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

March 17, 2014 7:00 PM

Assembly Chambers - Municipal Building
Regular Meeting No. 2014-09

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. February 24, 2014 - Regular Assembly Meeting 2014-06

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

i. Ordinance 2014-15 - An Ordinance Amending Non-code Ordinance 2010-02, Authorizing the Port Director to Lease a Portion of Alaska Tidelands Survey No. 357 to Alaska Glacier Seafoods, Inc., to Allow the Lessee to Use the Auke Bay Loading Facility to Access the Leased Premises.

Ordinance 2010-02 authorized the Port Director to enter into a lease agreement with Alaska Glacier Seafoods, Inc., for a portion of tidelands located near the Auke Bay Loading Facility (ABLF). One of the conditions of the ordinance incorporated into the 2010 lease was a prohibition against Alaska Glacier Seafoods using the ABLF to access its processing facility.
Alaska Glacier Seafoods submitted a request to the Docks and Harbors Board to allow it temporary access through the ABLF while Alaska Glacier Seafoods works to improve access to and from its facility via Glacier Highway.

Alaska Glacier Seafoods request was approved by the Docks and Harbors Board at its regular board meeting on January 30, 2014, where the Board envisioned a temporary amendment to the lease agreement to allow access for up to three years. Amending the lease would require an amendment to Ordinance 2010-02

to remove the provision prohibiting the lessee access to the leased premises via the Loading Facility.

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

ii. Ordinance 2014-20 - An Ordinance Amending the Recreation, Parks and Community Centers Code Relating to Motorized Uses on Auke Lake.

Parks and Recreation staff provided an update on Auke Lake Management to the Committee of the Whole on January 13, 2014. Following that meeting, staff was directed by the Assembly to make two changes to the code governing motorized uses on Auke Lake.

This amendment to CBJ 67.01.095 would eliminate the restriction on the length of vessel allowed, currently limited to vessels 16 feet overall or less, in order to increase enforceability, and would add a restriction prohibiting the flushing of boat motors in the lake.

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

iii. Ordinance 2014-21 - An Ordinance Amending the Official Zoning Map of the City and Borough to Change the Zoning of 1.3 Acres of Lot 2, Two Lot Subdivision, a Fraction of USS 1075, Located at 3410 Glacier Highway, from D5 to General Commercial

This ordinance would rezone a 1.3 acre portion of a single lot in the Salmon Creek area along Glacier Highway from D5 to General Commercial. The applicant, AWARE, has obtained grant funding for the construction of a 12 unit residential facility to serve as a long term shelter for victims of domestic abuse leaving the organization's emergency shelter.

The lot in question is large enough to support a multifamily residential building, is served by transit, and is within the Urban Service Area. However, the entire lot is currently zoned D5, where multifamily residential development is not allowed. If this rezone is approved, the property owner will subdivide the lot and sell the rezoned southwestern portion to AWARE, retaining the northeastern portion for future residential development at the existing D-5 density.

On February 25, 2014, the Planning Commission unanimously adopted staff's findings and moved to forwarded a recommendation for approval to the Assembly.

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

iv. Ordinance 2014-22 - An Ordinance Amending the City and Borough of Juneau Code Relating to Street and Sidewalk Vending.

This ordinance would amend the City and Borough Code relating to sidewalk and street vending. It would remove entirely the references to street vending permits, which, according to CDD, are not utilized. With respect to sidewalk vending, it would do the following:

1. correct CBJ 42.20.210 to clarify that persons with sidewalk vending permits

are exempt from the off-street solicitation provision;
2. increase the monthly permit fee;
3. allow a 25% increase in allowable vendor space size; and
4. require sidewalk vendors to provide proof of "open flame" permits when appropriate.

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

v. Ordinance 2013-11(AN) An Ordinance Appropriating To The Manager The Sum Of $1,514,583 As Additional Funding For The Open Space Waterfront Land Acquisition Capital Improvement Project, Funding Provided By The Lands Fund Fund Balance

This ordinance would transfer $1,514,583 to the Open Space Waterfront Land Acquisition capital project from the Lands Fund balance reserved for noise abatement loans.

Ordinances 2003-19(L), 2004-14(O), and 2007-21(C) transferred a total of $1,514,583 to the Lands Fund from the Heliport Plan and Flightseeing Noise Abatement Capital Improvement Project (which was funded with Marine Passenger Fees) for the purpose of providing loans to reduce the noise impact of small aircraft in the downtown area.

