THE CITY AND BOROUGH OF JUNEAU, ALASKA

Meeting Minutes - February 2, 2015

MEETING NO. 2015-02: 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 Merrill Sanford.

I. ROLL CALL

Assembly Present: Mary Becker, Karen Crane, Maria Gladziszewski, Loren Jones, Jesse Kiehl, Jerry Nankervis, Merrill Sanford, Kate Troll and Debbie White.

Assembly Absent: None.

Staff Present: Kim Kiefer, City Manager; Rob Steedle, Deputy City Manager; Jane Sebens, Assistant Attorney; Laurie Sica, Municipal Clerk; Mila Cosgrove, HRRM Director; Rorie Watt, Engineering/Public Works Director; Bob Bartholomew, Finance Director; Bryce Johnson, Police Chief; Hal Hart, Community Development Director; Laura Boyce, Senior Planner; Jonathan Lange, Planner; Carl Uchytil, Port Director; Robert Palmer, Assistant Attorney.

II. SPECIAL ORDER OF BUSINESS

None.

III. APPROVAL OF MINUTES

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

Hearing no objection, the minutes of the January 12, 2015 Regular Assembly Meeting 2015-02 were approved.

B. January 14, 2015 Assembly Retreat

Hearing no objection, the minutes of the January 14, 2015 Assembly Retreat were approved.

IV. MANAGER'S REQUEST FOR AGENDA CHANGES

None.

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

None.

VI. CONSENT AGENDA

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

None.

B. Assembly Requests for Consent Agenda Changes

None.

C. Assembly Action

MOTION, by Nankervis, to adopt the Consent Agenda as presented. Hearing no objection, it was so ordered.

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. Transfers

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.

Transfer From -		
U76-091	West Mendenhall Sewer Pederson Hill Phase – ADEC Grant Funds	$10,000
U76-091	West Mendenhall Sewer Pederson Hill Phase - Sales Tax funds	$25,000
Transfer To –		
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.

VII. 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.

Public Comment: None.

Assembly Action:

MOTION, by Becker, to adopt Ordinance 2014-24(AA) Hearing no objection, it was so ordered.

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.

Public Comment:

Mike Peterson said he hoped that there is a clear understanding of this ordinance language, but he said he was concerned that a new business could not open up and allow the smoking of marijuana. He pointed out his areas of concern - on page 1, line 23 and 24, and on page 2, line 24 and 25 of the ordinance.

Ben Wilcox said that there would be many visitors who arrive in Juneau and would need a place to to smoke marijuana. He quoted people in Washington who said that a legal place to smoke marijuana was needed in order to not make people criminals while consuming a now legal substance. He cited numbers of adult smokers from the marijuana campaign and spoke about the economy of marijuana.

James Barrett asked for a definition of "substantial" in the ordinance language "a substantial group of people." He said that there seemed to be a disconnect in the ordinance for those who want to go to a place to purchase marijuana and subsequently would have to leave that place and go to a private place to smoke it. He thought those consumers would want to consume it on the same premises.

Giano Barrett said he was planning a Southeast Alaska Cannabis Celebration and it was difficult to define a public space. He asked about a patio space not in view of the street and was looking for a definition of public and patio.

Michael Patterson encouraged the Assembly to regulate the smoking of cannabis. If people were eating a brownie that would not bother him, but the second hand smoke from it would be harmful to his health. He said he ran into the same problem with cigarette smoke and he did not want to see the same problems with marijuana.

Mr. Jones said the Human Resources Committee discussed the ordinance and requested that the proposed amendment about private clubs be referred to the task force. The committee asked questions of the Law Department, but did not make a recommendation to forward to the Assembly.

Assembly Action:

MOTION, by Jones, to adopt Ordinance 2014-51(c).

Ms. Troll said she was concerned that adopting this ordinance would cut off discussion and she thought it would be better for the task force to address this issue. She was concerned that the Assembly was putting itself in a box prematurely. She did not think there would be a huge group of people that would be smoking openly in public on February 24.

Mr. Jones said he supported the ordinance. The Law Department was trying to get some definition of "in public" and setting up a violation and fine structure was the next step after this. Many communities had established fairly strict ordinances. The committee was set up to look at planning and zoning and where and how retail establishments could be set up. This ordinance was trying to get ahead of the curve before February 24, when personal use would be allowed. It would still be illegal to sell marijuana. The moratorium was in place. The private club issue could be discussed in the task force. He said this ordinance was a good first step.

