THE CITY AND BOROUGH OF JUNEAU, ALASKA

Meeting Minutes - February 29, 2016

MEETING NO. 2016-12: 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 Mary Becker.

I. ROLL CALL

Assembly Present: Mary Becker, Jamie Bursell, Maria Gladziszewski, Loren Jones (teleconference), Jesse Kiehl, Jerry Nankervis, Barbara Sheinberg and Debbie White.

Assembly Absent: Kate Troll.

Staff Present: Kim Kiefer, City Manager; Mila Cosgrove, Deputy City Manager; Amy Mead, Municipal Attorney; Laurie Sica, Municipal Clerk; Rorie Watt, Engineering and Public Works Director; Beth McEwen, Deputy Clerk; Bob Bartholomew, Finance Director; Patricia DeLaBruere, Airport Manager; and Carl Uchytil, Port Director.

II. SPECIAL ORDER OF BUSINESS

A. Introduction of Honorary Mayors: Mayette Peralta from Yaakoosge Daakahidi and Kevin Allen from Thunder Mountain High School

Mayor Becker introduced both Honorary Mayors, Mayette Peralta, representing YaaKoosge DaakaHidi High School, and Kevin Allen, representing Thunder Mountain High School. She said they visited many sites in the city including the airport and the sewer plant and learned a lot.

B. Introduction of Exchange Students from the Rotary, YES, AFS, and AMICUS programs

Susan Baxter welcomed the Rotary Exchange Students Marcellin Niset of Belgium, Florian Tanzyna of Germany, Muhammad "Rifqi" Zulfahmi of Indonesia, and Kopano Maje of South Africa: YES Students Lena Okasha of Egypt, Veysel Kazanzi of Turkey and Yara Dgheish of Palestine; AFS Students Sesar Hersisson of Iceland and Fadhilah Latupono of Indonesia; and AMICUS student Rosa Hagedor of Germany. Each student took turns speaking to the Assembly about things they enjoyed or had learned.

III. APPROVAL OF MINUTES

None.

IV. MANAGER'S REQUEST FOR AGENDA CHANGES

None.

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Tom Dawson said he wished to share the personal choices he has been making since the implementation of the changes to the senior sales taxes and the affect of those changes upon his fixed income. He avoids local shopping in favor of the internet and receives goods from family in Seattle. He thanks the local businesses that have been offering discounts to seniors and veterans following implementation of the ordinance. He has been reserving his volunteer donations and service to those groups outside of Juneau and will leave support of the local groups to wealthier Juneau residents. This action has been harmful and disrespectful. He asked the Assembly to reconsider its action.

John Nemeth was concerned about Ordinance 2015-38, said he partially supported this ordinance and wanted businesses to obey the rules. His operations will be up to the highest standard and thought the local license was unnecesary. He asked the Assembly to not require a CBJ license or to change the wording so that a federal violation is not grounds for losing a license.

Fred Hiltner, said he had heard no testimony as to why it is a good idea to allow commercial marijuana cultivation in residential zones. Juneau citizens are speaking out and it is time to repeal this decision. CBJ ordinances are not complete. He asked the Assembly to stay all permitting until the rules are all finished. The PC can hold applications for a reasonable period of time.

Ms. White asked the location of the hundreds of acres of industrial land available he said were available. Mr. Hiltner said they could be found on a zoning map. He said every property is available for a price. He would expect that buyers would invest in property in the industrial areas and would not move into residential areas to save money.

Kaja Brix, spoke about the petition concerns about commercial and industrial marijuana in residential areas. We have appreciated the dialogue with individual assemblymembers and we are reaching out to work with growers in the community. We have 100 signatures on our petition, borough wide and from other southeast communities.

Bruce Denton read an announcement that was made by the Mayor B.D. Stewart in April 21, 1916, announcing the inauguration of a city wide cleanup and that in honor of 100 years since that time several groups were cooperating to do a series of cleanups, including Downtown Improvement Group downtown cleanup on April 15, SEAL Trust wetlands cleanup on April 23, and Litter Free Community-wide cleanup on April 30.

Merry Ellefson said she was happy that Scott Ciambor was hired as the new CBJ Housing Director. He is comprehensive, detailed and competent and she encouraged the Assembly to allow him to work on a plan for North Douglas.

VI. CONSENT AGENDA

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

None.

B. Assembly Requests for Consent Agenda Changes

Ms. White requested the removal of Resolution 2744.

C. Assembly Action

<u>MOTION</u>, by Kiehl, to adopt the consent agenda. Hearing no objections, the consent agenda was adopted.

1. Ordinances for Introduction

   a. Ordinance 2016-04 An Ordinance Authorizing a Loan in an Amount Not to Exceed $2,750,000 from the Central Treasury to the Capital Transit Maintenance Shop Renovation and Addition (CIP D71-085) for the Purpose of Providing Interim Financing.

