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

February 2, 2015 7:00 PM

City Hall Assembly Chambers
Regular Meeting 2015-02
Submitted by: ______________________________
Kimberly A. Kiefer
City and Borough Manager

## I. FLAG SALUTE

## II. ROLL CALL

## III. SPECIAL ORDER OF BUSINESS

## IV. APPROVAL OF MINUTES

A. **January 12, 2015 Regular Assembly Meeting 2015-01**

B. **January 14, 2015 Assembly Retreat**

## V. MANAGER'S REQUEST FOR AGENDA CHANGES

## VI. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

## VII. CONSENT AGENDA

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

B. Assembly Requests for Consent Agenda Changes

C. Assembly Action

1. Ordinances for Introduction

a. **Ordinance 2015-07 An Ordinance Amending the Land Use Code Relating to Accessory Apartments.**

This ordinance would amend Title 49 with respect to accessory apartments. The ordinance would allow for larger accessory apartments, up to 1000 square feet, if certain conditions are met with respect to the net floor area of the primary dwelling, size of the lot, and wastewater treatment capacity. The ordinance also simplifies the review and approval process for accessory apartments that are proposed on lots that exceed the minimum lot size and are connected to sewer. Additionally, the ordinance provides that the Planning Commission may approve an accessory apartment application on a lot that is less than the minimum lot size and is not connected to sewer. Finally, the ordinance would also clarify the parking requirements and makes a few additional housekeeping changes.
The Planning Commission reviewed the ordinance at its October 28, 2014, meeting and recommended forwarding it to the full Assembly for approval.

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

b. **Ordinance 2015-08 An Ordinance Amending the Official Zoning Map of the City and Borough to Change the Zoning of 43 Parcels Along the North**

**Douglas Highway, between mile 1.3 and 1.9, from RR(T)D3, RR(T)D15, and D1(T)D3 to D-3 and D-15.**

In December 2013, the Community Development Department initiated a rezone of 43 parcels along North Douglas Highway extending from mile 1.3 to 1.9. The parcels are currently identified as transition zones, RR(T)D-3, RR(T)D-15, and D-1(T)D-3.

On June 25, 2014, staff held an informational meeting to discuss the proposed rezoning with all property owners in the affected area. No one from the public participated in the meeting.

The Planning Commission heard the rezone proposal at its August 26, 2014, regular meeting. The Planning Commission recommended approving the rezone with modifications, up-zoning a portion of the lots currently zoned D-1(T)D-3 to D-5 and a portion of the lots zoned RR(T)D-3 to D-15. The Planning Commission believed the modifications were needed for consistency with the Land Use Maps of the Comprehensive Plan. Ordinance 2014-45 was forwarded to the Assembly with the Planning Commission's recommendations.

Based on public testimony at the October 20, 2014, Assembly meeting, the Assembly remanded proposed ordinance 2014-45 to the Planning Commission to solicit further public feedback and explore opportunities for higher densities. The rezone was re-noticed for the November 25, 2014, Planning Commission hearing. Based on public testimony at the hearing, the Planning Commission revised its decision to upzone the parcels, and now recommends all parcels zoned D1(T)D3 transition to D3, and not the original recommendation of D5. The recommendation for 3 parcels to transition to D15 was upheld.

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

c. **Ordinance 2015-09 An Ordinance Amending the Penal and Traffic Codes Relating to Marijuana Offenses and Establishing Penalties.**

As of February 24, 2015, the effective date of the initiative, State law will prohibit the consumption of marijuana in public. The initiative, at section 17.38.040, states: "It is unlawful to consume marijuana in public. A person who violates this section is guilty of a violation punishable by a fine of up to $100." The initiative does not define "in public," and as such, is potentially subject to legal challenge. Additionally, because the State has not adopted a bail schedule or set fine to be imposed, all citations would require mandatory court appearances.

This ordinance would prohibit the same activity banned under State law (public consumption), but unlike the initiative, would define what "in public" means, giving clear guidance to the public about what is and isn't allowed, and, by establishing a specific fine amount for violations, would allow persons violating the law the option to pay the fine in lieu of a court appearance for the first two violations. The ordinance would establish a $100 penalty for a first and second violation, with the third and subsequent violations requiring a mandatory court appearance.