Ms. Sebens said this was a second hand smoke ordinance and it was not intended to regulate the use of marijuana generally. Consumption would be legal on February 24 and under state law it would not be legal anywhere in public. Until there was a public place definition, this carved out very narrowly through the current second hand smoke control ordinance, places smoking was allowed. We are waiting on the state to address the commercial nature of the product. It was an evolving topic and all the municipalities would be watching what the state does and revisiting the issues.

Ms. Crane supported the ordinance and said she believed the Assembly would be revisiting the issue in May/June when more information was available from the state.

Ms. Gladziszewski said she would support the ordinance and would be working on the Assembly's marijuana committee and this ordinance merely applies the same rules to marijuana as to tobacco.

Ms. Troll withdrew her objection.

Hearing no objection, Ordinance 2014-51(c) was 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.

Public Comment:

Joe Lassiter said he had been a smoker all his life, and provided statistics about the education and economic levels of smokers, and said that this tax put an unfair burden on the poor and less educated people in the community. Currently a pack of cigarettes was $8.50, and this tax would make the cost $10.50 plus sales tax on top of that. He said that the price included federal tax of $2.10, a state tax of $2.00 the CBJ tax would be $3.00. He did not think any other product would stand for that high rate of taxation.

Hilary Zander said she was the Youth Coordinator at National Council for Alcohol and Drug Dependency and worked on tobacco prevention efforts. Smoking had decreased significantly from 1995 to today, and they are hoping for a zero percent initiation rate. Increasing taxes on tobacco helped with that. She said for every 20% increase in tax there was a10% reduction in smoking. Students would be less able to afford cigarettes, and adults would be less likely to share them with youth. She spoke about the increase in e-cigarette use in youth and the vapor of e-cigarettes contained carcinogens and nicotine, which createed addictions.

Jordyn Vinje said that e-cigarettes were a big thing in the high schools now and were becoming more popular. She was involved with Teens Against Tobacco Use and said she was trying to spread her message against smoking with youth at the school. She supported the excise tax increase.

Edy Rodewald said it was true that smoking had decreased with awareness of the health risk. And it was true that the people who were still smoking were the least educated and the tobacco industry marketed to that population. This tax and policy made it more difficult for people to maintain their smoking habit. This was a health equity and social justice issue. 80% of smokers want to quit and this was a policy that helped people to do that.

Paul Thomas said that if the goal was to reduce consumption, then the revenues would not be significant and he questioned the funding of tobacco reduction programs. He said this was more about generating money for the general fund and excessively taxing a small portion of the population was wrong. He said that adoption of the ordinance could lead to people purchasing their cigarettes through the internet, through unlicensed sales and that bootlegging could increase. He questioned the level of extra tax revenue that would be generated and said it may decrease, and there would need to be enforcement of illegal sales of cigarettes.

Michael Patterson spoke in many schools to students about the effects of smoking. Raising the tax was proven to make people want to quit, and even if it only saves a few lives, that was worth something. e-cigarettes were on the rise and would cause health problems down the road. The taxes raised are only a drop in the bucket for what needed to be spent on the health industry. He said many people said that they want to quit because it was getting too expensive and raising taxes was a positive thing. He would be surprised if many people would resort to illegal cigarettes. The headway needed to be made with the kids in the schools. Smoking was normalized as acceptable behavior that was killing people. He discounted the use of e-cigarettes as a smoking cessation device.

Terry Quinn said reducing smoking was a cover and the real purpose of the ordinance was to cover the CBJ deficit by raising taxes from a small minority without a vote of the people. The way to decrease smoking was through education and not taxation. CBJ should not be in the business of social engineering. Smokers represent less than 20% of the adults in Juneau. The funds from the tax would not go to smoking cessation or smoker's health care, but would support services for the entire population of Juneau and that was unfair. Smokers were concentrated in the lower income levels. The tax was regressive and affected lower income persons the most.