      CBJ 57.05.045 authorizes short term loans from the central treasury to specified funds for the purpose of facilitating capital acquisitions upon approval of the assembly by ordinance. This ordinance would authorize such a loan from the central treasure to CIP D71-085 for the capital transit maintenance shop remodel.

      The remodeling project will be ready to bid in March 2016, but is not scheduled to receive the remainder of its funding until July 1, 2016. In order to authorize the award of a bid, there must be sufficient funds in the CIP. If we wait until funding is received, the project will lose a construction season, resulting in inflationary cost increases.

      This ordinance would therefore bind the Assembly to the appropriation of the funds three months early. The risk in doing so is that the Assembly will not have the ability to reprogram these funds to another purpose during this three month period. However, given that the facility is in substantial need of renovation, that a rational construction schedule is in the public interest, and that the funds have been programmed for some time, it is reasonable and prudent to authorize the loan.

      During a meeting on February 1, 2016, the PWFC heard and forwarded this request to the Assembly.

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

   b. Ordinance 2015-20(AH) An Ordinance Appropriating to the Manager the Sum of $12,500 as Funding to Provide for Commercial Motor Vehicle Inspections by the Juneau Police Department; Grant Funding Provided by the Alaska Department of Transportation and Public Facilities.

      These inspections are intended to determine the appropriateness of driver credentials as well as road worthiness of commercial vehicles with the ultimate goal of improving commercial vehicle safety in Juneau.

      There is no match requirement for this grant.

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

c. Ordinance 2015-20(AI) An Ordinance Appropriating to the Manager the Sum of $300,000 as Funding for the Airport Maintenance Shop Roof; Funding Provided by the Juneau International Airport Fund's Fund Balance.

Funding is provided as follows:

Juneau International Airport Fund's Fund Balance	$300,000

The project will consist of a complete reconstruction of the shop roof, which leaks badly. An investigation into the condition of the roof, by Jensen Yorba Lott, Inc., indicates that further patching will not be adequate.

The Airport Board approved this action at its June 10, 2015 meeting.

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

2. Resolutions

a. Resolution 2745 A Resolution Authorizing the Manager to Apply for and Enter Into a Loan Agreement with the State of Alaska Department of Environmental Conservation Through its Alaska Clean Water Fund for the Juneau Douglas Wastewater Treatment Plant Upgrades Project.

The $2 million loan authorized by this resolution would facilitate the Juneau Douglas Treatment Plant Upgrades project. The purpose of the project is to make major repairs and improvements to the 45 year old infrastructure, which has outlived its useful life. This action was reviewed and forwarded to the full Assembly by the Public Works and Facilities Committee at its January 4, 2016, meeting.

The Manager recommends this resolution be adopted.

3. Bid Award

a. BID E16-151 Whittier Street Reconstruction

This project consists of reconstruction of Whittier Street from Willoughby Avenue through the intersection of Egan Drive and miscellaneous items of work.

Bids were opened on February 9, 2016. The protest period ended on February 10, 2016. Results of the bid opening are as follows:

Bidders	Total Bid
Arete Construction Corp.	$1,016,530.60
Miller Construction Co.	$1,074,323.65
Admiralty Construction, Inc.	$1,131,191.00
Glacier State Contractors, Inc.	$1,256,426.50
Coastal Excavation	$1,341,483.00
Enco Alaska	$1,346,262.00
Engineer's Estimate	$1,233,620.50

The Manager recommends award of this project to Arete Construction Corporation for the total bid amount of $1,016,530.60.

b. BID DH16-001 Douglas Harbor Renovation

This project would install new floating infrastructure including: headwalk, main walks, and finger floats for public moorage at the south end of the harbor. New electrical lighting and power, potable water system, and fire suppression would also be installed. The bid documents identified work of the base bid and two alternates. Alternate A would fill a small uplands area and support the transfer bridge to the floats. Alternate B would not include the fill but install a wooden approach dock and the transfer bridge to the floats.

A public bid opening occurred on February 17, 2016. The Docks and Harbors Board reviewed the bids at its regular board meeting on February 25, 2016.

The results of the bid opening were as follows:

Bidders	Base Bid	Alternate A	Alternate B
Trucano Construction	$3,942,648	$953,761	$463,130
Northern Construction Svc.	$4,364,605	$976,555	$409,825
Turnagain Marine	$4,691,700	$925,200	$387,080
Pacific Pile & Marine	$4,774,750	$996,325	$499,145
Manson Construction	$6,220,150	$980,380	$420,600
Engineer's Estimate	*$4,506,040*	*$822,690*	*$497,118*

Western Dock and Bridge is deemed non-responsive.

The Manager recommends the base bid and Additive Alternate A be awarded to Trucano Construction in the amount of $4,896,409.00.

c. Seawalk - Bridge to Gold Creek, Phase 2

This project consists of pile supported walkways, an intertidal island, permanent shore connections, temporary guardrails and an overlook deck.