This ordinance would also amend the Traffic Code by adding a provision prohibiting the consumption of marijuana while driving a motor vehicle and prohibiting the person in control of a motor vehicle from permitting or allowing anyone in the vehicle to consume marijuana while the vehicle is being driven. The ordinance would establish a penalty of $200 for a first violation, $300 for a second violation, and a mandatory court appearance for the third and subsequent violations, consistent with the City and Borough's open container law.

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

d. **Ordinance 2015-10 An Ordinance Adopting the Juneau Economic Development Plan.**

Work on the Juneau Economic Development Plan began in January, 2014 with the award of the contract to McDowell Group / Sheinberg Associates. In developing the plan, the consultants conducted public workshops, met with community leaders, and met with the Assembly Committee of the Whole in April, June, July, August, September, and October of 2014. At their last meeting with the committee, on January 5, 2015 they accepted comments and suggestions from the members on the draft final plan. The final plan is in your packet.

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

2. Resolutions

a. **Resolution 2706 A Resolution Authorizing the Manager to Enter into an Amendment to the City and Borough PERS Participation Agreement.**

A recent audit by the State of Alaska, Department of Administration, Division of Retirement and Benefits determined that the City and Borough of Juneau's PERS Agreement does not specifically exclude three employee status types used at Bartlett Regional Hospital: Casual; Seasonal Casual; and PRN employees. Individuals who are employed in these status types work on a limited basis and are not currently eligible to participate in the retirement plan.

The proposed resolution modifies the City and Borough's Agreement with PERS to reflect the benefit status of the workforce. Doing so will make future PERS audits easier. Staff working at the Division of Retirement and Benefits has reviewed and approved the draft amendment. The Hospital Board was informed of this amendment at its board meeting on December 18, 2014, and recommended forwarding it to the full Assembly for approval.

**The Manager recommends this resolution be adopted.**

b. **Resolution 2707 A Resolution Expressing Support for the Juneau Coordinated Transportation Coalition's Prioritization of Projects for Grant Funding by the Alaska Department of Transportation & Public Facilities.**

To be considered for grant funding, each community must prioritize their projects and that priority list must be endorsed by motion or resolution by the local municipal government. The following grant applications were submitted and voted on and are listed in priority order:

1. Dialysis Transportation (Purchase of Services Grant)
2. Taxi Voucher (Purchase of Services Grant)

3. Lift-equipped taxi (Capital Grant)

The priority order was set by the Juneau Coordinated Transportation Coalition (JCTC) on November 6, 2014, which voted to endorse these priorities for funding by the FY16 DOT&PF mobility grants.

At its December 12, 2014, meeting, the Public Works and Facilities Committee voted to forward a resolution of support for the grant applications to the full Assembly for approval.

**The Manager recommends this resolution be adopted.**

c. **Resolution 2710 A Resolution of the City and Borough of Juneau in Support of the International Joint Commission's Involvement in the Alaska and British Columbia Transboundary Region.**

By means of this resolution, the Assembly requests that the government of the United States work with the government of Canada and refer issues that may arise from transboundary development in British Columbia to the International Joint Commission. The Commission would be charged with using all powers under the Boundary Waters Treaty to ensure that Southeastern Alaska resources are not harmed by upstream development.

**The Manager recommends this resolution be adopted.**

3. Transfer

a. **T-964 Transfers $10,000 of Grant and $25,000 of Sales Tax Revenue from Lower West Mendenhall Pederson Phase Capital Improvement Project to Auke Lake Sewer Capital Improvement Project**

This action would transfer $35,000 of Revenues from the completed Lower West Mendenhall - Pederson Hill capital improvement project to provide additional funding necessary to complete the Auke Lake Sewer capital improvement project.

Construction is complete on the Auke Lake Sewer project. These funds are necessary to compensate the contractor for quantity overruns and extra work due to unexpected site conditions. The Pederson Hill project is complete and will be closed upon Legislative re-appropriation of the remaining ADEC Grant funds to another project.