Emily Nenon said she is the Alaska Government Relations Director for the American Cancer Society Cancer Action Network based in Anchorage. She said increasing the price of tobacco particularly effects youth and that is where they see the strongest impact.The cost of smoking to the State of Alaska averaged $19 per pack (Alaska Tobacco Facts, 2012). She explained that this included the annual medical cost for tobacco use and the annual "lost productivity" (due to premature deaths) from tobacco use. She said for a $2 cigarette tax, that was roughly equivalent to between 75 and 100% of wholesale price ad valorem tax on other tobacco products. The ordinance would increase the CBJ tax to $3 a pack for cigarettes and take other tobacco products to only 45%. They were concerned about the sky-rocketing use of e-cigarettes by youth and she said it was important to tax those to deter that use. To have a measurable impact on consumption declines, a 10% increase in the total price, at minimum, was needed. She said phasing in price increases did not have the same impact. She said the consumption rates in youth and pregnant women declines when the price increases.

Assembly Action:

MOTION, by Jones, to adopt Ordinance 2015-01(b).

Ms. White objected and said she had been a smoker and also been in a lower income bracket, and there were ways to adapt to price increases, including smoking half a cigarette, smoking stronger cigarettes, and there were ways to get around this local tax if the state and federal government got their piece. She said this was too large of an increase at one time.

Mr. Nankervis objected and said that parenting was being left out of the equation, and taxation was attempting to take its place. He did not see in the budget how the $1.4 million existing tobacco tax was being used for smoking cessation as only $178,000 was going to Bartlett. He said this seemed like an attempt the budget rather than reduce the consumption of cigarettes. Smoking was legal and smokers should not be vilified. Bad drivers and over eaters were not taxed. A 200% increase in the tax on a pack was ridiculous. If the entire amount raised went back into the cost of smoking, he would consider supporting this.

Ms. Kiefer said the tobacco tax was used for Bartlett Regional Hospital and for the Social Service Advisory Board for grants.

Roll call:
Aye: Becker, Crane, Jones, Gladziszewski, Kiehl, Troll
Nay: Nankervis, White, Sanford
Motion passed, 6 ayes, 3 nays.

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.

Public Comment:

Zack Worrell showed a picture of the road which he said was created from "skidder" operations since 1972. He wanted to clarify that when he got involved with the property, the road was already in existence and he had improved it by pulling some alders. At the last Lands Committee meeting, there was a lot of discussion about the attributes of the subdivision that he had submitted. The subdivision was not before the Assembly. He was applying for a map amendment and the Planning Commission had unanimously approved this map amendment twice.

Ms. Gladziszewski asked about an exhibit he showed the assembly of an aerial photo and he said the superimposed paper on the photo showed the path of the road. He said there were two easements necessary from the city and the circled area is where the road went through city property. The road had been on city property all this time.

Dennis Watson, Planning Commission member, said the path came as a surprise to the Planning Commission and the PC had significant discussion about what constituted a path or a road. The path through Treadwell was at least 15 feet wide, and so was the EVAR near the airport. Based on this the PC made a decision that this was a path and not a road. He asked the city attorney if the Planning Commission was to review what was before them or what could be before them in the future. He said the PC thought it made the right decision by addressing the information in front of them. Now it appears that this is a road. Somewhere down the road this gentleman may want to drive a vehicle on that path.

Ms. Kiefer said there were a number of locations in the community that this situation could be used as setting a precedent, and this is one of the first remote areas that could be accessed by city road. This could be a change as to how we look at remote subdivisions off of the roaded system. Remote subdivisions have previously all been considered as island subdivisions accessed from the water.

Ms. Troll said it appeared there was more work to be done on this matter in general. Ms. Kiefer suggested referral to committee and said that not all of the options had been brought forward to the Assembly yet.

Mayor Sanford asked if the new subdivision ordinance addressed this in any way. Mr. Palmer said yes, it continued to address remote subdivisions by specifically requiring them to be accessed by navigable water, but it did not address this type of rural subdivision. The problem was with minor subdivisions in the new subdivision code, which changed from 4 lots to up to 13 lots, and minor subdivision in the new code could be accessed by an easement, a gravel road, that had no width. This remote subdivision was unanimously approved by the Planning Commission yet there is a dichotomy about how to distinguish this subdivision from a future minor subdivision that looks identical with the exception that the applicant is looking at 13 lots and not 23 or 25 lots.

