



REGULAR ASSEMBLY MEETING 2024-14 AGENDA

July 01, 2024 at 7:00 PM

Assembly Chambers/Zoom Webinar

<https://juneau.zoom.us/j/91515424903> or 1-253-215-8782 Webinar ID: 915 1542 4903

Submitted By:

Katie Koester, City Manager

A. FLAG SALUTE

B. LAND ACKNOWLEDGEMENT

We would like to acknowledge that the City and Borough of Juneau is on Tlingit land and wish to honor the indigenous people of this land. For more than ten thousand years, Alaska Native people have been and continue to be integral to the well-being of our community. We are grateful to be in this place, a part of this community, and to honor the culture, traditions, and resilience of the Tlingit people. Gunalchéesh!

C. ROLL CALL

D. APPROVAL OF MINUTES

1. December 11, 2023 Regular Assembly Meeting 2023-26 DRAFT Minutes

E. MANAGER'S REQUEST FOR AGENDA CHANGES

F. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS (*Limited to no more than 20 minutes, with each speaker limited to a length of time set by the Mayor not to exceed three minutes.*)

G. CONSENT AGENDA

Public Request for Consent Agenda Changes, Other than Ordinances for Introduction

Assembly Request for Consent Agenda Changes

Assembly Action

H. Resolutions

2. Resolution 3067 A Resolution Amending the City and Borough of Juneau Personnel Rules.

This resolution would approve “housekeeping” changes to the personnel rule that the Assembly approved in 2023 providing an employer matching contribution to voluntary PERS Tier 4 employee contributions to the deferred compensation plan.

The City Manager recommends this resolution be adopted.

I. Bid Awards

J. Liquor License Actions

3. These liquor license actions are before the Assembly to either protest or waive its right to protest the license actions.

Liquor License - Renewal

Licensee: Alaskan Hotel & Bar Inc. d/b/a Alaskan Hotel

License Type: Beverage Dispensary Tourism Liquor License: #1378

Location: 167 S. Franklin St., Juneau

Licensee: Carr-Gottstein Foods Co., d/b/a Oaken Keg Spirit Shops #1820

License Type: Package Store, Liquor License: #3507

Location: 3011 Vintage Blvd., Juneau

Licensee: The Odom Corporation, d/b/a The Odom Corporation (Shaune Dr.)

License Type: General Wholesale, Liquor License: #3166

Location: 5452 Shaune Dr, Bay 1, Juneau

Licensee: The Odom Corporation, d/b/a The Odom Corporation (Channel Dr.)

License Type: Wholesale Malt Beverage & Wine, Liquor License: #4715

Location: 3143 Channel Dr., Bay 1, Juneau

Staff from Police, Finance, Fire, Public Works (Utilities) and Community Development Departments reviewed the above licenses and recommended the Assembly waive its right to protest these applications. Copies of the documents associated with these licenses are available in hardcopy upon request to the Clerk's Office.

The City Manager recommends the Assembly waive its right to protest the above-listed liquor license actions.

K. PUBLIC HEARING

4. Ordinance 2024-25 An Ordinance Authorizing the Issuance of General Obligation Bonds in the Principal Amount of Not to Exceed \$12,750,000 to Finance Public Safety Communication Infrastructure within the City and Borough, and Submitting a Proposition to the Voters at the Election to Be Held Therein on October 1, 2024.

This ordinance would send one general obligation bond proposition of up to \$12.75 million for the improvement of public safety communication infrastructure, including, but not limited to, replacing the outdated communication system with a system that will be Alaska Land Mobile Radio compliant. The current system is beyond its useful life and is experiencing dead zones and limited interoperability with other agencies. The total project cost is currently estimated between \$24 and \$25 million, of which the Assembly has already appropriated \$8.7 million of general funds and sales tax. An additional \$3.5 million is secured for this project via Congressionally Directed Spending and 1% sales tax.

The Assembly requested staff introduce an ordinance to submit a proposition to the voters on the October 1, 2024 election ballot during the June 3, 2024 Committee of the Whole meeting. The Assembly Finance committee reviewed this request at its May 1, 2024 meeting.

The Systemic Racism Review Committee reviewed this ordinance at its June 18, 2024 meeting.

