election," after "If a vacancy in the office of mayor occurs within eight months before a regular election,..." and in Section 2 (c) to add a last sentence, "This subsection shall not apply if the mayoral term to be filled will end with the next regular election."

Ms. White objected to the delivery of a long amendment at the meeting after significant discussion had taken place.

Mayor Koelsch objected.

Roll call:

Aye: Becker, Bursell, Jones, Gladziszewski, Kiehl, Nankervis, Troll, White

Nay: Koelsch

Motion passed 8 aye, 1 nay.

Ms. White said she objected to the requirement to hold a special election and said it was unnecessary work for the Assembly and staff. If this ordinance cleared the ambiguity, she would support this to avoid a bad situation.

Ms. Becker asked if the deputy mayor was returning to the seat of Assemblymember of of deputy mayor upon the election of a new mayor. Ms. Mead said the drafting intent was to return to the Assembly seat because a person is elected to the Assembly seat and not elected to a deputy mayor seat. The election of a deputy mayor is done after an election, per the charter, so there is not an automatic return.

Mr. Nankervis supported the adoption of the ordinance.

Roll call:

Aye: Bursell, Jones, Gladziszewski, Kiehl, Nankervis, Troll, White

Nay: Becker, Koelsch

Motion passed, 7 ayes, 2 nays.

- D. Ordinance 2016-12 An Ordinance Authorizing the Manager to Lease Office Space in the Juneau Medical Center Building at 3268 Hospital Drive to the Bartlett Regional Hospital Foundation.

At its joint meeting on March 14, 2016, the BRH Board recommended to the Assembly that the Assembly support a proposed lease agreement between the CBJ and the Bartlett Regional Hospital Foundation for the lease of administrative space in the Juneau Medical Center building for less than fair market value. The Board proposed a \$1.00 per year lease payment, in accordance with CBJ 53.02.270(b) given the Foundation's role in providing resources to enhance and support quality health care for the community. This ordinance would authorize the negotiation and execution of a lease to the Foundation consistent with the Board's recommendation.

The Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Gladziszewski, to adopt Ordinance 2016-12. Hearing no objection, it was so ordered.

- E. Ordinance 2016-13 An Ordinance Authorizing the Manager to Negotiate and Execute a Lease with the Juneau Arts and Humanities Council for the Use of the Juneau Arts and Culture Center Building.

CBJ 59.09.270 authorizes the lease of City and Borough land for less than fair market value when the property is to be used for the purpose of providing a service to the public which could or should reasonably be provided by the state or the City and Borough. The CBJ first leased the former National Guard Armory (renamed the Juneau Arts and Cultural Center or JACC) to the Juneau Arts and Humanities Council (the JAHC) in 2007. The purpose was to alleviate a "chronic need for performance and exhibit space" and to allow the JAHC to manage the facility as a community arts facility. The JAHC has provided that service to the CBJ ever since. We estimate the current fair market value lease for the JACC would be \$290,000 annually.

The following lease requirements remain as provided for in the original 2007 lease agreement: the provision that the monthly rental amount be equal to the CBJ's actual expenses for building maintenance services, that the JAHC remains responsible for all utilities, landscaping, snow removal, and any sales or property tax required by law, that the premises be used for the public purpose of providing a community arts facility and that user fees charged by the JAHC be agreed upon and pre-approved by the CBJ.

This ordinance makes a change to the original lease terms regarding subleasing, allowing the JAHC to enter into sublease arrangements with vendors when the purpose of the sublease is to either provide the community with a service related to the public use of the facility, or where the sublease is designed to increase community awareness of, and visitation to, the facility. Sublease agreements must be pre-approved by the CBJ. Sublease rents would be held by the JAHC in trust for the CBJ, and remitted on an annual basis. This ordinance specifies that it is the intent that the CBJ use these funds for deferred maintenance of the facility, subject to appropriation for that purpose.

On April 13, 2016 the Finance Committee reviewed the terms of the proposed lease and forwarded it to the full Assembly for approval.

The Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Troll, to adopt Ordinance 2016-13. Hearing no objection, it was so ordered.

- F. Ordinance 2016-14 An Ordinance Amending the Land Use Code Relating to Senior Housing and Assisted Living Facilities.