Bids were opened on February 18, 2016. The bid protest period expired on February 19, 2016. Results of the bid opening are as follows:

Responsive Bidders	Total Bid
North Pacific Erectors	$4,061,125.02
Engineer's Estimate	$4,282,707.00

The Manager recommends award of this project to North Pacific Erectors for the total amount bid of $4,061,125.02.

Removed from the consent agenda.

d. Resolution 2744 A Resolution Authorizing the Manager to Apply for and Enter Into a Loan Agreement with the State of Alaska Department of Environmental

Conservation Through its Alaska Clean Water Fund for the Long Term Biosolids Treatment and Disposal Project.

The loan authorized by this resolution would provide partial funding of $10 million for the Long Term Biosolids and Treatment and Disposal project, specifically for the purchase of a biosolids dryer. This action was reviewed and forwarded to the full Assembly by the Public Works and Facilities Committee at its January 4, 2016, meeting.

The Manager recommends this resolution be adopted.

Ms. White asked about the use of the biosolids. Mr. Watt said the staff was at the start of this project, doing initial design work, and working out the details. We will figure out how to do project updates to the Assembly. This loan provides partial funding for the project and there are many details, project schedule, loans and procurements, a decision on what happens to the pellets, confirming the location, etc. He would be willing to provide project updates along the way for the next 18 months.

Mr. Jones referred to the representative from Ketchikan who was taking this waste and mixing wood waste and burning it, and he was told he did not need an EPA permit. He spoke to the Assembly at a previous meeting.

Mr. Nankervis asked about partial funding - Mr. Watt said tonight was $10 million and there would be a second loan of $10 million, of which $6 million would go to the project, so $16 million for a project total.

Ms. Sheinberg said that she had thought of this product as a potential revenue stream and she encouraged the staff to look at it from this point of view as they move forward.

MOTION, by Nankervis, to adopt Resolution 2744. Hearing no objection, it was so ordered.

VII. PUBLIC HEARING

A. Ordinance 2016-01 An Ordinance Amending the Traffic Code Relating to Driving a Motor Vehicle with a Canceled, Suspended, or Revoked License, and Providing for a Penalty.

AS 28.01.010 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. State law provides that municipalities may adopt all or part of Title 28 by reference.

This ordinance would amend the CBJ Traffic Code to adopt by reference AS 28.15.291, Driving while license canceled, suspended, revoked or in violation of a limitation, an A misdemeanor. By this reference, the CBJ would also be adopting minimum penalties upon conviction, consistent with, and as required by, State law. A copy of AS 28.15.291 and the CBJ code being repealed and reenacted (72.10.028) are included in the packet for reference.

The Manager recommends this ordinance be adopted.

Ms. Mead added that currently CBJ 72.10.020, the driving without a license ordinance,was not enforceable in its entirety. It provides for driving while you license is suspended, revoked or cancelled, and penalties for driving without a license ever having been issued. State law does not provide for these scenarios in the same statute, but separately. We are focused on fixing our code so we can enforce driving when license revoked because that is the most frequent violation and those cases are often companion cases to driving while under the influence. Because we can't enforce our code we can prosecute. We have to introduce a second ordinance that is a companion to this at the next meeting to fix and cover the driving without a license ever issued piece. There is no sense in holding this now. By the time she caught this issue it was too late to get it on this agenda.

Mr. Nankervis asked why not make the code amendments all at one time. Ms. Mead said that there is a need for an enforceable code so it was an immediate need to get this piece done now. We can amend our code and title to cover both scenarios, or keep it simple to reflect state law, which is what she was trying to do here. She explained that there are currently changes with respect to the state criminal code and one of those is the driving while license revoked statute and it is being proposed to go back to an infraction or minor offense that would only be 24 hour jail time. If we adopt this we will stay current with that change.

Mr. Nankervis asked if CBJ was able to site locally for the infraction without having mirroring state statute. Ms. Mead said CBJ officers can cite under state law but the district attorney's office has needed to be very choosy about the cases they bring forward due to lack of resources to prosecute. Many times we see things we routinely prosecute get dismissed at the state level because they don't have the resources.

<u>Public Comment</u>:

None.

<u>Assembly Action</u>:

<u>MOTION</u>, by Gladziszewski, to adopt Ordinance 2016-01.

Mr. Kiehl asked if adopting state law would it need to be specific to a certain date in the law, or language that it was not static. Ms. Mead said that state law provides that if city adopts state statute by reference, a city can seek assistance from DCCED staff and I did that, this is that suggested language, but she agreed that it was cleaner if we add "as it is amended from time to time" at the end.

<u>MOTION</u>, by Kiehl, to include the wording "as amended from time to time" between line 19 and 20. Hearing no objection, it was so ordered.

Hearing no objection, Ordinance 2016-01 was adopted as amended.