The City Manager recommends the Assembly take public testimony and adopt this ordinance.

5. Ordinance 2024-26 An Ordinance Authorizing the Issuance of General Obligation Bonds in the Principal Amount of Not to Exceed \$10,000,000 to Finance Wastewater Utility Infrastructure within the City and Borough, and Submitting a Proposition to the Voters at the Election to Be Held Therein on October 1, 2024.

This ordinance would send one general obligation bond proposition of up to \$10 million for the replacement of the wastewater clarifier building at the Juneau Douglas Wastewater Treatment Plant, that services Thane, Downtown, and Douglas. The total project cost is currently potentially estimated to

be as high as \$14 million. Project costs exceeding the bond amount will be funded from Wastewater fund balance.

The Assembly requested staff introduce an ordinance to submit a proposition to the voters on the October 1, 2024 election ballot during the June 3, 2024 Committee of the Whole meeting. The Assembly Finance committee reviewed this request at its May 1, 2024 meeting.

The Systemic Racism Review Committee reviewed this ordinance at its June 18, 2024 meeting.

The City Manager recommends the Assembly take public testimony and adopt this ordinance.

6. Ordinance 2023-14(b)(AK) An Ordinance Appropriating \$1,446,827 to the Manager for the Power Upgrades for Electric Buses Capital Improvement Project; Grant Funding Provided by the Alaska Department of Transportation and Public Facilities.

This ordinance would appropriate \$1,446,827 to the Power Upgrades for Electric Buses Capital Improvement Project (CIP). The funds would be used to purchase and install two Pantograph Chargers and supporting infrastructure at the Valley Transit Center. The chargers would provide backup charging for the Bus Barn and enable mid-route bus charging capabilities, promoting EV bus route expansion while upholding schedule availability. Grant funding is comprised of Federal Transit Administration funds passed through the Alaska Department of Transportation and Public Facilities. The local match requirement of \$160,759 is being met by previously appropriated funds in the Power Upgrades for Electric Buses CIP.

The Public Works and Facilities Committee reviewed this at its June 3, 2024 meeting.

The Systemic Racism Review Committee reviewed this ordinance at its June 18, 2024 meeting.

The City Manager recommends the Assembly take public testimony and adopt this ordinance.

7. Ordinance 2023-14(b)(AL) An Ordinance Transferring \$400,000 from CIP H51-113 Waterfront Seawalk to CIP P41-107 Homestead Park.

This ordinance would transfer \$400,000 from the Waterfront Seawalk CIP to the Homestead Park CIP. Homestead Park is a prime location for cruise ship passengers to view and photograph their cruise ship with Mt. Juneau, the Gastineau Channel, and downtown as the backdrop. The Homestead Park project is reconstructing failing and outdated infrastructure at the park, constructing larger viewing areas, and improving ADA accessibility. This transfer would provide funding for unanticipated cost increases resulting from the most recent project estimate. Sufficient funds will remain in the Waterfront Seawalk CIP for anticipated work in the current and next phase of the project. The Homestead Park CIP is an eligible use of marine passenger fees.

The Public Works and Facilities Committee reviewed this at its June 3, 2024 meeting.

The Systemic Racism Review Committee reviewed this ordinance at its June 18, 2024 meeting.

The City Manager recommends the Assembly take public testimony and adopt this ordinance.

8. Ordinance 2023-14(b)(AM) An Ordinance Appropriating \$36,712 to the Manager for the Construction Phase of the Float Pond Improvements Capital Improvement Project; Funding Provided by the Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grant.

The Airport has been awarded an additional \$36,712 in grant funding from the Federal Aviation Administration for the Float Pond Improvements CIP. This award will increase the previously awarded \$2,254,418 under Ordinance 2022-06(b)(N) to a total award amount of \$2,291,130. This funding would contribute toward the construction of raising the existing roadbed, introducing a drainage ditch, armoring the pond bank with rock, and reconstructing fourteen floatplane dock headwalls. The local

match requirement will be provided by previously appropriated funds in the Float Pond Improvements CIP.

The Airport Board reviewed this request at its June 13, 2024 meeting.

The Systemic Racism Review Committee reviewed this ordinance at its June 18, 2024 meeting.

