

THE CITY AND BOROUGH OF JUNEAU, ALASKA

January 24, 2005

MEETING NO. 2005-02: 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 Bruce Botelho.

I. FLAG SALUTE was led by Mayor Bruce Botelho.

II. ROLL CALL

Assembly Present: Jeff Bush, Johan Dybdahl, Dan Peterson, Stan Ridgeway (via telephone), Merrill Sanford, Randy Wanamaker, Marc Wheeler, Mayor Botelho.

Assembly Absent: David Stone

Staff Present: Rod Swope, City Manager; Donna Pierce, Deputy City Manager; John Hartle, City Attorney; Laurie Sica, Municipal Clerk; Peggy Boggs, Deputy City Attorney; Cynthia Johnson, Deputy Lands Manager; Dale Pernula, Community Development Director; Craig Duncan, Finance Director; Ben Mello, Airport Planner; Richard Gummow, Police Chief; Greg Browning, Asst. Police Chief; Lisa Haffner, JPD Communications Supervisor.

III. SPECIAL ORDER OF BUSINESS

A. Mothers Against Drunk Driving - Star Awards: Law Enforcement Appreciation
Cindy Cashen of MADD introduced Youth in Action members Page Palke, Amanda Soto, Tutu Danio, and Nikero Sara Danio, who recognized JPD officers for their efforts to stop drunk driving, assist victims and prevent underage drinking, and Anne Schmitd, the new coordinator of MADD Court Monitoring program, who presented the awards to police officers Jason Van Sickle, Blaine Hatch, Craig Campbell, Chris Burke, Kevin Furmin, Barry Bunnell, Darren Schultz, Troy Wilson, Kevin Siska, Mark Fortunado, Chris Gifford, Tom Bates, Steve Hernandez, Bryan Dallas, Raimy Vinson, Joel Hinz, Paul Comolli, David Campbell, and Russ Haight.

B. Employee Recognition

Rod Swope reported on the Totem Creek Golf Course Lease, and thanked Peggy Boggs and Steve Gilbertson for their work.

Police Chief Richard Gummow and Asst. Chief Greg Browning thanked Lisa Haffner, JPD Communications Supervisor, for her service to the City and Borough of Juneau, and wished her luck in her new position with Coastal Helicopters.

Christi Herren thanked Dayle Tennison, Centennial Hall Supervisor, for twenty years of service to CBJ, wished her luck in her retirement, and invited the public to a party at Centennial Hall on February 25, from 4-7 p.m. in the Egan Room.

IV. APPROVAL OF MINUTES

A. January 10, 2005 – Regular Meeting 2005-02

MOTION, by Sanford, to approve the January 10, 2005, Regular Meeting 2005-02 minutes, and he asked for unanimous consent. Mr. Wheeler provided the following corrections on page 7, to add the words "by unanimous consent" on the action on Res. 2296, and Mayor Botelho added the words "introduce" on the first motion on page 6. Hearing no objection, the minutes were approved as corrected.

V. **MANAGER'S REQUEST FOR AGENDA CHANGES** - None.

VI. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS.

Chris Zimmer, 5957 Thane Road, spoke as the U.S. Coordinator for the Transboundary Watershed Alliance. He has worked on Tulsequah Chief Mine issues, which raises water quality, fisheries and land use concerns. He referred to a McDowell report on the economic value of the Taku Inlet, which he distributed to the Assembly. Written comments to Canada's Department of Fisheries and Oceans are due February 18. No public hearings have been scheduled by Canada's DFO. He referred to a public forum in Juneau on February 8. He thanked the Mayor, Mr. Wanamaker, Mr. Swope and Ms. Gladziszewski for coordinating the meeting. There are several key people that are not willing to come to Juneau for the meeting, however, the meeting will provide a forum for questions, answers and public comment. This is a controversial project for Juneau and Juneau leaders and citizens deserve information on the project with a shared watershed across the border.

Don Bremner, 555 D St., distributed a nuclear strategy proposal for Juneau. The nuclear threat is real. He cited a Pew research survey and President Bush's comments stating that nuclear weapons and weapons of mass destruction are a significant threat and can be stolen and used against U.S. soldiers and citizens. Alaska has several military bases and much of the state was built due to the war efforts of the past. There needs to be an open discussion on this issue, with Assembly and community participation, to develop a civil defense program with infrastructure. CBJ should work with the congressional delegation, and look at building codes, which require blast and radiation protection in public buildings. Take a step back from the Capitol Building location and look at the AJ mine site for building a new capitol. He will meet with the Governor and Alaska Congressional delegation on this issue.

