

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

Monday, January 28, 2013, 7 p.m.
Assembly Chambers – Municipal Building
Regular Meeting No. 2013-03

Submitted by: _____

Kimberly A. Kiefer
City and Borough Manager

I. FLAG SALUTE

II. ROLL CALL

III. SPECIAL ORDER OF BUSINESS

A. Barbara Berg

IV. APPROVAL OF MINUTES

A. January 7, 2013 – Regular Assembly Meeting 2013-01

V. MANAGER'S REQUEST FOR AGENDA CHANGES

VI. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS.

(Not to exceed a total of 20 minutes nor more than 5 minutes for any individual).

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 2012-20(AD)

An Ordinance Appropriating To The Manager The Sum Of \$16,906 As Funding For High Visibility Enforcement Related to Driving Under the Influence and Seatbelt Enforcement; Grant Funding Provided By The Alaska Department of Transportation and Public Facilities, Alaska Highway Safety Office.

This ordinance would appropriate \$16,906 to conduct high visibility enforcement related to driving under the influence and seatbelt enforcement. Funding is provided by a federal pass-through grant from the State of Alaska, Department of Transportation and Public Facilities, Alaska Highway Safety Office.

The funding provides for \$15,754 in personnel services and \$1,152 for contractual services, specifically vehicle maintenance.

I recommend this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

b. Ordinance 2012-20(AE)

An Ordinance Appropriating To The Manager The Sum Of \$5,434 As Funding for the Purchase of Bullet Proof Vests; Grant Funding Provided By The United States Department of Justice.

This ordinance would appropriate \$5,434 in grant funds from the U.S. Department of Justice, Office of Justice Programs for the purchase of bulletproof vests. The Bulletproof Vest Partnership (BVP), created by the Bulletproof Vest Partnership Grant Act of 1998 is a unique U.S. Department of Justice initiative designed to provide a critical resource to state and local law enforcement. The grant funds are anticipated to pay fifty percent of the total costs for nineteen vests with the remaining 50% (the grant match) from JPD's operating budget.

I recommend this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

c. Ordinance 2012-12(AF)

An Ordinance Appropriating To The Manager The Sum Of \$881,277 As A Transfer To The Lands Fund; Funding Provided By Various Capital Projects.

This ordinance would appropriate funds back to the Lands Fund from existing capital projects. The Lands Fund was the original source of the funds.

These capital projects are completed and are ready to close. The funds remaining in these projects should revert to the Lands Fund:

Stabler's Water/Scales	\$35,261
Lena Subdivision	26,016
Lemon Creek Rock Quarry	20,000

Two on-going capital projects would have funding reductions:

North Lemon Creek Material Source, \$600,000 – Funding reduced due to a revised longer-term development approach, generated in response to a reduction in material sales. After this transfer, the remaining project funding will be approximately \$475,300.

Lemon Creek Subdivision, \$200,000 – Funding reduced to an amount that would cover planning and design costs only. The Lemon Creek Subdivision is envisioned to occur in the remainder of the old gravel pit, next to Home Depot, when gravel and mining activities cease. Due to reduced material sales, mining activity will continue for several more years. The close out of the gravel pit will occur so as to prepare the property for future subdivision and disposal. After this transfer, the remaining project funding will be \$49,547.

The Public Works and Facilities Committee heard this action at its January 14, 2013 meeting and has recommended forwarding this to the full Assembly for approval.

I recommend this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

d. Ordinance 2012-20(AG)

An Ordinance Appropriating To The Manager The Sum Of \$225,000 As Partial Funding For The New Mendenhall Valley Library; Funding Provided By The Friends of the Juneau Public Libraries.

This ordinance would appropriate \$225,000 from the Friends of the Juneau Public Libraries (FOJPL). The FOJPL has committed to donating one million dollars towards construction of the new valley library at Dimond Park. In order to allow planning, permitting and design work to proceed this winter, the FOJPL is ready to provide a first installment of \$225,000 to the project.

The Public Works and Facilities Committee heard this action at its January 14, 2013 meeting and has recommended forwarding this to the full Assembly for approval.

I recommend this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

e. Ordinance 2013-04

An Ordinance Amending the Second-Hand Smoke Control Code to Prohibit Smoking in Areas Designated by Appropriate Signage.

This ordinance would amend CBJ 36.60, the “Second-Hand Smoke Control Code,” by extending the smoking ban to areas where posted signs prohibit smoking. This amendment is in response to the Airport Board’s desire to expand the no-smoking area in front of the Airport terminal building.

The Airport has received ongoing complaints about smoking in front of the terminal building. To solve this problem, the Airport is engaging a two-step process. First, it installed two smoking shelters adjacent to the terminal building to accommodate smokers. The second step is to ask the Assembly to amend the code to prohibit smoking where “no smoking” signs are posted.

At its meeting December 12, 2012, the Airport Board passed a motion to prohibit smoking in front of the Airport terminal building and requested the Airport Manager seek the necessary changes to CBJ 36.60 to articulate and enforce that prohibition.

This ordinance would add the areas in which smoking is prohibited, any area so designated, by posted ‘No Smoking’ signs.