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|---|---|---|
| <u>Transfer From -</u> | | |
| U76-091 | West Mendenhall Sewer<br>Pederson Hill Phase – ADEC Grant Funds | $10,000 |
| U76-091 | West Mendenhall Sewer<br>Pederson Hill Phase - Sales Tax funds | $25,000 |
| <u>Transfer To –</u> | | |
| U76-006 | Auke Lake Sewer | $35,000 |

The $10,000 of grant funding maximizes the amount of ADEC grant funding that can be utilized for eligible expenditures in the project.
The Public Works and Facilities Committee reviewed this request at its January 26, 2015 meeting, and recommended forwarding it to the full Assembly for approval.

**The Manager recommends this transfer be approved.**

## VIII. PUBLIC HEARING

A. **Ordinance 2014-24(AA) An Ordinance Appropriating to the Manager the Sum of $130,000 to the School District Facilities Renovation and Repair Capital Improvement Project; Funding Provided by an Insurance Settlement from Zurich American Insurance Co.**

This ordinance would authorize the appropriation of $130,000 from the Gastineau Elementary School Roof Insurance Settlement to a new CIP titled "School District Facilities Renovation and Repair."

The School District intends to use approximately $75,000 of these funds to complete the Marie Drake planning process. The remaining funds of approximately $55,000 will be used for one or more repair projects (to be determined). The Marie Drake planning process commenced in November 2013 using funds remaining from the District Wide Major Maintenance CIP. These funds were sufficient to complete the first phase of planning, orientation and education plan. This appropriation will allow completion of the remaining phases including master planning, conceptual design, educational specifications, and construction cost estimates. This information is required by the Department of Education and Early Development for approval under the bond debt reimbursement program.

The Juneau School District Facilities Committee approved this appropriation at its December 18, 2014 meeting. The Juneau School Board recommended approval of this appropriation request at its January 13, 2015 meeting. The Public Works and Facilities Committee reviewed this appropriation at its December 29, 2014 meeting, and recommended forwarding to the full Assembly for approval.

**The Manager recommends this ordinance be adopted.**

B. **Ordinance 2014-51(c) An Ordinance Amending the Second-hand Smoke Control Code to Regulate the Use of Marijuana.**

This ordinance would amend the Second-hand Smoke Control Code, Chapter 36.30, to provide for the regulation of marijuana smoking in the same way the smoking of tobacco products is regulated within the City and Borough.

The Lands Committee heard this ordinance at its December 29, 2014 meeting, and recommended forwarding an amended version to the full Assembly for approval. At its January 12, 2015 meeting, the Assembly referred the ordinance to the Human Resources Committee for further consideration at its February 2, 2015, meeting.

In addition to the changes made in version (b) of the ordinance (clarifying that medical marijuana is not exempted in the same manner as tobacco cessation products or products prescribed by a licensed physician), version (c) amends the definition of "enclosed public place" to be consistent with the State's statutory definition of "public place" and amends the definition of marijuana to be consistent with the definition in Alaska Statute at 17.38.900.

**The Manager recommends this ordinance be adopted.**

C. **Ordinance 2015-01(b) An Ordinance Amending the Excise Tax on Tobacco Products Code.**

This ordinance would increase the tobacco excise tax from the current $1.00 per pack to $3.00 per pack of cigarettes, and would amend the definition of "other tobacco products" to include e-cigarettes and other vapor-inducing products. The primary objective of the ordinance is to reduce consumption of cigarettes and tobacco products, particularly among youth. The increase would be effective April 1, 2015. The higher excise tax rate would increase annual tax revenue collected by an estimated $1.7 million.

The ordinance also amends the existing language providing for the creation of a lien for failure to submit the tax by removing an outdated reference to the Alaska Statutes, and by deleting the language setting the priority of the lien in recognition of the Supreme Court’s holding that a municipality has no discretion to set lien priority by ordinance unless there is express statutory authority to do so.

The proposed amendments were reviewed by the Assembly Finance Committee on November 12, 2014, which recommended an ordinance be drafted and brought to the full Assembly for its consideration. The Finance Committee reviewed the ordinance at its January 21, 2015, meeting and recommended forwarding it to the full Assembly for its approval.

Version (b) reflects an amendment requested by the Finance Director that the effective date of the ordinance be April 1, 2015, which is the beginning of a quarter, for ease of administration (both the merchants' and the CBJ's.)