Daryl Miller, 3950 Green wood Ave., gave the Assembly an open invitation to the neighborhood to see if they can navigate the CBJ right of way. They have tried to form an LID in the neighborhood. The road condition has deteriorated.

Mr. Wheeler asked if he is referring to the snow conditions. Mr. Miller said there are no city and borough services on the road in the summertime, and when it does snow, the CBJ will service Wire Street, which creates a berm on Greenwood Ave. Their Neighborhood Association has met with CDD and the Law Department on the situation. It is the city's road, and the neighborhood would love city services. He wants the Assembly to see the road at its worst.

Robert Garrison, 528 W. 11th St., discussed the berms and piles of snow at Main and Egan, leaving no way to traverse the area. There is a choke point and it needs to be cleared. The area is heavily traveled and it should not be blocked.

VII. CONSENT AGENDA

A. Public Requests for Consent Agenda Changes, Other Than Ordinances for Introduction
Resolution 2294 was removed from the consent agenda by public requests.

B. Assembly Requests for Consent Agenda Changes

MOTION, by Wheeler, to remove Ordinance 2005-02. Hearing no objection, it was so ordered.

B. Assembly Action

MOTION, by Wheeler, to approve the consent agenda, with the removal of Ordinance 2005-02 and Resolution 2294. Hearing no objection, it was so ordered.

1. Ordinances

b. Ordinance 2004-14(AB)

An Ordinance Appropriating To The Manager The Sum Of \$4,706,313 For The Following New And Existing Capital Projects: Delta 1 Ramp Expansion, Acquire Security Vehicle, Part 121 Ramp Reconstruction - Phase I, Rehabilitate West GA Area Paving - Phase I, Wildlife Hazard Management Plan - Phase I, Purchase Land For Airport Expansion, Purchase Snow Removal Support Vehicle, Departure Area Security Improvements Security Upgrades And Equipment - Phase II, Rehabilitate Access Road, Taxiway Extensions, Terminal Study - Phase II, Snow Removal Equipment - ARFF Command Vehicles, Acquire Airside Vehicles And Equipment; Funding Provided By The Passenger Facility Charges.

Administrative Report: Attached. The manager recommended Ordinance 2004-14(AB) be introduced and scheduled for public hearing at the next regular Assembly meeting.

3. Transfers

a. Transfer T-793

Transferring \$3,000 Of Marine Passenger Fees From The Port Security Improvement Capital Improvement Project To The Downtown Parking Garage Major Maintenance Capital Improvement Project.

Administrative Report: Attached. The manager recommended this transfer be approved.

Removed from the Consent Agenda:

a. Ordinance 2005-02

An Ordinance Imposing Market Rate Port Dues on Vessels Carrying Passengers for Compensation.

Administrative Report: Attached. The manager recommended Ordinance 2005-02 be introduced, referred to the Committee of the Whole, and set for public hearing at the second Assembly meeting in February.

MOTION, by Wheeler to introduce Ordinance 2005-02, refer it to the Committee of the Whole meeting set for Wednesday, February 9, 2005, and set the ordinance public hearing at the first meeting in March.

Mr. Bush objected. He understands the issue is complicated, however, he was uncomfortable in delaying action, in consideration of the cruise industry need for a speedy resolution. He saw no further reason for delay.

Mr. Wheeler requested an "at ease" to confer with Mr. Bush.

Mr. Bush withdrew his objection.

Hearing no objection, the motion was approved unanimously.

2. Resolutions

a. Resolution 2294

A Resolution Increasing Port Development Fees on Vessels Carrying Passengers for Compensation, and Repealing Resolution 2163.

Administrative Report: Attached. The manager recommended this resolution be adopted. Mr. Swope referred the Assembly to red folder items regarding the resolution, including a memo from the Harbor Board and a letter from Mayor Botelho.

Public Comment:

Mike Windred: 8905 Glacier Highway, represented Alaska Travel Adventures, and said that as a taxpayer the idea of raising money without a specific purpose gives him concern. He would like to know specifically where the money would be spent. Industry has participated in talks about how funds will be spent and this should continue, whether this is through bonding or other methods. The Port Development Fee now has \$2 million of unappropriated funds or projects, which are not closed out, and he wished to see those funds used to determine the actual costs of what fulfilling the goals of the waterfront plan will be. He encouraged the Assembly to continue the method to date to sit with industry to identify projects and funding sources.