The City Manager recommends the Assembly take public testimony and adopt this ordinance.

9. Ordinance 2023-14(b)(AN) An Ordinance Appropriating \$170,660 to the Manager for the Airport Snow Removal Equipment Building Capital Improvement Project; Funding Provided by Passenger Facility Charge Fees.

This ordinance would appropriate \$170,660 of Airport Passenger Facility Charge (PFC) fees to the Airport Snow Removal Equipment Building (SREB) CIP. The SREB CIP constructed a large open-design garage to provide heated, indoor storage space for the airport's snow removal fleet. These PFC funds will reimburse amounts that were forward funded from other sources, which is typical for PFC collections that are appropriated upon receipt.

The Airport Board reviewed this request at its June 13, 2024 meeting.

The Systemic Racism Review Committee reviewed this ordinance at its June 18, 2024 meeting.

The City Manager recommends the Assembly take public testimony and adopt this ordinance.

10. Ordinance 2023-14(b)(AO) An Ordinance Appropriating \$222,066 to the Manager for the Ramp Improvement Capital Improvement Project; Funding Provided by Airport Funds.

This ordinance would appropriate \$222,066 to the Ramp Improvement CIP. This project is constructing a new remain overnight (RON) large aircraft parking ramp, rehabilitating deteriorating pavement for large and commercial aircraft parking ramps, repairing failing ramp drainage and catch basins, and upgrading ramp lighting. This appropriation will allocate local match funds for FAA grant funding.

The Airport Board reviewed this request at its June 13, 2024 meeting.

The Systemic Racism Review Committee reviewed this ordinance at its June 18, 2024 meeting.

The City Manager recommends the Assembly take public testimony and adopt this ordinance.

11. Ordinance 2023-14(b)(AP) An Ordinance Appropriating \$34,367 to the Manager for the Airport Master Plan Capital Improvement Project; Funding Provided by Sales Tax Funds.

This ordinance would appropriate \$34,367 of 1% sales tax funds to the Airport Master Plan CIP. This funding will contribute toward the preparation of an updated airport master plan, which will include updates for air traffic, cargo, and passenger data and forecasts; changes to proposed aircraft servicing the airport; and layout plans for future expansion of runway, taxiway, and approach corridors. The 1% sales tax funds appropriated in this ordinance were allocated to the Airport in FY18 but weren't appropriated until federal grant match was needed. This ordinance appropriates the remaining amount from the Airport's FY18 1% sales tax allocation.

This appropriation is consistent with the intent of the 2017 1% Sales Tax initiative approved by voters in the October 3, 2017 municipal election.

The Airport Board reviewed this request at its June 13, 2024 meeting.

The Systemic Racism Review Committee reviewed this ordinance at its June 18, 2024 meeting.

The City Manager recommends the Assembly take public testimony and adopt this ordinance.

L. STAFF REPORTS

- 12. **New Parking System Update from Parks & Recreation Director George Schaaf**
[Clerk's Note: Presentation materials will be presented as a Red Folder item and published under Supplemental Materials in the online packet no later than Monday, July 1, 2024.]

M. NEW BUSINESS

- 13. Ordinance 2024-09 An Ordinance Amending the Parking Notice Requirements, Parking Management Advisory Committee, and Penalties Related to Parking Violations.**

With the new parking management system installed in the CBJ parking garages, CBJ staff has identified a need for parking code amendments that would do three things. First, this ordinance would repeal the requirement to have a Parking Management Advisory Committee, which has not met for a number of years. Second, this ordinance would repeal an outdated and inconsistent 1971 law (CBJC 72.22.045) that requires parking tickets to be placed on a car. Since 1971, Alaska law (Civil Rule 4(h)) and CBJC 03.30.075(b) have been amended to allow parking tickets to be served via certified mail or by placing the ticket on the vehicle. Third, this ordinance would create a tiered parking penalty structure in the parking garages because the existing \$25 parking penalty is not enough of a deterrent for rental car companies illegally occupying spaces.

The City Manager recommends the Assembly introduce this ordinance and set it for public hearing at the next regular Assembly meeting.