B. Ordinance 2016-03 An Ordinance Amending the Public Ways and Property Code Relating to Street Vending.

This ordinance would amend the Street and Sidewalk Obstructions code to allow the Manager to waive any applicable parking limitations by permit in order to allow vending from a parked vehicle in the downtown area.

The Manager recommends this ordinance be adopted.

<u>Public Comment</u>:

None.

<u>Assembly Action</u>:

Ms. Bursell asked if there would be any restriction that the vehicle is turned off while operating.

Ms. Kiefer said that would be part of the permit language, there would be a variety of conditions - such as providing food to the side closest to the sidewalk. Having the engine off would be part of the conditions.

Mr. Nankervis asked if Ms. Kiefer saw any downside to locking up a parking space for a food cart - how do she anticipate implementation. Ms. Kiefer said the issue was the ongoing challenge of parking downtown, and we are putting more restrictive language in this ordinance. She envisioned that the permits would not be allowed for more than three hours and they should not be located outside of other food selling retail establishments.

Ms. Gladziszewski asked if this had gone before any committee and who had asked for this. Ms. Kiefer said that the concept arose when discussing street vending and the Assembly wanted to add restrictions that were not already in the code. On page 2 of 5 a valid permit is required and can only be in a single space in the PD1 parking zone and we are trying to limit what is already in the code.

Ms. Gladziszewski asked if there were any businesses like this currently in operation and Ms. Kiefer said no.

Mr. Nankervis said he did not recall any committee discussion on this ordinance. He anticipated some public push back on the loss of parking spaces.

Mr. Kiehl said his memory was that staff brought clean up language to the sidewalk vendors ordinance and we noted that there was a provision for street vendors since the 1980's and we had not seen any businesses but instead of deleting the section it was discussed to clean up the section in order to encourage such businesses. He assumed there would be some work with downtown businesses in order to pick the parking spots. Ms. Kiefer said she did not think there was enthusiasm to put up one more parking sign, but thought there would be several conditions that could be put into the permit language that would identify areas.

Mr. Jones said that the initial draft was brought forward and suggested to be deleted but the Assembly asked that it be kept in and revised. These changes tighten up the situation that we have now in the code so this is a good step in the right direction.

Mayor Becker was concerned about taking any more parking spaces downtown for this activity.

Ms. Mead said that if this ordinance is not adopted, the current status quo allows food trucks to park in any spot downtown in PD 1 without a permit. This adds further restrictions to allow for permits to be issued.

Ms. Bursell asked if there was a limit on the number of permits that could be issued. Ms. Kiefer said if this ordinance was adopted, those details would be worked out. Ms. Kiefer said the sidewalk permits are based on the size and location of the sidewalks - we could perhaps fill in the areas where there are not sidewalk permits existing.

Mr. Nankervis said this ordinance would get ahead of any requests, as there had been none and Ms. Kiefer said that was correct.

MOTION, by Nankvervis, to adopt Ordinance 2016-03. Hearing no objection, it was so ordered.

C. Ordinance 2015-20(AC) An Ordinance Appropriating to the Manager the Sum of $47,708 as Funding for the Juneau International Airport Part 121 Ramp Capital Improvement Project; Funding Provided by Alaska Airlines.

This ordinance would appropriate $47,707.69 (rounded to $47,708) to the Juneau International Airport Part 121 Ramp capital improvement project (CIP A50-068). Funding is provided as follows:

Alaska Airlines: $47,707.69

This is a reimbursement from Alaska Airlines for re-paving the air cargo hardstand, which was done by SECON through a Supplemental Agreement to their runway rehabilitation contract. The re-paving expense was forward funded in the Part 121 Ramp CIP.

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

The Manager recommends this ordinance be adopted.

Public Comment:

None.

Assembly Action:

MOTION, by Gladziszewski, to adopt Ordinance 2015-20(AC). Hearing no objection, it was so ordered.

D. Ordinance 2015-20(AD) An Ordinance Appropriating to the Manager the Sum of $2,450 as Funding for the Local Emergency Planning Committee (LEPC) 2015 Preparedness Expo; Funding Provided by Local Donations.

This ordinance appropriates $2,450 donated by local businesses to help fund the 2015 Preparedness Expo event held on September 11 and 12, 2015, sponsored by the Local Emergency Planning Committee (LEPC).

The Manager recommends this ordinance be adopted.

Ms. Kiefer thanked the local business for the contributions to the EXPO.

Public Comment:

None.

Assembly Action:

<u>MOTION</u>, by Sheinberg, to adopt Ordinance 2015-20(AD). Hearing no objection, it was so ordered.

E. Ordinance 2015-20(AE) An Ordinance Appropriating to the Manager the Sum of $2,550 as Funding for a JPD Officer to attend the Lifesavers Conference, Funding Provided by the State of Alaska, Department of Transportation and Public Facilities.