The purpose of this ordinance is to update the Table of Minimum Space and Parking Standards (TMP) in Title 49 in light of recent changes made to the Table of Permissible Uses, and to update the parking requirements such that they more accurately reflect the parking needs presented by senior housing and assisted living facilities:

1. The ordinance establishes parking standards for “assisted living facilities,” a use recently added to the Table of Permissible Uses.
2. It defines “senior housing,” and establishes parking standards for that use, which, although similar in concept to a multi-family house, has parking requirements that significantly differ.
3. The ordinance would delete “convalescent home” from the table establishing parking standards, as it no longer exists as a use in the Table of Permissible Uses.

On March 8, 2016, the Planning Commission adopted the analysis and findings listed in the Community Development Department’s staff report dated February 26, 2016, and recommended that the City and Borough Assembly adopt staff’s recommendation for approval.

The Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by White, to adopt Ordinance 2016-14.

Mr. Kiehl asked if 4/10 of a parking spot per resident times the maximum number of residents was the parking requirement. Ms. Mead said that was correct.

Hearing no objection, it was so ordered.

- G. Ordinance 2015-20(AL) An Appropriation Transferring to the Manager the Sum of \$50,000 as Funding for the Law Department; Funding Provided by the Open Space Waterfront Land Acquisition Capital Improvement Project.

This ordinance would transfer \$50,000 from the Open Space Waterfront Land Acquisition Capital Improvement Project to the Law Department.

The funding is needed for legal representation in the recently filed case: CRUISE LINES INTERNATIONAL ASSOCIATION ALASKA, and CRUISE LINES

INTERNATIONAL ASSOCIATION v. THE CITY AND BOROUGH OF JUNEAU, ALASKA, a municipal corporation, BOB BARTHOLOMEW, in his official capacity as Finance Director, KEN KOELSCH, in his official capacity as Mayor, and KIMBERLY A. KIEFER, in her official capacity as City Manager.

The Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Nankervis, to adopt Ordinance 2015-20(AL).

Mayor Koelsch objected.

Roll call:

Aye: Becker, Bursell, Jones, Gladziszewski, Kiehl, Nankervis, Troll, White

Nay: Koelsch

Motion passed 8 aye, 1 nay.

- H. Ordinance 2015-20(AM) An Ordinance Appropriating to the Manager the Sum of \$200,000 as Funding for the Stabler Quarry Infrastructure and Expansion Capital Improvement Project; Funding Provided by the Land Fund's Fund Balance.

This appropriation will create a new Capital Improvement Project called Stabler Quarry Infrastructure and Expansion to fund the expansion and deferred maintenance at the Stabler Point Rock Quarry. The funding will come from the Land Fund's Fund Balance in the amount of \$200,000 and is necessary for two reasons:

- An exponential increase of use of quarry materials over the past year, which has triggered the need for additional maintenance and preparation for quarry expansion.
- There was no three month winter shutdown this past winter as is typical in most winters, creating additional burden on the quarry infrastructure.

After this ordinance is adopted the Land Fund's Fund Balance will be \$3,014,765.

This ordinance was recommended for adoption by the Public Works and Facilities Committee at its April 25, 2016 meeting.

The Manager recommends this ordinance be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Gladziszewski, to adopt Ordinance 2015-30(AM).

Ms. Becker asked if the \$200,000 would fund expansion and address deferred maintenance. Mr. Watt said it would pay for quarry expansion and not for consultant work.

Hearing no objection, it was so ordered.

VIII. UNFINISHED BUSINESS

None.

IX. NEW BUSINESS

A. Contract Amendment for Statter Harbor Phase III

PND Engineers, Inc. was selected through an RFP process for Statter Harbor improvements identified in the Statter Harbor Master Plan. A provision of the RFP allowed the option to extend services to design, bid and construct those improvements. Phase III of the master plan would construct a charter float facility, associated upland staging area, seawalk, landscaping, restrooms and shelter structure, kayak launch ramp, and other community amenities. The conceptual design and public involvement stage of the project has been completed.

This contract amendment is to proceed with activities that generate information needed for design and permitting requirements including surveying, geotechnical investigations, environmental testing, schematic design and permit applications. PND has proposed professional services fees in the amount of \$296,103 for work. Payment would be on a time and materials basis to a maximum amount. This work is necessary for the next steps toward the completion of this project.

This contract amendment is scheduled to be reviewed and considered by the Docks and Harbors Board at its regular public meeting on April 28, 2016.

The Manager recommends this amendment be approved.

Public Comment: None.

Assembly Action:

MOTION, by Nankervis, to approve the contract amendment with PND for construction administration and inspection services related to the fabrication and construction phase of the Douglas Harbor Re-Build Phase III in the amount of \$303,570 on a time and materials basis.