No noise abatement loans have been applied for in the past several years. There have been loans and interest paid to the Lands Fund and now Lands is returning MPF funds into the Open Space Waterfront Land Acquisition capital project.

In 2002 the Assembly moved that any marine passenger funding not allocated for any other purpose will be placed in the Open Space Waterfront Land Acquisition capital project fund.

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

vi. Ordinance 2013-11(AO) An Ordinance Appropriating To The Manager The Sum Of $11,893 As Partial Funding For The Design And Installation Of A New Roof For The Treadwell Salt Water Pump House At The Treadwell Mine Historic Park.

This ordinance would appropriate $11,893.00 to the Treadwell Salt Water Pump House roof replacement project; funding provided by the Treadwell Historic Preservation and Restoration Society.

CBJ was awarded a matching grant from the Alaska Department of Natural Resources Historic Preservation Fund in the amount of $19,564 (Ord 2013-11 (F)) to replace the roof structure and roofing material on the Pump House at Sandy Beach. The grant required a 40% match which is being provided through in-kind services of volunteers and cash by the Society, which raised the funds through private and corporate contributions and a fund raising event.

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

2. Resolutions

A. Resolution 2683 - A Resolution Approving Amendments to the Bylaws of the Board of Directors of Bartlett Regional Hospital.

This resolution would adopt the bylaw amendments, as proposed by the Bartlett Regional Hospital Board of Directors, which include:
1. a clarification of the Board's authority to delegate and establishing parameters for the CEO's negotiation and execution of contracts;
2. a supplementation to the vacancy conditions contained in CBJ Code;
3. changes to the quorum, calling of meetings, and voting sections to be consistent with CBJ Code;
4. addressing the hearing rules and procedures when the Board hears Medical Staff issues;
5. deleting the bylaw authorizing the Board to establish auxiliary and associated organizations; and
6. clarifying the section on executive sessions.

The Manager recommends adoption of Resolution 2683.

B. Resolution 2684 - A Resolution Authorizing the Manager to Submit to the Rasmuson Foundation a Grant Application for Furniture, Fixtures, and Equipment for the Mendenhall Valley Public Library.

In December 2012, the City and Borough submitted a letter to the Rasmuson Foundation notifying the Foundation of the City and Borough's intent to apply for grant funding to pay for furniture, fixtures, and equipment for the Mendenhall Valley Public Library. In response, the Rasmuson Foundation invited the City and Borough to submit a grant application in an amount up to $495,000.

Resolution 2684 would authorize the City Manager to submit the prepared grant application to the Rasmuson Foundation for $495,000 for the purpose of funding furniture, fixtures, and equipment for the Mendenhall Valley Public Library.

The Manager recommends adoption of Resolution 2684.

3. Liquor License

a. Liquor License Renewals, Transfers, & Applications for Restaurant Designation Permit

The following liquor license applications are before the Assembly to either protest or waive its right to protest these renewals or transfers. One of the applicants has also applied for a Restaurant Designation Permit which is before the Assembly to approve or deny.

The Assembly may protest a license application for any of the reasons listed in CBJ 20.25.025. The Finance, Police, Fire, Public Works, and Community Development Departments have reviewed the above businesses and found them to be in compliance with CBJ Code.

In the event the Assembly does protest the renewal or transfers of these licenses, CBJ Code 20.25 requires notice, with specificity regarding the nature and basis of the protest, to be sent to the licensee and provides the licensee an opportunity to exercise their right to an informal hearing before the Assembly.

Restaurant Eating Place License #848 - transfer of ownership, name change, and application for a Restaurant Designation Permit
Transfer from: Olivia Castaneda d/b/a Olivia's De Mexico
Transfer to V's Grinders, LLC d/b/a V's Cellar Door
Location: 222 Seward Street, Juneau

Package Store License #828 Transfer of ownership, name change and location
Transfer from: Jack D. Tripp d/b/a Tripps Viking Liquor
Transfer to: Thibodeau's Market Inc. d/b/a Thibodeau's Liquor
Location: No Premises

The Manager recommends the Assembly waive its right to protest the above liquor license renewal, transfers and approval of the Restaurant Designation Permit application.

VIII. PUBLIC HEARING

A. Ordinance 2014-09 An Ordinance Amending the Official Zoning Map of the City and Borough to Change the Zoning of the Following Five Properties Located at 11890 and 11893 Glacier Highway: Lots 4, 5, 6, and 7, Woodacres Subdivision, from Waterfront Commercial to General Commercial; and a Fraction of Lot B, USS 2391, from Light Commercial to General Commercial.