I recommend this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

f. Ordinance 2013-05
An Ordinance Restricting Off-site Commercial Solicitation Within the Downtown Historic District.

This ordinance would prohibit “hawking,” off-site commercial solicitation, within the Downtown Historical District. The ordinance is similar to that enacted in Skagway and upheld by the Alaska Supreme Court. It was requested by the tourism industry as there have been increasing reports of this conduct recently.

The ordinance exempts from the hawking prohibition sales made under street vending permits, expressive speech permitted under the panhandling restricted ordinance, and sales made under Docks and Harbors Department dock vending permits. Because it would enact a code restriction for certain speech, of course, CBJ has to tread cautiously in this area. As the court allowed in the Skagway ordinance challenge, this ordinance would only restrict commercial speech, and require all commercial solicitation to be conducted within an enclosed structure.

I recommend this ordinance be introduced and set for public hearing at the next regular Assembly meeting.

2. Resolutions

A. Resolution 2633

A Resolution Authorizing the Manager to Grant an Easement to the State of Alaska, Department of Transportation and Public Facilities, on the South Side of Little Rock Dump on Thane Road.

The Alaska Department of Transportation and Public Facilities (DOT) requests an easement of approximately 170 square feet of municipal property, on the south side of the little rock dump (Tract A, ATS 556), to install a camera to monitor an avalanche chute on Thane Road. By resolution, the Assembly may authorize the manager to execute an easement under terms and conditions authorized by the Assembly.

DOT requests that the CBJ provide the easement at no charge, as the project is a benefit to the community. Per 53.09.610(a) the disposal of municipal land may be made to a state agency for less than the appraised value provided the Assembly approves the terms and conditions of such disposal by resolution.

This resolution would authorize a nonexclusive easement to DOT for the stated purpose; waive compensation to the CBJ; provide for conditions to address access, maintenance and power; and assign the cost of relocation to DOT.

The CBJ executed a lease for the subject property with Juneau Port Development. The easement request is supported by the lease holder. The Docks and Harbors Board forwarded a motion of support to the Assembly on October 25, 2012. The Lands Committee forwarded a motion of support to the Assembly on October 29, 2012. The Planning Commission forwarded a recommendation of support to the Assembly on November 27, 2012.

I recommend this resolution be adopted.

3. Bid Award

A. Bid E13-087 Bayview Subdivision Water System Improvements

Bids were opened on the subject project on January 10, 2013. The bid protest period expired at 4:30 p.m. on January 11, 2013. Results of the bid opening are as follows:

BIDDERS	TOTAL BID
Arete Construction Corp.	\$1,348,030.00
Admiralty Construction, Inc.	\$1,492,317.00
<i>Engineer's Estimate</i>	<i>\$1,657,307.00</i>

This project consists of reconstruction of the entire length of Horizon Drive, installation of an 8-inch HDPE water main, installation of 4-inch HDPE sewer force mains, new 1-inch water services to all the lots, installation of new sanitary sewer service cleanouts on all existing sewer services, replacement of existing driveway culverts with CPP, replacement of the street embankment up to a 12-inch depth with new asphalt pavement and other miscellaneous related work.

Funding Source: Sales Tax
Total Project Funds: \$2.15 million
CIP No.: R72-063
Construction Encumbrance: \$1,348,030
Construction Contingency: approximately \$130,000
Consultant Design: \$105,000
Consultant Contract Administration/Inspection: approximately \$108,000
CBJ Administrative costs: approximately \$65,000

I recommend award of this project to Arete Construction Corp. in the Base Bid amount of \$1,348,030.00.

4. Liquor License

Liquor License 2013/2014 Renewals

Beverage Dispensary License:
License # 2766 – Alaska Red Dog Saloon LLC d/b/a Red Dog Saloon, Location: 278 S. Franklin Street (also includes building reconfiguration)

Beverage Dispensary – Seasonal License:
License # 3720 – Mt. Roberts Tramway Ltd Partnership d/b/a Timberline Bar & Grill
Location: 1800 Foot Level (Mt. Roberts)

Restaurant/Eating Place License:
License # 2175 – The Silverbow, LLC d/b/a Silverbow Bakery and Catering, Location: 120 Second Street, Juneau

Recreational Site – Seasonal Licenses:

License # 4881 – Alaska Travel Adventures Inc. d/b/a Alaska Travel Adventures,
Location: 9999 Glacier Hwy.

License # 3409 – Alaska Travel Adventures Inc. d/b/a Gold Creek Salmon Bake,
Location: 1061 Salmon Creek Lane

Package Store License:

License # 300 – DeHart’s LLC d/b/a DeHarts Grocery, Location: 11735 Glacier Hwy.

The above-listed liquor license renewals for the 2013/2014 cycle are before the Assembly to either protest or waive its right to protest. The Finance, Police, Fire, 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 one or more of the above mentioned liquor 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.

I recommend the Assembly waive its right to protest the above liquor license renewals.

VIII. PUBLIC HEARING

A. Ordinance 2012-20(AC)

An Ordinance Appropriating To The Manager The Sum of \$6,186.03 As Funding To Support Emergency Medical Public Safety Awareness, Funding Provided By A Donation From The Medic I Fund.