Ms. Troll asked about the recommendation of the Docks and Harbors Board and Mr. Uchytel indicated that the board supported the amendment.

Hearing no objection, it was so ordered.

B. Contract Amendment for Douglas Harbor Re-Build Phase III

The rebuild of the south portion of Douglas Harbor is the next and final phase of work of the three-phase project. Phase I, demolition of the existing infrastructure, funded by CBJ Docks and Harbors, was completed in October 2015. Phase II, dredging of the harbor floor, funded by the Army Corps of Engineers, was completed March 1, 2016.

Phase III will install new infrastructure including new floats, electrical, water, and fire suppression systems. The work has been awarded to Trucano Construction through competitive bid and will begin immediately with fabrication of components for the project. On-site work is scheduled to begin in September 2016 with completion by March 31, 2017.

PND Engineers was selected through an RFP process to provide professional engineering services for the Old Douglas Harbor Re-Build project and has completed Phase I and Phase III design and bid documents.

This contract amendment includes services for construction administration and inspections services related to the fabrication and construction phase of the project. PND Engineers has proposed a fee amount of \$303,570 on a time and materials basis for this phase of the work.

The Docks and Harbors Board is scheduled to review this fee proposal at its regular meeting on April 28, 2016.

The Manager recommends this amendment be approved.

Public Comment: None.

Assembly Action:

MOTION, by Nankervis, to approve the contract amendment for PND for design and permitting requirement work in the amount of \$296,103 on a time and materials basis for the Statter Harbor Phase III project. Hearing no objection, it was so ordered.

C. Regulation Juneau International Airport Rates and Fees Amendments

Title 07, Chapter 10 Juneau International Airport Rates and Fees

In response to a projected budget deficit for FY17 and beyond, the Airport has adjusted its rates and fees to help offset the shortfall. Rates and fees are established through the Airport's financial model.

Rate increases are proposed in the following revenue categories: aircraft Fuel Flowage Fees for small commercial and general aviation aircraft, large aircraft Landing Fees, and Airline Fee for Airport Security Screening. The anticipated increase to annual revenues for FY 17 is \$218,400. A detailed description of the rates and fees regulation changes is addressed in the fiscal note accompanying the regulation.

The Airport received comments from the CBJ Law Department which were strictly grammatical. No further public comments were received during the public comment period from April 5, 2016 through April 26, 2016. The Board approved the proposed Rates and Fees Regulation (as presented) at the April 27, 2016, Airport Board meeting.

The Airline Fee for Airport Security Screening is scheduled to increase May 1, 2016, with the remainder of the Airport Rates and Fees Regulation changes scheduled to take effect July 1, 2016.

Public Comment: None.

Assembly Action:

MOTION, by Jones, for orders of the day, to allow the regulations of the Juneau International Rates and Fees Title 07, Chapter 10, to become effective July 1, 2016.

Mr. Nankervis about the increase on May 1, effective July 1 and the effective date. Ms. Wahto said that the airlines (Alaska and Delta) requested the date of May 1.

Hearing no objection, it was so ordered.

X. STAFF REPORTS

A. Report on Availability of Statter Harbor NOAA Property

Mr. Watt said the General Services Administration has advised CBJ that the NOAA property at Statter Harbor is available for surplus. The Docks and Harbors Board is interested and UAS is also interested. This is information only at time this time for the Assembly. The Docks and Harbors Board does not have the authority to obtain property on its own, and at this time has only submitted a letter of interest.

Ms. Troll said she did not object, however, she did not want to get into a competition with the University and said there was a way to share interests in this area. She has spoken to the City Manager and said he grasped the idea of compatibility.

Mr. Uchytel said on April 20 he received an email informing him that the old NOAA lab was available and there is a Port Conveyance program, which offered less than ten days to decide if the Board was interested in maintaining its ability to pursue the property and the letter of interest says that CBJ would be interested in the facility for economic development. At the time he spoke to the UAA facilities manager he was told they were not interested but this is new information. Essentially Docks and Harbors has thrown its hat in the ring.