This ordinance would rezone five properties in the Auke Bay area from Waterfront Commercial and Light Commercial to General Commercial, resulting in the expansion of an existing General Commercial zone.

The Planning Commission reviewed this request at its November 26, 2013 meeting, and its January 14, 2014, meeting and recommended forwarding to the full Assembly for approval.

The Manager recommends adoption of Ordinance 2014-09.

B. Ordinance 2014-10 An Ordinance Amending the Official Zoning Map of the City and Borough to Change the Zoning of USS 3246 Tracts, 1A, 2A1 and 2A2, Located at 4660, 4664 and 4670 Glacier Highway, from D-5 to D-15.

This ordinance would rezone three properties located between Twin Lakes and the Lemon Creek area from D-5 to D-15 as an expansion of an existing D-15 zone.

The Planning Commission, at its November 26, 2013 meeting, reviewed this request and recommended forwarding to the full Assembly for approval.

The Manager recommends adoption of Ordinance 2014-10.

C. Ordinance 2014-12 An Ordinance Amending the Code Formatting Requirements to Allow for Underlining, Rather Than Italicizing, of New Material When Amending an Ordinance, and to Delete the References to Typewritten Ordinances in Chapter 01.20.20.

CBJ 01.20.020 specifies the formatting requirements to be used for all ordinances. The code currently requires that ordinances proposing code amendments specify the language being added by the use of italics. This requirement causes confusion when the code section being amended includes italics in the original. This ordinance would require that

ordinances proposing amendments to code sections identify any new language by the use of underlining, rather than italicizing.

Additionally, it would delete the reference to typewritten ordinances.

The Manager recommends adoption of Ordinance 2014-12.

D. Ordinance 2013-11(AG) An Ordinance Appropriating To The Manager The Sum Of $775,000 As Partial Funding For The New Mendenhall Valley Library; Funding Provided By The Friends of the Juneau Public Libraries

This ordinance would appropriate $775,000 from the Friends of the Juneau Public Libraries (FOJPL) for the construction of the new Mendenhall Valley Public Library.

The Friends of the Juneau Public Libraries have pledged $1,000,000 towards the construction of the Mendenhall Valley Public Library in Dimond Park. The first installment of $225,000 was appropriated in January 2013 for the planning, permitting and design work. This appropriation represents the second and final installment and is part of the local match for the $7,000,000 State grant received for this project.

The Manager recommends adoption of Ordinance 2013-11(AG).

E. Ordinance 2013-11(AH) An Ordinance Appropriating To The Manager The Sum Of $18,175 As Funding for the State Homeland Security Program, Grant Funding Provided by the State of Alaska Department of Military and Veterans Affairs.

This ordinance would appropriate an additional $18,175 for the 2011 State Homeland Security Program, an existing grant from the Alaska Department of Military and Veterans Affairs that was previously appropriated. The new total award is $184,033.

These funds are slated to reimburse the City and Borough of Juneau, Capital City Fire and Rescue for travel costs, backfill, and overtime for participation in the Kodiak Hazmat Training Event.

There is no match requirement for this grant.

The Manager recommends adoption of Ordinance 2013-11(AH).

F. Ordinance 2013-11(AI) An Ordinance Appropriating To The Manager The Sum Of $20,000 As Funding For Support Services To Provide A Coordinated Emergency Management Program, Funding Provided By The University Of Alaska Southeast

This ordinance would appropriate $20,000 for support services (wages and benefits) for the period April 15, 2014 through June 30, 2014 to provide a coordinated Emergency Management Program at all University of Alaska southeast regional campus locations.

Funding is provided by the University of Alaska Southeast.

This position will be under the supervision of the CBJ's Emergency Program Manager.

The Assembly Finance Committee reviewed this proposal at its January 15, 2014 meeting and directed staff to proceed with preparing a memorandum of agreement between the CBJ and UAS and to prepare an ordinance to appropriate funds for the position.

The Manager recommends adoption of Ordinance 2013-11(AI).

G. Ordinance 2013-11(AJ) An Ordinance Appropriating To The Manager The Sum Of $350,604 As Funding To Pay Bond Debt, Funding Provided By General Obligation Bond Interest Income

This ordinance would appropriate $350,604 in bond interest income to pay bond debt.