Don Habeger, 9300 View Dr., asked the Assembly to reconsider its position on Res. 2294, and hold off on adoption as it is a huge departure from community industry relationships on identifying and funding large projects. He referred to the Steamship Wharf project, which was a joint effort of many groups and resulted in a good project. The Marine Park was also an example of a collaborative project. This resolution sets up a funding mechanism, which may disenfranchise the industry in project identification. There may be a tendency for committees to get ahead of cooperative relationships and we may end up with projects that are not as good as they could be. User groups should be involved from the beginning for better project results.

John Hansen, represented Northwest Cruise Ship Association, and echoed some of Mr. Habeger's comments. There has been a long-standing cooperative relationship with industry and the community. He worked closely with city staff on the Marine Park project. Resolution 2294 is a departure from the relationship of the past. He had a procedural problem with a tax prior to acknowledgement of identification of what projects the tax would be used. He would like to continue future cooperative discussions.

Mr. Wheeler thanked Mr. Hanson for his visit. He read from the Resolution, and asked if the waterfront plan was acceptable to industry. Mr. Hanson said there are some projects

that are consistent with the \$5 fee collected now, and there are some funds still available in that allocation for use.

Charlie Ball, 5496 176th Place, represented Princess Tours, said he echoed the sentiments of the previous speakers. The fees collected in the past fairly represented all of the stakeholders involved, and gave us some predictability of business. The move to Resolution 2294 is taking a step into a new, vague agreement. The waterfront plan has many good projects that our customers would enjoy, however, they were not sure that this was the appropriate way to accomplish these projects. The impact on their planning curve is what creates the impression of a need for quick action, but most of the ships are booked for the coming season by now, so you can take that issue off the table. Any action the Assembly took now would need to be dealt with internally by the ships.

Larry Johanson, 3010 Foster Ave., represented Cruise West, a company not a member of the NWCA, and not consulted on the waterfront plan or the resolution. Cruise West is a smaller cruise line, which runs ships between Ketchikan and Juneau. The passengers are independent travelers. They terminate most of the tours in Juneau, and most of their passengers stay at least one night in Juneau, paying sales tax, bed tax, airport facility tax, and tax on tours. Most of their travelers pay at least \$26.00 in taxes if they stay one night in Juneau. They book over 5000 rooms in Juneau. They oppose the imposition of this tax, as we have not been consulted, and it is unfair and counterproductive to businesses using Juneau as a home port. They would like the Assembly to consider amending the resolution to exempt small cruise ships, those vessels having 150 or fewer passengers, from the tax.

Jim Wilson, 2355 Ka See An Drive, represented Coastal Helicopters, and opposed any tax, which did not have a specified use. He saw a large slush fund developing, which could be used without consulting those who pay into the tax. He saw the same thing happening at the airport.

Chris Wyatt, 12175 Glacier Highway, Executive Director, Chamber of Commerce, the Board of Directors had not taken a position yet, but encouraged the Assembly to support the collaborative process with industry and use existing funds for the plan, and urged the Assembly to hold off on adoption of the resolution.

R E C E S S
7:50 p.m. – 8:00 p.m.

MOTION, by Wanamaker, to introduce Resolution 2294, refer to it to the Committee of the Whole for suggestions for possible amendment, and return it to the full Assembly on the same schedule as Ordinance 2005-02.

Mr. Bush said he was not sure why this should be delayed. The objections indicated nothing that could be resolved with an extension of time. The Assembly has heard the testimony, and he supported taking action.

Mr. Wanamaker that said after listening to industry members present, the Assembly should allow them additional time to resolve conflict points. Reading back on Resolution 2263, he wondered about the legality of applying this fee to private docks. This resolution replaces Resolution 2263. The Assembly heard a request for exempting certain operations. If we can do this right, and not effect the season of the operators, it is appropriate to delay.

Mr. Sanford agreed with Mr. Wanamaker and asked how much interface has occurred with the Docks and Harbors Board. The board wrote a letter of concern and he asked how the

Resolution would effect Docks and Harbors future operations if the board wanted to increase their fees for a plan under their jurisdiction in the waterfront plan.

Mr. Bush said the Harbor Board is held harmless in the amount to be collected and was not impacted by this resolution. This merely creates an additional funding source for the waterfront plan. There was strong support for the plan and its implementation and this resolution creates a funding source to begin implementation of the plan. The funds required to fully implement the plan would not be fully achieved for many years. This was the beginning of waterfront development. The Assembly needed to move forward and implement the plan.