Mayor Sanford asked Mr. Worrell when he started this process and he said he started about this same time last year, submitting applications for easements late winter, early spring.

Mr. Kiehl said he could support referral to committee to look at options, and it may be the most fair to Mr. Worrell.

Ms. Gladziszewski asked if the code currently says that a remote subdivision should not be accessed by a road. Mr. Palmer said it did and the draft code required access in a new chapter 49.17.255 requiring "sufficient and practical access is provided by at least 30 feet of frontage on a navigable waterbody." Mayor Sanford stressed the new code was not adopted..

Mr. Nankervis said he would not support this ordinance and recommended a discussion at the Lands Committee.

Mr. Jones said he did not support the ordinance, but did listen to the Planning Commission discussion and read the material and he would prefer the matter being referred to the Lands Committee.

<u>Assembly Action</u>:

<u>MOTION</u>, by Jones, to refer Ordinance 2015-02 to the Lands Committee on February 9 for review and discussion. Hearing no objection, it was so ordered.

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.

Public Comment: None.

Assembly Action:

MOTION, by Becker, to adopt Ordinance 2015-05. Hearing no objection, it was so ordered.

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.

Public Comment: None.

Assembly Action:

MOTION, by Jones, to adopt Ordinance 2015-06.

Mr. Jones thanked Mr. Uchytil, the Docks and Harbors Board, and Mr. Derek Duncan and Goldbelt, Inc. for resolving this contentious issue. There were many issues and this lease agreement fixes several problems. He encouraged adoption.

Hearing no objection, it was so ordered.

VIII. UNFINISHED BUSINESS

None.

IX. 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.

Public Comment: None.

Assembly Action:

MOTION, by Crane, to approve the 1% for Art Selection recommended by the committee: Dan DeRoux black bear bronze statue and landscaping-$65,000; Rob Goldberg and Donna Catotti etched class installation-$30,000 and Extreme Dreams (John & Sharon Svenson) three panel glass mosaic mural-$28,000. Hearing no objection, it was so ordered

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.

Public Comment: None.

Assembly Action:

MOTION, by Becker, to approve the Statter Harbor Contract option for Construction Administration and Inspection Services in the amount of $789,490 to PND Engineers. Hearing no objection, it was so ordered

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.

Mr. Jones said the Human Resources Committee reviewed these matters and that all outstanding accounts for Beverage Dispensary Tourism License #586 Coho's Bar & Grill, LLC d/b/a Coho's Bar & Grill were paid in full and the staff protest was removed. The staff was maintaining its protest of Restaurant Eating Place License #2185: Canton House LLC d/b/a Canton House, due to outstanding account balances.

Public Comment:

Assembly Action:

<u>MOTION</u>, by Jones, to waive right to protest Beverage Dispensary Tourism License #586 Coho's Bar & Grill, LLC d/b/a Coho's Bar & Grill. Hearing no objection, it was so ordered

<u>MOTION</u>, by Jones, to maintain the protest of Restaurant Eating Place License #2185: Canton House LLC d/b/a Canton House due to delinquent sales tax amounts. Hearing no objection, it was so ordered.

X. STAFF REPORTS

None.

XI. ASSEMBLY REPORTS

A. Mayor's Report

None.

B. Committee Reports

<u>Committee of the Whole</u>: Chair Becker said the COW met on January 26, heard a report from the NOAA Task Force, and accepted the Treadwell Task Force report. The COW discussed biosolids and directed staff to investigate a site, heat recovery, rebuilding necessary, a rate study and authorized expenditures between $200 - 300,000 as "step one" of the project. The COW discussed the West Douglas Road extension and approved a draft purpose statement for the Corps of Engineers permit. The COW discussed issues regarding marijuana legalization. The next meeting was set for February 9.

<u>Finance Committee</u>: Chair Crane said the next meeting was set for February 11 and would focus on the work of the Tax Exemption Review Committee. The next regular meeting was set for February 18.

<u>Human Resources Committee</u>: Chair Jones said the committee met prior to this meeting heard annual reports from the Building Code Advisory Committee, the Fisheries Development Advisory Committee, the Sister City Committee, and the Wetlands Review Board. A special meeting with the Social Services Advisory Board and providers of services was set for February 19.