This ordinance would appropriate $2,550 as funding for a JPD officer to attend the Lifesavers Conference in Long Beach, California in April. The Lifesavers Conference brings together professionals from around the country who are dedicated to reducing the number of deaths and injuries on the nation's roadways. Sending an officer to the conference allows JPD to stay current with topics related to highway safety. The conference includes 80+ workshops with topics such as driving while intoxicated, vehicle technologies and officer safety issues. The officer we plan to send to the conference is a DWI standardized field sobriety instructor and also teaches winter driving classes. Having the current knowledge from the conference will benefit him when he teaches law enforcement agencies, attends community events and for other job-related tasks.

The Manager recommends this ordinance be adopted.

<u>Public Comment</u>:

None.

<u>Assembly Action</u>:

<u>MOTION</u>, by Bursell, to adopt Ordinance 2015-20(AE). Hearing no objection, it was so ordered.

F. Ordinance 2015-20(AF) An Ordinance Appropriating to the Manager the Sum of $4,000,000 as Additional Funding for the Cruise Ship Berth Improvements Capital Improvement Project; Funding Provided by Port Development Fees in the amount of $2,500,000 and the Dock Fund's Fund Balance of $1,500,000.

This ordinance would transfer $4,000,000 to the Cruise Berth Improvements Capital Improvement Project to support the project as originally budgeted in 2012. This additional funding reduces the amount of revenue bonds that would need to be sold to fully fund the project. This funding would support construction contingency, additional funding for construction administration and inspection, and CBJ project overhead costs.

Funding provided by:

Port Development Fees	$2,500,000
Dock Fund's Fund Balance	$1,500,000

The Docks and Harbors Board recommended approval at its regular meeting on January 28, 2016. The Public Works and Facilities Committee also recommended approval at its regular meeting on February 1, 2016. The Finance Committee discussed the project as an information item at its February 10, 2016 meeting.

The Manager recommends this ordinance be adopted.

Public Comment:

None.

Assembly Action:

MOTION, by Nankervis, to adopt Ordinance 2015-20(AF). Hearing no objection, it was so ordered.

G. Ordinance 2015-20(AG) An Ordinance Appropriating to the Manager the Sum of $3,344,230 as Additional Funding for the Douglas Harbor Renovation Capital Improvement Project; Grant Funding Provided by the Alaska Department of Transportation & Public Facilities for $2,044,230 and the Harbor Fund's Fund Balance of $1,300,000.

CBJ Docks and Harbors received notice of award of a Municipal Harbor Facility Grant for reconstruction of the south end of Douglas Harbor. The funding would be used to demolish and remove the failing infrastructure and replace with new infrastructure including: new piling, floats, electrical wiring, pedestals, water lines, and hydrants. Phase one (demolition) is complete. Phase two (funded by the Army Corps of Engineers) is scheduled for completion by March 1, 2016. Phase three would begin in May 2016 and be complete in March 2017.

The total cost estimate of phase three is $6.1 million. This ordinance would appropriate the $2 million state grant into the overall budget of the project. The grant requires a $2 million match which is already on the Douglas Harbor Renovation CIP along with the $1.3 million from the Harbor Fund's Fund Balance.

The Harbor Fund's Fund has a current balance of $3,439,607. Subsequent to this ordinance there would remain $2,139,607 in the Harbor Fund's Fund Balance.

The Docks and Harbors Board recommended approval at its regular meeting on January 28, 2016. The Public Works and Facilities Committee also recommended approval at its regular meeting on February 1, 2016.

The Manager recommends this ordinance be adopted.

Public Comment:

None.

Assembly Action:

MOTION, by Gladziszewski, to adopt Ordinance 2015-20(AG). Hearing no objection, it was so ordered.

VIII. UNFINISHED BUSINESS

A. Liquor License #4405 - Tides Complex Inc. d/b/a Dragon Inn; Location: 5000 Glacier Hwy.

Finance staff recommended the above liquor license renewal application be protested due to non-compliance with the Confession of Judgment signed June 13, 2014. At the February 8, 2016 Assembly Human Resources Committee meeting, the licensee appeared and gave testimony about the payments he had made that were not reflected in the materials provided by staff. The HRC instructed the licensee to work with staff to provide an accurate account of the status of his payments on the Confession of Judgment and for staff to bring an updated status report to the next HRC meeting for recommendation to the Assembly at its next regular meeting.

This license was before the Assembly Human Resources Committee (HRC) at its meeting earlier in the evening and the Manager recommends the Assembly act in accordance with the recommendations of the HRC.

Public Comment: None.

Assembly Action:

MOTION, by Gladziszewski, to waive the right to protest, based on recent payments by the business owner, to satisfy the confession of judgment.