Funding provided by unexpended bond interest income from the following completed school district capital projects. These projects will be closed when this ordinance is approved:

Dzantik'i Heeni Covered Play Area	$ 3,794
Adair Kennedy Turf Field Resurfacing	$ 414

Additional funding provided by unexpended bond interest income from the following active school district capital projects. The funding for these projects exceeds the amount needed to complete the projects:

New High School in the Mendenhall Valley	$69,339
Districtwide Major Maintenance Upgrades	$9,656
Glacier Valley School Renovation	$257,357
Harborview School Renovation	$7,724
Juneau School District Site Improvements	$2,320

The Public Works and Facilities Committee approved this action at its January 13, 2014 meeting.

The Juneau School Board approved this action at its February 11, 2014 meeting.

The Manager recommends adoption of Ordinance 2013-11(AJ).

H. Ordinance 2013-11(AK) An Ordinance Appropriating To The Manager The Sum Of $1,150,000 As Partial Funding For Glacier Highway Sewer Capital Improvement Project, Loan Funding Provided by the State of Alaska Department of Environmental Conservation

This Ordinance would appropriate to the Manager $1,150,000 of loan funds from the State of Alaska, Department of Environmental Conservation (ADEC), Alaska Clean Water Fund (ACWF). The estimated total project cost is $2.5 million.

Resolution 2667, adopted on November 25, 2013, authorized the City Manager to enter into this loan agreement with ADEC. Resolution 2678, adopted on February 24, 2014, authorized the City Manager to request an additional $1 million for this project.

The Public Works and Facilities Committee reviewed this action at its February 6, 2014 meeting and recommended forwarding it to the full Assembly for approval.

The Manager recommends adoption of Ordinance 2013-11(AK).

I. Ordinance 2013-11(AL) An Ordinance Appropriating To The Manager The Sum Of $200,000 As Partial Funding For Water Main Replacement – Egan Drive, 10th To Main Street Capital Improvement Project, Loan Funding Provided by the State of Alaska Department of Environmental Conservation

This ordinance would appropriate to the Manager $200,000 of loan funds from the State of

Alaska, Department of Environmental Conservation (ADEC), Alaska Drinking Water Fund (ADWF).

The ADWF loan funds will be used to partially fund the design phase of the Water Main Replacement – Egan Drive, 10th to Main Street capital improvements project.

Resolution 2668, adopted on November 25, 2013, authorized the City Manager to enter into this loan agreement with ADEC.

The Public Works and Facilities Committee reviewed this action at its February 6, 2014 meeting and recommended forwarding to the full Assembly for approval.

The Manager recommends adoption of Ordinance 2013-11(AL).

J. Ordinance 2013-11(AM)(b) - An Ordinance Appropriating To The Manager The Sum Of $2,173,006 As Additional Funding For The Juneau International Airport Runway Safety Area Capital Improvement Project, Grant Funding Provided By The Federal Aviation Administration And The Alaska Department Of Transportation And Local Funding Provided By The Juneau International Airport

This ordinance would appropriate $2,173,006 for the Runway Safety Area capital project.

Funding is provided as follows:

Federal Aviation Administration (FAA)grant:	$2,062,365
Alaska Department of Transportation (ADOT) matching grant:	$53,884
Juneau International Airport (JNU) match:	$56,757

The FAA funds up to 95% of the project, with the remainder being split between ADOT and Juneau International Airport. This appropriation results from increases to three current FAA grants, two ADOT matching grants, and the local match requirements. If the grant funds are not received, this ordinance will be de-appropriated.

The Juneau International Airport match represents the value of fill material provided to the Federal Aviation Administration for this project.

The Airport Board reviewed this action at its February 12, 2014 meeting and recommended forwarding to the full Assembly for approval.

The Manager recommends adoption of Ordinance 2013-11(AM)(b).

IX. UNFINISHED BUSINESS

X. NEW BUSINESS

A. Appeal Of Planning Commission Notice Of Decision Approving A Conditional Use Permit USE20130027 To Landscape Alaska For A Commercial Greenhouse In A D-3 Zoning District.

On February 11, 2014, the Planning Commission issued a final decision granting Conditional Use Permit USE20130027 for a commercial greenhouse in a D-3 zoning district to David Lendrum. A petitioner's group including members Anthony Zenk, G Ole Olson, David W. Wilson, Ruth Baumgartner and Elizabeth Miyasato, filed a timely Notice of Appeal of this decision with the Municipal Clerk's Office on February 26, 2014.

The Notice of Appeal and the Notice of Decision are in your packet. The Assembly is the appeal agency for this appeal, and its actions throughout the appeal process are governed by CBJ 01.50, the Appellate Code. The Code requires that upon receiving an appeal, the Assembly must first decide whether to accept or reject it. The standards applicable to this decision are set out at CBJ 01.50.030(e):

"Action by Appeal Agency Upon Receipt of a Notice of Appeal.