N. ASSEMBLY REPORTS

Mayor's Report

Committee and Liaison Reports

Presiding Officer Reports

- 14. APL 2023-AA01 Hart v. Planning Commission & Huna Totem Corporation**

In the summer of 2023, the Planning Commission issued a conditional use permit for a new cruise ship dock at the Juneau Subport. Ms. Hart filed a timely appeal, which was assigned to the State Office of Administrative Hearings. The Hearing Officer held the oral argument hearing on January 24, 2024. The Hearing Officer issued a draft decision to the parties. Huna Totem Corp. filed an objection and Ms. Hart filed a letter of support. A status hearing was held and the parties submitted additional briefing. The Hearing Officer Issued an amended proposed decision, which the Assembly is scheduled to consider at a Special Assembly meeting on July 22.

There is no action at this time.

O. ASSEMBLY COMMENTS & QUESTIONS

P. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Q. EXECUTIVE SESSION

- 15. City Attorney Search Committee Recommendations**

The City Attorney Search Committee has been conducting meetings/interviews the week of June 24 and may have recommendations on next steps for consideration by the Assembly in Executive Session.

Proposed Motion: Motion by ____, to recess into executive session to discuss matters that the immediate knowledge of which would defame or prejudice the character or reputation of any person, and to discuss recruitment examination materials that are confidential.

R. SUPPLEMENTAL MATERIALS

S. ADJOURNMENT

T. INSTRUCTION FOR PUBLIC PARTICIPATION

The public may participate in person or via Zoom webinar. Testimony time will be limited by the Mayor based on the number of participants. **Members of the public that want to provide oral testimony via remote participation must notify the Municipal Clerk prior to 4pm the day of the meeting by calling 907-586-5278 and indicating the topic(s) upon which they wish to testify.** For in-person participation at the meeting, a sign-up sheet will be made available at the back of the Chambers and advance sign-up is not required. Members of the public are encouraged to send their comments in advance of the meeting to BoroughAssembly@juneau.gov.

ADA accommodations available upon request: Please contact the Clerk's office 36 hours prior to any meeting so arrangements can be made for closed captioning or sign language interpreter services depending on the meeting format. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.gov.

REGULAR ASSEMBLY MEETING 2023-26

DRAFT MINUTES

December 11, 2023 at 7:00 PM



Assembly Chambers/Zoom Webinar/YouTube Livestream

Meeting No 2023-26: the Regular Meeting of the City and Borough of Juneau Assembly was held in the Assembly Chambers and called to order by Mayor Beth Weldon at 7:17 p.m.

A. FLAG SALUTE

B. LAND ACKNOWLEDGEMENT

Mr. Smith provided the following land acknowledgement: We would like to acknowledge that the City and Borough of Juneau is on Tlingit land and wish to honor the indigenous people of this land. For more than ten thousand years, Alaska Native people have been and continue to be integral to the well-being of our community. We are grateful to be in this place, a part of this community, and to honor the culture, traditions, and resilience of the Tlingit people. *Gunalchéesh!*

C. ROLL CALL

Assemblymembers Present: Mayor Weldon, Deputy Mayor Michelle Hale, Greg Smith, Ella Adkinson (via Zoom), Alicia Hughes-Skandijs, Wade Bryson, Paul Kelly (via Zoom), Christine Woll, and 'Wáahlaal Gídaag (via Zoom)

Assemblymembers Absent: None

Staff Present: City Manager Katie Koester, Deputy City Manager Robert Barr, City Attorney Robert Palmer, Municipal Clerk Beth McEwen, Deputy Municipal Clerk Diane Cathcart, Port Director Carl Uchtyl, Parks and Recreation Director George Schaaf, Tour Manager Alexandra Pierce, Senior Planner Irene Gallion

D. SPECIAL ORDER OF BUSINESS – None

E. APPROVAL OF MINUTES – None

F. MANAGER'S REQUEST FOR AGENDA CHANGES - None

G. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Public Comment:

Carole Bookless, a Douglas resident, spoke to the South Douglas Steering Committee. She relayed that she is a member, and that the committee was supposed to do a twenty-year plan in one to two years, but now it has been five years and the committee has nothing. She stressed there are many matters coming up in front of Douglas, like tourism development, housing, and the Mayflower Island transfer. She urged members to act. In response to a question about what comes next for the Douglas plan, Ms. Bookless explained that the last meeting was in March with a meeting that was supposed to happen in July but didn't.