Ms. White asked about the habitual non-payment and last minute work to receive the late payments. She understood business owners making a mistake once, but coming in minutes before a meeting has to be brought under control. This should cost the business for infringing upon employees. Ms. Mead said if the Assembly saw that someone has a habitual problem and did not want to accept staff's recommendation, the Assembly did not have to waive the right to protest.

The Assembly discussed the frustration with this type of situation but also agreed that when a license was at risk, there was a better collection rate than if no other enforcement tool was availalbe.

Ms. Becker asked if they paid all outstanding accounts. Ms. Gladziszewski said yes.

Hearing no objection, the motion was approved.

IX. NEW BUSINESS

None.

X. STAFF REPORTS

None.

XI. ASSEMBLY REPORTS

A. Mayor's Report

Mayor Becker reported on attending the "One Billion Rising" event, the Sealaska building dedication, Alaska Municipal League legislative meetings and she had spent time with the honorary mayors.

B. Committee Reports

<u>*Committee of the Whole*</u>: Chair Kiehl said the committee met and heard a presentation about Sweetheart Creek Hydroelectric Power project and the Juneau District Heating project and the Assembly would be writing a letter of support for those. The committee heard about Mendenhall River flood potential, mapping, modeling, mitigation options and potential federal assistance. Staff would be meeting with impacted neighbors. The committee discussed the CBJ annexation petition and geave direction to staff to proceed to obtain the area in Tracy Arm. The code regarding filling of Assembly vacancies was discussed and staff was directed to bring forward an ordinance for consideration. Mr. Kiehl said he added a discussion of marijuana cultivation in D1 zones to the March 14 COW agenda to discuss whether or not the Assembly wishes to revisit that ordinance.

<u>*Finance Committee*</u>: Chair Nankervis said the committee met and discussed a supplemental funding request from Juneau Convention and Visitors Bureau, the Docks and Harbors dock project, export manufacturing tax exemptions, the CBJ budget projection, and Walmart's closure.The budget ordinances would be introduced April 4 at a special Assembly meeting, and more fully explained at the April 6 Finance Committee meeting.

<u>*Public Works and Facilities Committee*</u>: the committee met and reviewed a draft of the CIP program, then referred the matter to the Finance Committee. The committee also discussed funding issues regarding the Salmon Creek water project, received an update on the waste management program and the Gastineau Apartment removal. The next meeting was set for March 14.

<u>*Human Resources Committee*</u>: Vice Chair Gladziszewski said that the committee met and received a report on the Fisheries Development Committee. It would like to reduce its membership to five members due to difficulty obtaining a quorum. The Local Emergency Planning Committee gave its annual report. It is a very robust committee with 20 or so members and good attendance.

<u>*MOTION*</u>*, by Gladziszewski, to reappointment Bill Legere to Seat #6, Media, and Mikko Wilson to Seat #6a, Media Alternate; Dan Garcia to Seat #8, Owner/Operator Right to Know Act; Matthew Musslewhite to Seat #9, Community Group, and Ed Williams to Seat #9a, Community Group Alternate.* Hearing no objection, it was so ordered.

Ms. Gladziszewski said the Sister City Committee provided its annual report.

<u>*MOTION*</u>*, by Gladziszewski, to reappointment of Joan Mize and Chloie Watson to the Sister City Committee.* Hearing no objection, it was so ordered.

<u>*MOTION*</u>*, by Gladziszewski to recommend the appointment of Miranda McCarty to the recently vacated seat which expires 1/1/2017.* Hearing no objection, it was so ordered.

Ms. Gladziszewski said the Friends of the Flag Committee came under auspices of CBJ in 2000 but had been operating independently since then. Mr. Jones and the attorney's office will get together to determine the current status of the committee and if an update to its resolution is necessary.

C. Liaison Reports

<u>*Parks and Recreation Advisory Committee*</u>: Liaison Gladziszewski said the next meeting was March 1.

Juneau Economic Development Council: Liaison Jones said the next meeting was March 2, and the Maritime Festival was scheduled for May 7.

Juneau Commission on Aging: Liaison Jones said the next meeting was set for March 10.

Airport Board: Liaison Jones said the next meeting was set for March 8.

Eaglecrest Board: Liaision Sheinberg said the next meeting was set for March 3.

Docks and Harbors Board: Liaison Nankervis said the board met and discussed the budget, the Auke Bay loading facility minor maintenance area, Douglas Harbor renovation bid and met with the Aassembly in joint session. They would like more time and would like to hear more questions from Assemblymembers. The next meeting was set for March 31.

Juneau Convention and Visitors Bureau: Liaison White said JCVB was planning for a busy summer season coming.

Planning Commission: Liaison White said she has heard a number of complaints about a member of the Planning Commission and she would like some guidance from the Assembly on what the next steps should be and she worries about the long term reputation of the Planning Commission and said the position is one of integrity - she asked to open the discussion. Mr. Nankervis suggested to revisit this topic under Assembly Comments.