(1) Within thirty days of receipt of a notice of appeal by the appeal agency, the appeal agency shall notify the appellant of the acceptance or rejection of the appeal and, if rejected, the reasons for the rejection.

(2) The notice of appeal shall be liberally construed in order to preserve the rights of the appellant. The appeal agency may reject the appeal for failure to comply with these rules or if the notice of appeal does not state grounds upon which any of the relief requested may be granted."

The appellants, the permit holder, and the Planning Commission have been advised that this matter is before the Assembly. The following procedural issues should be decided:

1. Will the Assembly accept the appeal?
2. Will the Assembly hear the appeal itself or assign to a hearing officer?
3. If the Assembly hears the appeal itself, will the Mayor preside, or will he designate another member as presiding officer?

This matter is before the Assembly sitting in its quasi-judicial capacity. Accordingly, members should avoid discussing the case outside the hearing process.With respect to this issue, the Appellate Code provides as follows:

CBJ 01.50.230 IMPARTIALITY "The functions of hearing officers and those appeal agency members participating in decisions shall be conducted in an impartial manner with due regard for the rights of all parties and the facts and the law, and consistent with the orderly and prompt dispatch of proceedings. Hearing officers and appeal agency members, except to the extent required for the disposition of ex parte matters authorized by law, shall not engage in interviews concerning the appeal with, or receive evidence or argument on the appeal from, a party, directly or indirectly, except upon opportunity for all other parties to be present. Copies of all communications with a hearing officer or appeal agency member concerning the appeal shall be served upon all parties."

Because this is an appeal, there is no manager's recommendation on whether or how the Assembly should hear the appeal.

B. Liquor Licenses - Competing New Restaurant/Eating Place Liquor Licenses: Joan Deering d/b/a Paradise Cafe & Bakery and Timberwolf Ventures Inc. d/b/a Lunchbox

Your packet contains the following two applications for new Restaurant/Eating Place liquor licenses and applications for Restaurant Designation Permits:

Joan Deering d/b/a Paradise Café & Bakery located at 9351 Glacier Hwy., Juneau

Timberwolf Ventures, Inc. d/b/a Lunchbox located at 495 South Franklin Street,

Juneau

Alaska Statutes 04.11.400 imposes population limitations on the number of the various types of liquor licenses per community. Juneau's net population currently allows for 22 Restaurant/Eating Place licenses. We presently have 21 licensed premises with Restaurant/Eating Place licenses, meaning these two applicants are competing for the last allowable restaurant/eating place license.
CBJ Code Section 20.25.025 sets out the criteria for Assembly review of license issuance, renewal, transfer, relocation, or continued operation of liquor licenses and the grounds under which a license may be protested, and CBJ staff has recommended the Assembly waive its right to protest either application, however the code is silent on the process by which a local preference for competing applications are to be considered.

State regulations provide that where there are competing petitions, the ABC Board will consider a number of factors, including the "preferences or priorities expressed by the local governing body."

Both applicants were sent the letter and attachments found in your Assembly packets as notice of these proceedings.

This issue was considered at the Assembly Human Resources Committee just prior to this meeting and I recommend the Assembly proceed according to the recommendations of the Human Resources Committee.

XI. STAFF REPORTS

XII. ASSEMBLY REPORTS

A. Mayor's Report

B. Committee Reports

C. Liaison Reports

D. Presiding Officer Reports

1. Richard Harris–RH Development-Appeal Of A Planning Commission Notice of Decision Regarding AME2013-0006 – Denial of a Request for a Zone Change from D-10 – LC at 9050 Atlin Drive or 2600 Mendenhall Loop Road.

   On January 6, 2014, the Assembly heard the appeal of AME20130006, a Planning Commission decision denying a request to rezone USS 381 FR from D10 to Light Commercial. The final decision is before the Assembly for adoption.

   CBJ Code 01.50.140, Decisions on Appeal, provides that the proposed decision and any objections to the proposed decision shall be placed before the appeal agency at the first regular meeting at which the matter may be scheduled or at a special meeting called for that purpose. No written objections were received from the parties.

XIII. ASSEMBLY COMMENTS AND QUESTIONS

XIV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

XV. EXECUTIVE SESSION

XVI. ADJOURNMENT

Note: Agenda packets are available for review online at www.juneau.org.

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@ci.juneau.ak.us