**The Manager recommends this ordinance be adopted.**

D. **Ordinance 2015-02 An Ordinance Amending the Official Zoning Map of the City and Borough to Change the Remote Subdivisions Area Map for Hidden Valley Tract B, Located in the Upper Lemon Creek Valley, from “Not Remote” to Remote.**

In April 2014, the applicant applied to have Hidden Valley Tract B, located in the upper Lemon Creek valley, rezoned from “Not Remote” to Remote.

On May 14, 2014, the Planning Commission recommended approval of the rezone application. The proposed ordinance was pulled from the Assembly’s agenda when it was learned that the applicant had a concurrent easement application pending that would have provided road access to the property, making it ineligible for a “Remote” designation. It was subsequently learned that the applicant had constructed a gravel roadway to the property connecting it to the roadway without the CBJ’s knowledge.

On December 9, 2014, the Planning Commission reconsidered the rezone application and determined that the 12 – 16 foot gravel roadway did not prohibit the Commission from recommending the lot be rezoned from “Not Remote” to “Remote.”

The Lands Committee reviewed this ordinance at its January 26, 2015, meeting.

The Planning Commission recommends that the Assembly approve the text amendment to change the subject parcel from Not Remote to Remote.

**The Manager recommends this ordinance be referred to the Assembly Committee of the Whole for further policy review.**

E. **Ordinance 2015-05 An Ordinance Authorizing the Port Director to Negotiate and Execute a Lease of Alaska Tidelands Survey No. 1277, Located at Approximately 3155 Channel Drive, Juneau, Alaska.**

Salmon Creek Development leases 1.83 acres of CBJ Docks & Harbors managed tidelands adjacent to the Sampson Tug & Barge facility near Channel Drive. The original lease between the State and Salmon Creek Development was recorded in 1984 and provided a 30 year lease of $9600/annum subject to adjustment following the expiration of the initial 25-year period. The lease was transferred to the City and Borough in 2001. A lease rent adjustment was set in April 2009, making the new lease amount $11,957.25. The lease expired in April 2014.

Salmon Creek Development submitted a request to re-lease these lands under a provision allowed in CBJ 53.20.100 (Preference Privilege). Docks & Harbors contracted with Horan & Company to appraise the property pursuant to the issuance of a new lease. An appraised value of $11,957.25 (unchanged) was received and the Docks & Harbors Board, at its October 30, 2014, meeting, recommended accepting this value for the initial five-year period of the new 35-year lease.

**The Manager recommends this ordinance be adopted.**

F. **Ordinance 2015-06 An Ordinance Approving a Lease Amendment to the 1995 Lease Between the City and Borough and Goldbelt Aerial Tramway, LLC, ("Goldbelt") of Approximately 10,000 Square Feet Within Lots 1 and 2A, Dockside Subdivision and Lots 13B, 16, And 17, Block 83, Tidelands.**

Since 2011, Docks & Harbors has been engaged in dispute resolution and negotiations with Goldbelt with respect to the required lease rent adjustment contained in the original lease agreement relating to Mount Roberts tram lease. In October 2013, the Docks & Harbors Board appointed a special sub-committee consisting of Docks & Harbors Finance Committee members to commence negotiations with Goldbelt to reach a fair market value, lease rate and terms.

On November 20, 2014, the Docks & Harbors Board approved a settlement agreement and the negotiated lease amendment contemplated by this ordinance. The resulting effect of the lease amendment would be that Docks & Harbors will collect $272,000 per year until 2020 when the next appraisal is required. The amendment would also: (1) allow Goldbelt to use the lease premises spaces as "retail space;" (2) remove the provision requiring that a percentage of the annual lease amount would consist of a royalty of 1 – 5 percent depending on the leasehold revenues received by the lessee; (3) change the lease base rent to nine percent of the appraised value of the property from ten percent or $30 per square foot, whichever is greater; (4) memorialize the assignment of the lease from Mount Roberts Development Corporation to Goldbelt Aerial Tramway, LLC; and (5) in an effort to avoid future appraisal disputes, include an appraisal dispute resolution process which changes depending on the extent of the disparity between the parties' respective appraisals.

On November 20, 2014, the Docks & Harbors Board approved forwarding the proposed amendments to the full Assembly for final approval. On December 8, 2014, the Lands Committee recommended forwarding the proposed lease amendment to the Assembly for final approval.