UAS Campus Council: Liaison Kiehl distributed a draft letter from the Assembly to the UA system that talks about the strategic pathways initiative statewide. The letter speaks to the strengths UAS provides for Juneau and encourages the President to allot more research and education in marine tech and fisheries especially in Juneau. It also speaks to the strengths of the teacher education program and UAS has the most masters in teaching degrees over time with a high success rate and low admininstrative cost.

MOTION, by Kiehl, to authorize a letter, based on this draft, to go to the UA President. Mayor Becker said the letter looks good. Hearing no objection, it was so ordered.

School Board: Liaison Kiehl the board has received lots of public input on its budget and was changing its approach to building budget. The next meeting is set for March 8 and Mr. Kiehl said the first meeting of Joint Facilities Team was set for March 7, followed by a Special Assembly meeting with the School Board.

Honorary Mayor Kevin Allen said there was a list of priorities that the school board voted on that they want to add back into the budget based on the level of funding.

D. Presiding Officer Reports

None.

XII. ASSEMBLY COMMENTS AND QUESTIONS

Ms. Sheinberg asked about the potential lien on the Gastineau Apartments and if this was something that would go to the Finance Committee for discussion. Ms. Mead said CBJ has to file a suit to get the right to lien. CBJ has just received final costs incurred from the chief architect and a complaint would be filed shortly. There were few options of what could be forced from the property. If the judge allows CBJ to foreclose on the lien as a real property lien, then CBJ can force the sale. If the judge decides we need to pursue the matter as a judgment lien, CBJ would need to go through other processes before forcing a sale but CBJ will be limited to forcing a sale of the property unless the owners choose to sell, and the lien would need to be satisfied by the sale.

Mr. Nankervis asked the honorary mayors one thing about what they have learned. Mr. Allen said he has guest paged at the capital and he is a student school board representative. He has not had experience with city management and he learned a portion of what CBJ does to make decisions for the city.

Ms. Peralta said this was her first time at a city meeting, she learned that there is a large packet with a lot of information to prepare for the meeting and the Mayor was great to hang out with.

Mr. Nankervis reported on the Rainforest Classic HockeyTournament - CBJ was very well represented and it was a lot of fun, with the Sister City Committee assisting and the Treadwell staff accommodating.

Ms. White spoke about the complaints the Assembly had received in email, phone calls, about the predictability of the public process, obstructionist behavior, a conflict of interest that was eventually disclosed, a lack of transparency and whether or not this is something that can hurt the long term reputation of the Planning Commission and the public's trust in the Planning Commission and asked to have a discussion.

Mr. Nankervis said we have had some concerns and he noted that Nicole Grewe, Planning Commission Chair, was present at the meeting. He thought this discussion should be in executive session. Ms. Mead said that this was not a subject for executive session, similar to the appointment of members to the Planning Commission. Ms. Mead said if the Assembly were discussing things about a person of a personal, private nature, that would fall under executive session, however, the discussion of behavior of a person on a board at a meeting was not the subject of executive session.

Ms. Sheinberg said the Assembly received an email from Ms. Mead about a conflict of interest investigation. Ms. Mead said the conflict of interest code addressed specific behavior and actions that led to personal financial gain of a city employee or public official and prohibited those types of behavior. Those complaints are investigated by the City Attorney to determin if on its face, if the allegations were true, if it would suggest there was a violation. She made the finding that and provided copies of the complaint to the subject of the complaint, asked for and received a response back and at that point the options are dismissal or a finding that corrective or preventive measures would be sufficient to either remedy any violations or perceived violations or recommend the matter move forward to a probably cause hearing. When it is a board or commission member, those are handled by the Personnel Board for a full hearing, and that recommendation goes to the full Assembly. In this case she received two complaints stemming from actions taken at a Planning Commission meeting, she followed the process and after reviewing the complaints, transcript of the meeting and subjects response that a probable cause hearing was not warranted. The question of whether there was an actual violation was very close and she believes there were actions taken close to the line and she recommended corrective action and preventive action and those were done and she considered the matter closed. She has communicated that to the subject and the complainant. The Assembly has the discretion, under 49.10.110, that the commissioners serve at the will of the Assembly. The

Assembly can remove members at its discretion at the convenience of the CBJ, separate from the conflict of interest code.

Mayor Becker asked to know how the corrective action is complete. Ms. Mead said a corrective or preventive action could be recusal from further considerations, a disclosure on the record clearing the record, and in situations when someone has personally gained, a return of the gain. In this case, she felt that disclosure and clearing the record was appropriate and recusal from consideration of certain actions was needed and on the preventive side, if there is a perceived conflict, the conflict is disclosed and the chair rules on the conflict. At the last Planning Commission there was a discussion about deliberating and taking action on a particular ordinance. The chair that heard the issue ruled that there was no conflict for the person that was disclosing to proceed and that was not objected to by the commission. That matter is done. Conflict of interest cases are confidential. The attorney makes recommendations to the subject to take certain actions and if that action is not taken, then a complaint can follow.