Mayor Botelho asked Mr. Hartle about the issue of imposing fees on a private dock. Mr. Hartle said he believed it was constitutional under two laws, the recently enacted Federal Harbor Security Act of 2002, and the "Tonnage Clause" of the U.S. Constitution.

Mr. Wheeler said he was not opposed to taking more time. He asked the current status of the bond to pay for marine park improvements. He asked for a report on how it stood and if the city was taking more money out of the passenger fees, or if the current fund met the needs. Ms. Pierce said the project was close to the expectations set out originally.

Hearing no further objection, Resolution 2294 was introduced, referred to the Committee of the Whole for possible amendment, to be returned it to the full Assembly on the same schedule as Ordinance 2005-02.

VIII. PUBLIC HEARING

A. Ordinance 2005-01

An Ordinance Authorizing the Manager to Negotiate the Sale of Lot 10, U.S. Survey 3288 at Huffman Harbor to Abutting Landowners, and Setting Forth the Price and Other Conditions of Sale.

Administrative Report: Attached. The manager recommended Ordinance 2005-01 be adopted.

Public Comment:

Frank Homan, 124 W. 6th St., represented Huffman Harbor property owners. The ordinance layed out clearly the activity that had gone on for 5 years of work on this project. There was unanimous consent from the Huffman Harbor neighbors on this ordinance. This project got complicated several times and the CBJ staff was very supportive, especially Cynthia Johnson, who had been the main contact.

MOTION, by Wanamaker, to adopt Ordinance 2005-01 as presented. Hearing no objection, Ordinance 2005-01 was adopted.

B. Ordinance 2004-14(S)(b)

An Ordinance Appropriating To The Manager The Sum Of \$1,480,590 As Partial Funding To Construct The Mental Health Ward For Adolescents And Adults At Bartlett Regional Hospital As Part Of The Bartlett 2005 Capital Improvement Project, Funding Provided The Alaska Department Of Health And Social Services, Denali Commission.

Administrative Report: Attached. The manager recommended Ordinance 2004-14(S)(b) be adopted.

Public Comment: None

MOTION, by Wanamaker, to adopt Ordinance 2004-14(S)(b) as presented.

Mr. Ridgeway said he was concerned about the legality of this project. The adolescent mental health ward was dropped from Project 2005 and he did not know if this was appropriate to support this if there is no actual plan. The adolescent mental health ward was identified as a high priority need.

Mr. Swope said that he was informed by hospital representatives that funding in this grant would be used to build an adolescent ward. There was no one from the Hospital present to speak to this ordinance. Mayor Botelho asked if a delay would affect this project. Mr. Swope said he was not aware of any impacts due to delay.

Hearing no objection, Ordinance 2004-14(S)(b) was placed on the next agenda under unfinished business.

C. Ordinance 2004-14(X)

An Ordinance Transferring To The Manager The Sum Of \$9,037 For The Airport Revolving Capital Reserve Account, Funding Provided By Airport General Operating Funds.

Administrative Report: Attached. The manager recommended Ordinance 2004-14(X) be adopted.

Public Comment: None.

MOTION, by Sanford, to adopt Ordinance 2004-14(X). Hearing no objection, it was so ordered.

D. Ordinance 2004-14(AA)

An Ordinance Appropriating To The Manager The Sum Of \$293,000 For Repairs To The Downtown Parking Garage, Funding Provided By Parking Garage Fund Balance.

Administrative Report: Attached. The manager recommended Ordinance 2004-14(X) be adopted.

Public Comment: None.

MOTION, by Wheeler, to adopt Ordinance 2004-14(AA). Hearing no objection, it was so ordered.

IX. UNFINISHED BUSINESS

A. Miller v. Docks and Harbors Board - Order

Administrative Report: Attached. The manager had no recommendation.

Public Comment: None.

MOTION, by Wheeler, to adopt the proposed decision as drafted.

Mr. Bush asked if any comments were received from the parties. Mr. Hartle said the decision was delivered to the parties, however no comments were received. He had spoken to Jim Preston of the Docks and Harbors board, who said the board chose not to comment.

Hearing no objection, the order and decision was adopted in the Miller v. Harbor Board appeal.