B. Supplemental Agreement to Whittier Street Reconstruction for City Hall - Library Fiber Optic Conduit Installation

Mr. Watt advised the Assembly of a supplemental agreement for installation of conduit and fiber optic cable from City Hall to the downtown library. A supplemental agreement was an amendment to a contract that is not inside the scope of the original contract. The manager has the authority under some circumstances to award supplemental agreements and a duty to report to the Assembly when that has happened, provided that there is a finding that the agreement is in the public interest. We need better connectivity between the library and City Hall for communication needs, and this includes cutting the pavement before the tourism season starts and this type of work is not suited to low bid - it requires good traffic control and management of the state road. We awarded a supplemental agreement in the range of \$55,000-65,000 to the Whittier Street contractor, which is already mobilized and coordinating with DOTPF and has access to asphalt, etc.

Mr. Kiehl asked the source of the funds for the work. Mr. Watt said it was sales tax already allocated to a CIP for information technology.

XI. ASSEMBLY REPORTS

A. Mayor's Report

Mayor Koelsch reported on communications and the meetings and events he has attended.

B. Committee Reports

Committee of the Whole: Chair Kiehl said the COW met and received an update on the economic development plan, a refresher on Assembly goals and held an executive session exit interview with Kim Kiefer. The next meeting is set for May 16.

Assembly / School Board Facilities Committee: Chair Becker said that Nathan Coffee is now the project manager for the CIP assigned to the RFP for selection of a consultant for the project. The next meeting would be set after the selection process is complete.

Finance Committee: Chair Nankervis said the committee met on April 27 and heard several reports. The next meeting was set for May 4 at approximately 6pm, and immediately following the HRC meeting at 5 pm.

Public Works and Facilities Committee: Chair Gladziszewski said the committee met and heard about Stephen Richards and Riverside Drive traffic control from DOTPF and discussed Dunn St. again. The committee asked the manager to work with property owners there one more time. They also heard a report from the Juneau Ocean Center. The next meeting was set for May 16.

Lands Committee: Chair Troll said the committee met on April 25 and the focus was on the development of the Renninger Subdivision. The next meeting was set for May 16.

Human Resources Committee: Chair Jones said the committee met prior to this Assembly meeting.

MOTION, by Jones, to accept the HRC recommendations and make the following board appointments:

Board of Equalization: Barbara Sheinberg for a term expiring December 31, 2018.

Friends of the Flag Committee: Though established by resolution in 2000, no board appointments had ever been made by the Assembly. Initial appointments for staggered terms as follows:

Judith Ripley, Bruce Botelho and James Carroll for terms expiring April 30, 2019
Eric Peter for a term expiring April 30, 2018
Tom Gill for a term expiring April 30, 2017.

Mr. Jones said HRC would continue to investigate operational issues and insurance status with the Friends of the Flag Committee.

Mr. Jones said the HRC also reviewed a Memorandum of Agreement with the Juneau Community Foundation regarding social service grants and without objection the matter was referred to the Finance Committee.

Mr. Jones provided the following meeting schedule:

May 4 Full Assembly/HRC - interviews for the Planning Commission.

June 15 Full Assembly/HRC - interviews for the Aquatics and Docks and Harbors Boards.
June 20 Full Assembly/HRC - interviews for the Airport and Eaglecrest Boards.

C. Liaison Reports

UAS Campus Council: Liaison Kiehl said the next meeting was set for May 9.

School Board: Liaison Kiehl said the next meeting was set for May 3.

Juneau Convention and Visitors Bureau: Liaison White said the tourism season has begun.

Aquatics Board: Liaison White said the board is a cohesive and cooperative group, which would like to meet with the Assembly after the budget is adopted. The next meeting is set for May 24.

Planning Commission: Liaison White said that Ben Haight is currently serving as chair and is doing a very professional job. The next meeting is set for May 10.

Chamber of Commerce: Liaison Becker said Mr. Watt would speak to the Chamber at its meeting on May 5.

Southeast Conference: Liaison Becker said the group is working on support for the Alaska Marine Highway System in a sustainable manner.

Alaska Committee: Liaison Becker referred to an Assembly decision to increase the budget to the Alaska Committee. Sealaska has made a \$1000 donation to the Alaska Committee and the committee was working on website and Facebook updates.

Juneau Afterschool Coalition: Liaison Becker said the next meeting was May 4 to review 2016 programs and summer offerings.

Docks and Harbors Board: Liaison Nankervis said the board met and was pursuing a clean harbor rating, was accepting used gill nets for recycling in conjunction with the EPW waste management program, Statter Harbor Phase II is set for completion in August, the Maritime Festival was set for May 7 to begin with the Blessing of the Fleet at 10 am, and he thanked Bob Clauder upon his retirement after 34 years from harbors.