Mr. Nankervis asked for the body to have discussion to remove a member from the commission. He asked if that required public notice and Ms. Mead said no, and it does need to be discussed in open session.

<u>MOTION</u>, by Nankervis, to remove Nicole Grewe from the Planning Commission.

Mr. Kiehl asked for discussion on the reasoning as to the right remedy and if there are other steps that are useful and productive, other than removing a sitting member, which has not happened in his time.

Mr. Nankervis said he was sensitive to the fact that the Assembly that may have the perception that colors the opinion of a person, but he saw a pattern. Ms. Mead said the discussion on the actions taken at the Planning Commission were subject of open session. Personal charactaristics could be discussed in executive session. Ms. Mead explained Ms. Grewe's ability to ask for the discussion to be in open session.

Ms. Gladziszewski asked why the appointment of members and that discussion was closed. Ms. Mead explained that discussion included a person's reputation, what the members knew about the person personally and why they would be a good fit or not. The action taken at a meeting is a topic for open session.

Mr. Jones said that it was clear in reading the transcript of the Planning Commission meeting that there were aggregious issues with nondisclosure, a potential conflict, and not making a disclosure on the record, not letting fellow members know about a conflict, asking other members to rule on whether there was a conflict, allowing testimony on a subject not before them on the agenda, and many rules that we follow did not take place. I felt very offended by what happened. Looking at the ordinance that allows the Assembly to remove someone at the convenience of CBJ - looking at what happened at that meeting did considerable damage to the reputation of the Planning Commission and the fairness that people expect. Having experience as an Assemblymember and a member of the Marijuana Control Board I am very cognizant of the need to declare or ask about any conflict, and to ask for advice before and at the meeting. Mr. Jones said there are issues of removing the person for cause, or at the convenience of the Assembly, and he asked the attorney if there was any potential for liability if we say we take the action simply at the convenience of the Assembly. Ms. Mead said she did not believe so, and the ordinance says removal is at the Assembly's sole discretion, the Assembly could give reasons or not. Mr. Jones said that some Planning Commission members read the transcript, raised some issues, and at the next meeting there were issues that were raised that needed more than five votes to take action so that action wasn't taken. I don't know if this action to remove repairs the damage, but I'm not sure it will be repaired without the action.

Mr. Kiehl asked Ms. Mead, and said that he read the report that said there was a motion to change the Planning Commission agenda that did not get the votes needed at the time, and Title 49 is not clear whether the Planning Commission has the authority to change its officers mid-stream. Ms. Mead said Robert's Rules provided for removal of the chair at any time. Ms. Mead said that at the last meeting, a member moved to suspend the rules to change the agenda which required six votes and that motion failed.

Ms. Becker sstated that only the Planning Commission could change its chair and Ms. Mead said that was true.

Ms. Bursell asked for elaboration that she asked for corrective action and it was satisfied. Ms. Mead said the complaint alleged failure to disclose and she recommended a disclosure, that happened and that cleared the record for the conflict of interest. There was an issue about an ordinance being considered by the Planning Commission and there was question as to whether or not the person subject to the complaint could take action on that ordinance, there were disclosures that were made that cleared the record of the February 8 meeting, and this cleared the record for the conflict of interest terms. There was a vote on the decision made by the vice chair on whether that person could continue to take action on the underlying ordinance and the commission voted that the person could participate.

Mr. Nankervis said this was difficult and he believed that people praise in private and criticize in private. I have not seen behavior at meetings this bad. There was no disclosure at the meeting by the chair. There were no time limits -they were completely ignored - and people that apply for the permits do not spend as much time talking as her husband spent talking. I have heard this chair unjustifiably berate a fellow commissioner for questioning a conflict of interest. If one of us were to believe we had a conflict we would consult the attorney, then the question is asked and answered and we moved on. This person has a foot in both public and private roles by providing the Assembly with a personal opinion and this is not right. The trust of the public in the other Planning Commissioners has been damaged and it is our role to step in however uncomfortable that might be.

Ms. Gladziszewski said she was on the Planning Commission for 12 years, but did not attend this meeting. She had heard from many people, read the transcript, and she was quite shocked at what had occurred. She wished the Planning Commission had removed Ms. Grewe from the chairmanship, but she agreed that the behavior was not right.

Hearing no objection, the motion to remove Nicole Grewe from the Planning Commission passed.

XIII. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

None.

XIV. EXECUTIVE SESSION

None.

DRAFT

XV. ADJOURNMENT

There being no further business to come before the Assembly, the meeting adjourned at 9:15 p.m. p.m.

Signed:___________________________ Signed:_______________________________

Laurie Sica, Municipal Clerk Mary E. Becker, Mayor

XVI. SUPPLEMENTAL MATERIALS