Chair Jones provided the recommendations from the HRC regarding committee appointments. Hearing no objections, the following appointments were confirmed:

<u>Building Code Advisory Committee:</u>
Reappointment of Joanne Lott to a term expiring November 30, 2017.

<u>Fisheries Development Committee</u>:
Reappointment of Zack Wilkenson, David Harmon and Greg Fisk to terms expiring January 31, 2018.

<u>Sister City Committee</u>:
Reappointment of Maria Uchytil to a term expiring January 1, 2018.

<u>Wetlands Review Board</u>:
Reappointment of Brenda Wright to a term expiring December 31, 2017.

<u>Youth Activities Advisory Board</u>:
Appointment of Juneau Sports Association representative Peter Christianson for the term of his seat

on JSA.

Lands and Resources Committee: Chair Kiehl said the committee met on Jan 26 and would take up the remote subdivision ordinance again. The committee authorized staff to work on parking lot expansion and realignment of parking at Montessori school / Savikko Park / Docks and Harbors parking areas. The committee recommended staff finalize/forward easements for DOT in connection with the Glacier Highway reconstruction and adding sidewalks in the Auke Bay area. The committee heard more information from the Juneau Affordable Housing Committee on accessory apartments and to make grants available rather than loans from the Juneau Affordable Housing Fund.

Public Works and Facilities Committee: Chair Nankervis said the committee met on January 26 and reviewed the transfer request on the Auke Lake sewer, and one for Fritz Cove Road waterline replacement. The committee discussed the merger of the Engineering and Public Works Departments and about a utility merger in the conceptual stage. The committee reviewed a draft of the 2016-2021 CIP. The next meeting was set for February 9.

C. Liaison Reports

Airport Board: Liaison White said she attended the recent meeting and has had one-on-one conversations with board members. A joint meeting with the Board and the Assembly was set for February 19.

Bartlett Regional Hospital Board: Liaison Crane said the Board elected new officers on January 27: President Bob Storer, Vice President Nancy Davis, Secretary Mary Borthwick. The Board adopted the CEO Performance Goals for FY16, discussed the financial report and announced the successful recruitment of a child psychiatrist to start September 1. The Board discussed and voted to provide $100,000 towards the Housing First project. She said she was disappointed with the discussion and the decision.

Docks and Harbors Board: Liaison Nankervis said the Board met last Thursday and the Corps of Engineers committed $6 million to the Douglas Harbor dredging project. The next meeting was set for February 26.

Eaglecrest Board: Liaison Nankervis said the next meeting was set for February 5.

Affordable Housing Commission: Liaison Troll said the next meeting was set for February 3.

Alaska Committee: Liaison Becker said the annual meeting was held January 31 and discussed the activity of the past year, the sponsorships, and future activities. The committee contracted with the Juneau Economic Development Council to do a visitor satisfaction poll for those leaving Juneau after they have been here for the legislative session. The Committee continues outreach to legislators, making personal contacts with the legislators and staff. Work continues for the Constituent Airfare and Gavel to Gavel programs. There was good feedback from the legislative welcome reception. Samantha Dye was a new member to the Alaska Committee and incumbents were re-elected.

Downtown Business Association: Liaison Jones said the next meeting was set for February 6.

Juneau Commission on Sustainability: Liaison Troll said the Commission met on January 17 and discussed coordinating with the Building Code Advisory Board on energy efficiency in the building codes. Also discussed was the Assembly liaison sitting as a voting member on the Commission and counted as part of the quorum and her difficulty in attending the meeting due to the conflict with the Finance Committee meetings. She suggested this may need to be revised.

Juneau Convention and Visitors Bureau: Liaison White said JCVB held a two-day retreat recently.

Juneau Economic Development Council: Liaison Jones said the next meeting was February 4. He said the Innovation Summit was held the previous week with 175 people registered and very good information.

Local Emergency Planning Committee: Liaison Gladziszewski said the next meeting was set for February 11.

Juneau School District Activities Advisory Committee: Ms. Becker said it was focused on setting up activities for middles school students and there has been a lot of discussion, the school board will need to approve new policy.

Parks and Recreation Advisory Committee: Liaison Gladziszewski said the next meeting was set for February 3..

Planning Commission: Liaison Jones said the last few meetings have been relatively quick. On February 10, the PC would meet to review the Auke Bay plan in addition to its regular agenda.