**The Manager recommends this ordinance be adopted.**

## IX. UNFINISHED BUSINESS

## X. NEW BUSINESS

A. **Auke Bay Elementary School 1% for Art Proposal**

The 1% for Art Committee has selected four artists for the 1% for Art for Auke Bay Elementary School, the budget for this project is $145,000. The Committee is still working with one artist to finalize their proposal, but the other three artists are ready to proceed. Therefore, it is the Committee's recommendation to proceed with the three artists whose proposals have been accepted. Once the fourth artist has their proposal approved by the Committee, that proposal with be put before the Assembly for final approval.

Dan DeRoux's proposal is a landscaped area, including native plants, rocks, and a yearling black bear bronze statue in front of the covered waiting area, adjacent to the entrance to Auke Bay Elementary School. Installation will be in the spring, depending on when Notice to Proceed is issued. Cost: $65,000.

Rob Goldberg and Donna Catotti's proposal is a 15' x 20' etched glass piece. The underwater scene will include Orcas, salmon, rockfish, herring, Dolly Varden, shrimp, crab, octopus, sea stars, anemones, and plants (such as kelp). Installation will occur during spring break. Cost: $30,000.

Extreme Dreams (John & Sharon Svenson) proposal is a three panel glass mosaic mural, each panel approximately 3' x 6', located above the stairwell leading to the library on the 2nd floor. Each panel of the triptych will be curved on the top and bottom, with parallel inside edges. This will give the piece as a whole a sense of movement. The subject will be "Taking Flight". The central panel will be dominated by a brilliant sun with ravens of all sizes soaring in the sky as silhouette's. The right and left panels will have the sun blending into blue sky with swirling eagles and seagulls in flight. Installation will occur in August. Cost: $28,000.

In accordance with CBJ 62.65 all 1% for Art selections are subject to final approval by the Assembly.

**The Manager recommends approval of the 1% for Art Proposals for Auke Bay Elementary School.**

B. **Contract for CA/I Services at Statter Harbor**

This is an option to an existing professional services contract. 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 II of the master plan would construct a two-lane boat launch ramp, associated upland parking area, seawalk, landscaping, and other community amenities. Miller Construction Company was the low bidder for constructing the project.

This contract is to proceed with construction administration and inspection services. The professional services fee is estimated to be $789,490. The work would proceed on a time and materials basis to a maximum amount or $789,490. Completion of the project is planned for the spring of 2016.

The Statter Harbor Launch Ramp project is funded through CBJ Sales Tax proceeds; an ADOT/PF Municipal Harbor Grant; ADF&G Grants; State Legislative Appropriations; and a State DCED Grant.

This contract option was reviewed and recommended for approval by the Docks and

Harbors Board at its regular public meeting of January 29, 2015.

**The Manager recommends approval of this contract option in the amount of $789,490 to PND Engineers.**

C. **Liquor License Renewals with Staff Protest Recommendations**

1. Restaurant Eating Place License #2185: **Canton House LLC d/b/a Canton House,** location: 8585 Old Dairy Road

2. Beverage Dispensary Tourism License #586: **Coho's Bar & Grill, LLC d/b/a Coho's Bar & Grill,** location: 51 Egan Drive.

Staff is recommending the Assembly protest the renewals of the above mentioned liquor licenses based on unfiled and/or delinquent sales tax returns and the associated outstanding balances. Each of the licensees have been sent a certified letter (copies of which are included in your packet) notifying them of the basis for protest and their right to an informal hearing before the Assembly as provided in CBJ Code 20.25.025. The Assembly Human Resources Committee met just prior to this meeting and will be forwarding recommendations for action on these liquor license renewals.

**The Manager recommends the Assembly act according to the Human Resources Committee recommendation.**

## XI. STAFF REPORTS

## XII. ASSEMBLY REPORTS

A. Mayor's Report

B. Committee Reports

C. Liaison Reports

D. Presiding Officer Reports

## XIII. ASSEMBLY COMMENTS AND QUESTIONS

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

## XV. EXECUTIVE SESSION

A. **City Attorney to Provide an Update and Receive Direction Regarding Negotiated Settlement Efforts**

## XVI. ADJOURNMENT

ADA accommodations available upon request: Please contact the Clerk's office 72 hours prior to any meeting so arrangements can be made to have a sign language interpreter present or an audiotape containing the Assembly's agenda made available. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.org