This ordinance would appropriate \$6,186.03 to allow Capital City Fire / Rescue to provide CPR training and purchase of training aids and materials for public awareness and training. Funding would be provided through the Medic I Fund.

The Medic I Fund was established prior to 1989 through small donations to be used to support public safety awareness for the entire CBJ community. The use of Fund proceeds was determined by a volunteer group (the Medic I Fund Committee) which has disbanded. The Fund has been inactive for approximately 20 years and the \$6,186.03 is the balance remaining in the Fund.

I recommend this ordinance be adopted.

B. Ordinance 2013-01

An Ordinance Amending the Land Use Code By Adopting a Revised Juneau Downtown Historic District Map.

This ordinance would adopt into the Land Use Code a revised version of the Juneau Downtown Historic District Map, with new boundaries. The only change would be to exclude from the District the block bounded by Seward Street, Front Street, Shattuck Way and Municipal Way. The purpose of the revised map is to facilitate the development of the proposed Walter Soboleff building by the Sealaska Heritage Institute without the design

constraints imposed by the Historic District requirements, *e.g.*, height restrictions. It would remove from the District the parcel on which the building is proposed.

The Historic Resources Advisory Committee (HRAC) considered the proposed map change at its meeting of December 19, and recommended an amendment to the proposed map, which would leave the first five feet of the frontage on Front Street in the Historic District.

There are exhibits attached to the ordinance as follows: Exhibit A1 is the proposed revised map; Exhibit A2 is an alternate view illustrating the area to be removed from the District; Exhibit B1 is the revised map as recommended by the HRAC; Exhibit B2 is an alternative view of the HRAC recommended map; Exhibit C is the existing Historic District boundary map.

Adoption of the revised map would minimize required changes to the design proposed by the Sealaska Heritage Institute, which would require a conditional use permit to be granted by the Planning Commission; this ordinance would not address the issues of parking and awnings as required by the existing Code.

The Planning Commission reviewed this ordinance at its January 8 meeting and recommended the Assembly adopt the HRAC recommendation to remove the block bounded by Shattuck Way, Front Street, Seward Street and Municipal Way from the Downtown Historic District except for 5 feet of the Front Street façade of the block that would remain in the Downtown Historic District as shown in the exhibit maps.

I recommend this ordinance be adopted.

C. Ordinance 2013-02

An Ordinance Creating Local Improvement District No. 96, Auke Lake Sewer 2013, Consisting Of Construction of a Sanitary Sewer System That Would Provide Municipal Sewer Service to the Properties Along Glacier Highway From the Top Of Pederson Hill to Fritz Cove Road.

This ordinance would create LID No. 96 for the purpose of providing sewer serving the property owners within the Auke Lake Sewer 2013, LID 96 boundary (along Glacier Highway from the top of Pederson Hill to Fritz Cove Road). The total of all proposed assessments for this project is \$23,400.

An informal poll was conducted of the property owners in this LID area. As of December 5, 2012, 8 responses were received from a total of 14 properties. All 8 responses were in favor of the LID.

LID 96 was reviewed by the Public Works and Facilities Committee at its December 10, 2012, meeting and forwarded to the full Assembly.

Notices were published in the newspaper and sent to residents in the LID area so they would be aware that they would have the opportunity to make their views known to the Assembly at the public hearing.

I recommend this ordinance be adopted.

D. Ordinance 2013-03

An Ordinance Amending the Land Use Code Relating to Minimum Vegetative Cover Requirements in Mixed Use Zoning Districts.

The proposed ordinance would amend Title 49, the Land Use Code, to eliminate vegetative cover requirements in the Mixed Use (MU) district and require Public Institutional Uses to comply with vegetation requirements as specified by the underlying zoning district.

The Mixed Use district is located in the historic downtown core area. Historically, vegetative cover was not required and development was encouraged to cover the entirety of the site. This is reflected in the current development standards that do not require setbacks in the MU district. In recent times, many variances have been granted to the MU's 5% vegetative cover requirement because it is impossible to provide vegetative cover on a site using standard construction techniques when full build out is encouraged.

Additionally, Public Institutional Uses are currently required to provide a minimum of 30% vegetative cover onsite. This ordinance would allow the underlying zoning district's vegetative cover requirement for Public Institutional Uses to be applied in the same manner as it is for all other developments.

The Planning Commission reviewed the ordinance at its January 8 meeting and recommended forwarding it to the full Assembly for approval.

I recommend this ordinance be adopted.

IX. UNFINISHED BUSINESS

X. NEW BUSINESS

A. Dau Appeal of Planning Commission Notice of Decision Regarding Conditional Use Permit USE2012-0019, for Lemon Creek Gravel Extraction.

On December 18, 2012, the Planning Commission issued a final decision granting the Conditional Use Permit referenced above. The petitioner, Michael A. Dau, filed a timely Notice of Appeal of this decision with the Municipal Clerk's Office on Monday, January 7, 2013.

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):

(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, I have no recommendation on whether or how the Assembly should hear the appeal.

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

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