Hospital Board: Liaison Gladziszewski said the board met - Chuck Bill and Amy Mead are working on revised model for legal services and Jane Sebens has accepted position largely based out of hospital. The operating room remodel project was discussed. The board discussed Bartlett's role regarding the community opiate addiction, substance abuse and mental health issues and formed an ad hoc committee on the topic. The hospital held an annual employee award dinner recently. The next meeting was set for May 24.

Affordable Housing Commission: Liaison Troll said the AHC held a retreat and adoption of the Housing Action Plan, secure funding for implementation the housing plan initiatives and clear paths for private development are their top goals. The next meeting tomorrow is set for May 3.

Juneau Commission on Sustainability: Liaison Troll said the JCOS met and was making progress on the energy plan and was hopeful for a final plan to go out for public comments in near future.

Juneau Economic Development Council: Liaison Troll said the next meeting was May 4.

Eaglecrest Board: Liaison Bursell said the regular meeting for this week would be rescheduled to May 24 or May 25, to be set. The Board is working on its sustainability plan and keeping operations lean.

Local Emergency Planning Committee: Liaison Bursell said the next meeting was set for May 11. Some of the committee are installing smoke alarms at no charge in local homes.

Commission on Aging: Liaison Jones said the next meeting was set for May 12.

Airport Board: Liaison Jones said the next meeting was set for May 10.

Downtown Business Association: Liaison Jones said DBJ met with JPD and Goldbelt Security's downtown ambassadors to discuss summertime logistics. There will be good coverage in the downtown area with retired police officer and community service officers adding to the regular police patrol. Some DBA members are attending the "Main Street USA" program regarding downtown revitalization. The next meeting was set for May 24.

D. Presiding Officer Reports

None.

XII. ASSEMBLY COMMENTS AND QUESTIONS

Ms. Becker said she attended the UAS Honorary Degree dinner and Ed Thomas, Sandro Lane and Peter Freer were awarded honorary degrees. She also attended a Juneau Federal Employees Recognition award luncheon at Mt. Roberts Tram. She attended a JEDC meeting to discuss the economic development plan with partners JCVB, Chamber, SEC, Alaska Committee and Mr. Watt gave an update on work done by CBJ so far. There was agreement from all partners to participate in the plan.

Ms. Troll said when an item on the Assembly's agenda is forwarded from the Planning Commission, she would like the relevant excerpt of the Planning Commission minutes included in the Assembly packet. She also encouraged people to attend the Juneau Jazz and Classics performances beginning soon.

Ms. Gladziszewski asked about a comment in the newspaper about the action of the Assembly / School Board Facilities Committee that there was an agreement to spend \$300,000 on a consultant. Mr. Watt said the Assembly appropriated \$300,000 towards that effort and the committee discussed the dollar amount and agreed to put out a solicitation to hire services. He thought there would be an initial contract amount well below that amount to amass data and information from the school district to draft an initial report, and depending on the information need, the amount could rise. \$300,000 was the upside for the project. Mr. Nankervis said the discussion was \$100 - 150,000 for a consultant.

Mr. Kiehl reported on the DOTPF project for Egan from 10th to Main and it was noted that the flag holders on the street lights will need to be protected or replaced. He invited people to the 50th celebration of Arbor Day in Juneau on May 16 at Noon at the City Museum. He attended a retirement service for David Wrightson following a full career with JPD. Mr. Kiehl reported

on his attendance at the 45th UAS Commencement Ceremony and said it was kicked off with a Tlingit entrance song.

XIII. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

None.

XIV. EXECUTIVE SESSION

MOTION, by Kiehl, to enter into an executive session to discuss two matter, the immediate knowledge of which could have a detrimental affect on the finances of the City and Borough of Juneau, specifically an update on Cruise Lines of Alaska lawsuit and the property at 3101 Nowell Ave.

Hearing no objection, the Assembly entered executive session at 9:52 p.m. and returned to regular session at 10:40 p.m.

Upon returning to regular session, Mr. Keihl said that the Assembly heard and update from and provided direction to staff on the two subjects of the executive session.

A. Update from City Attorney on CLIA et al v. CBJ Lawsuit

B. Update from Attorney on Nowell Avenue Property

XV. ADJOURNMENT

There being no further business to come before the Assembly, the meeting adjourned at 10:41 p.m.

Signed: _____
Laurie Sica, Municipal Clerk

Signed: _____
Kendell D. Koelsch, Mayor

XVI. SUPPLEMENTAL MATERIALS