School Board: Liaison Kiehl said the board met on January 13 and approved the following year academic calendar and expanded the opportunity for independent PE credits. The Board will continue to work on getting more bandwidth into the schools for classrooms, teachers, adminisrators and parents. The Board held a budget work session on January 27 without much good news.

Tongass Advisory Committee: Ms. Troll said she has attended the meetings and the next meeting would be held in Juneau. The Committee was very close to a final recommendation to the USFS.

UAS Campus Council: Liaison Kiehl said the UAS Campus council met today and discused the "Come Home to Alaska" program for students who have immediate family members to get a break on out of state tuition, with the purpose of increasing enrollment. February was Career and Technical education month. The Board discussed financial aid program strategies.

D. Presiding Officer Reports

Tall Timbers NA v Planning Commission re: Haven House: Presiding Officer Nankervis said that the Record is being finalized, it is large, and staff was determining the best method of distribution.

XII. ASSEMBLY COMMENTS AND QUESTIONS

Mr. Nankervis referred to the Juneau Commission on Sustainability and said he was uncomfortable having a vote on an advisory committee as an Assemblymember. He recommended that this should change. Mr. Jones said this topic came up at the HRC meeting and HRC was told that JCOS would be making a recommendation. A member of the Planning Commission is also a voting member on that commission. Mr. Jones said he does not vote as a member of the JEDC board, but he does help them make the quorum. There was discussion about quorum.

Mr. Nankervis thanked staff for the work on the legislative reception.

Mr. Nankervis asked for an update the on Wetlands Review Board regarding meetings/attendance, notice provided and any changes to meeting dates and times that might affect attendance.

Mr. Jones said a joint meeting with the Planning Commission was set for March 10 and he would attend by phone. He asked Mr. Kiehl to pass on to the UAS Campus Council that people at the Innovation Summit spoke about the idea of changing the school schedule to coincide better with the beginning and end of tourism season with the goal of converting tourism workers to year round residents.

Mr. Jones said the Sister City Committee would like to expand membership from 5 - 7 members and hearing no objection, staff was requested to draft a resolution for such a change.

Mr. Jones asked for an update regarding Gastineau Apartments and Ms. Sebens said that AHFC had done a walk through of the building and a meeting was set with CBJ and AHFC to get their comments with a goal of making a decision on how to proceed.

Ms. Troll said she wanted to see action on the Juneau Economic Plan and hoped that there would be discussion on how to proceed on the initiatives. She was thankful for the work on the Legislative Reception and said she was not be attending the Feb 9 meetings as she would be out of town.

Ms. Crane said that the Hospital Board would like an opportunity to meet with the Assembly to discuss fiscal challenges. She said the Alaska Municipal League was looking for resolutions supporting revenue sharing and hearing no objections, staff was directed to draft such a resolution for Assembly consideration.

Mr. Kiehl reported on a well attended Martin Luther King Day celebration. The Marijuana working group needed to set a meeting and he recommended Thursday, February 12, at 6 p.m. in the Assembly Chambers.

Ms. Becker said the DIG meetings continued and discussed Housing First. She judged a debate at TMHS and the students did an amazing job. She spoke about the Seward Statue Committee and her work on this to celebrate the 2017 sesquitennial celebration by erecting a statue of Seward at the Court Building, on a bse of marble from Marble Island and a bronze by David Ruben from Ketchikan. The committee was advertising and raising money for the project and she invited helpers and contributors to participate.

XIII. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

None.

XIV. EXECUTIVE SESSION

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

MOTION, by Kiehl, to enter into executive session to discuss a matter, the immediate knowledge of which could have a detrimental effect on the finances of the CBJ, specifically regarding negotiations for a potential Bicknell land trade.

Hearing no objection, the Assembly entered executive session at 9:37 p.m and returned to regular session at 10:38 p.m.

Upon returning to regular session, Mr. Kiehl said that the Assembly heard information from Ms. Kiefer, Mr. Steedle, Ms. Sebens, and Mr. Chaney, and gave direction to staff.

XV. ADJOURNMENT

There being no further business to come before the Assembly, the meeting adjourned at 10:40 p.m.

Signed:__________________________
Laurie Sica, Municipal Clerk

Signed:______________________________
Merrill Sanford, Mayor