X. NEW BUSINESS - None.

XI. STAFF REPORTS - None.

XII. ASSEMBLY REPORTS

A. Committee Reports

Committee of the Whole: Chair Wheeler said the next meeting will be Monday, January 31, 5 p.m., in joint work session with the Planning Commission to review the Lena Point subdivision. The COW will also meeting on Wednesday, February 9, 5 p.m., to discuss the port fee resolution and ordinance, and review a draft report of the Bartlett audit.

Waterfront Development: Chair Ridgeway said the next meeting would be Monday, January 31, at Noon, in Chambers.

Human Resources Committee:

MOTION, by Peterson, that the Assembly accept the HRC recommendation to appoint Linda Daniel to the vacant seat Historic Resources Advisory Committee, term to expire June 2006.
Hearing no objection, it was so ordered.

Chair Peterson said that the HRC discussed the issue of a potential vacancy on the Planning Commission, due to Peggy Ann McConnochie's missed meetings.

MOTION, by Peterson, to accept the HRC recommendation to waive the vacancy and allow Ms. McConnochie to remain in the seat.

The Assembly discussed the issue. Mr. Bush said the committee recognized the process used is ambiguous and the HRC will review standardizing the definition of vacancy on boards. He felt it was more appropriate for this body to decide if this was an appropriate situation for a waiver.

Mayor Botelho said he understood the recommendation of the committee to be to waive the vacancy, and to draft an ordinance, which addresses board vacancies.

Mr. Dybdahl said there was one similar instance of a vacancy on the Planning Commission, the same procedure was used, and the Assembly approved the retention.

Hearing no objection, Ms. McConnochie was retained in her term as a member of the Planning Commission.

The Assembly directed the attorney to draft an ordinance, which would address vacancies on the enterprise boards to mirror Resolution 2246. Mr. Sanford asked that the boards be asked for input.

Mr. Peterson said letters were received noting vacancies on the Airport and Docks and Harbors Boards. March 14 was tentatively set as a meeting for the full Assembly to sit as the HRC to fill the vacancies.

Public Works and Facilities Committee: Chair Sanford said the PWFC met and referred two items on to the Assembly, the Nancy St. pond restoration project and Hidden Valley gravel resources study. The committee discussed ideas for temporary sidewalk improvements on South Franklin and a possible LID on John St.

Lands Committee: Chair Wanamaker said the next meeting would be February 7 to discuss a conceptual offer from Mr. McDole to acquire tidelands in exchange for other tidelands on Douglas.

B. Liaison Reports

High School Project Team: Liaison Bush said the next meeting would be February 4, at the Downtown Fire Department conference room.

Parks and Recreation Advisory Committee: Liaison Wheeler said the PRAC would not be meeting in February.

Airport Board: Liaison Sanford said the architectural firm Jensen, Yorba, Lott is working on terminal plans. The Board heard an update on the Delta ramp design and engineering and on the new fees.

Planning Commission: Liaison Wanamaker said the PC adopted new Rules of which are similar to the Assembly Rules of Procedure. These should be forwarded to the law department to review for conformity, and also be referred to the Assembly Human Resources Committee. Mr. Wanamaker referred to a letter from a citizen stating that a Planning Commission member has a conflict of interest. Mr. Wanamaker referred the letter to the attorney's office.

XIII. ASSEMBLY COMMENTS AND QUESTIONS

Mr. Sanford encouraged staff to have good conversation with the Docks and Harbors Board regarding the Resolution 2294 and Ordinance 2005-02 – we all need to be on the same page.

Mr. Wheeler asked staff to look into the concerns about snow removal on Egan Drive. The city streets crew did a good job overall with snow removal, in an expeditious manner.

Mayor Botelho said he is very concerned about snow removal on sidewalks, and does not think the public is aware that the state DOT is responsible for many sidewalks in the community. It is a health and safety issue, and it has been too long to wait for sidewalks to be cleared.

Mayor Botelho extended condolences to the David Stone family for their loss.

Mayor Botelho noted the Alaska Conference of Mayors, the Southeast Conference of Mayors and AML Board are meeting this week in Juneau.

Mayor Botelho thanked all who worked on the reception, the Chamber, the Juneau Convention and Visitors Bureau, Centennial Hall and many supporters. There have been many letters of thanks from legislators, and it is good to keep that tradition alive.

XIV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS -
None.

XV. EXECUTIVE SESSION - None.

XVI. ADJOURNMENT - 8:45 p.m.

Signed: _____
Laurie Sica, CMC, Municipal Clerk

Signed: _____
Bruce Botelho, Mayor