Skip Gray, a Twin Lakes resident, recounted that the State of Alaska took ten homes on Telephone Hill in 1984, and 40 years later, three of the homes have been demolished. He said proponents of the new capital building have given up on the idea, and that the state has divested itself of the hill properties. He asked members what would have been the fair and honorable thing for the state to do once it realized it didn't need the land anymore. He stated that he is not testifying today to argue the legality of the land being taken, but rather, the morality of it. He suggested that the right thing to do would be to give the land back to the owners or their heirs or offer to sell it back at fair market value.

Erik Pedersen, a Twin Lakes resident, voiced his opposition to the proposed municipal compost facility. He expressed his concerns that the building would require ongoing subsidies for maintenance and operation. He said he is unsure of the need for the facility as there's already a private composting business in town.

Emily Kane, a downtown resident, relayed that CBJ received a \$2.5 million federal grant to improve composting in Juneau, which is being put towards the building of a facility at 2300 Anka Street and cannot be used for administrative costs. She commented that she is unsure whether CBJ has the bandwidth to run a composting facility when there has already been such a facility in town for seven years. She shared that Juneau Composts is in contact with a national network of composters who have used grant money to improve facilities.

Sarah Caldwell, a Douglas resident, voiced support for Juneau Compost. She offered her hope that CBJ would open up the bid process.

Doreen Prieto, a downtown resident, directed attention to the EPA environmental assessment for the CBJ compost, and that it has no authors, lots of statements, and no facts. She moved to page four of the assessment, which explains that the Assembly directed CBJ staff to work with the owner of Juneau Compost to ensure the project compliments the existing compost program. Further, on page five, it says that CBJ has partnered with Juneau Compost and other area non-profits. She asked what CBJ staff has done to work with Juneau Compost.

Yvette Soutiere, a downtown resident, spoke in support of Juneau Compost and stressed that CBJ needs to either partner with them or ask for RFPs. She stressed the good job that the owner is already doing.

Lisa Daugherty, a Douglas resident and owner of Juneau Compost, offered her understanding that, for all of 2023, CBJ staff and Assembly told the public that the city is working with Juneau Compost in the federal grant. She said that only conversations have been held. She highlighted that Juneau Compost has delivered compost results for the community, but now is in limbo because the city is going to build a composting facility. She said there are many unknowns now: what if the RFP replicates what Juneau Compost already does, what if the city partners with someone else, what if staff capacity cannot handle managing a long-term compost facility. She asked how the city could say it will not compete with Juneau Compost when it is building a compost facility next to them.

Mr. Smith asked what path forward Ms. Daugherty would propose. She answered that the city has been her landlord since 2019, and that she would like to continue leasing land from the city. She stressed that CBJ is receiving the benefits from her landfill diversion work, which has been one of the assembly's goals for the past three years, for zero taxpayer dollars. Mr. Smith inquired as to whether there is enough room for Juneau Compost and Tlingit & Haida to both operate. She pointed out that across the country there's no town of 30,000 people that has two compost facilities because there is not going to be enough of a market, and that there is no way a non-subsidized facility can compete with a subsidized facility.

Mariya Lovishchuk, a Douglas resident, conveyed her support of Juneau Compost, and said that it could grow and absorb Juneau's composting needs. She suggested that the city take a pause and figure out how to make the existing composter work and grow. She concluded by thanking the city for helping Juneau Housing First Collaborative to get the AHFC grant.

City Manager Koester provided an update regarding the compost grant and stated that, while the city does not intend to own or operate a facility, the grant must follow a competitive procurement process. She said diverting waste is one of the only ways CBJ can impact the life of the landfill, as almost 40 percent of what is landfilled is organic. She explained that CBJ is still in the application process and is not ready to issue the RFP because there are policy decisions, like whether there should be a contract or does the city just lease the property. She shared that city code gives more leeway to work with non-profits. She and Mr. Watt had conversations with Juneau Compost and said they are not interested in becoming a non-profit. She advised

that, if the community doesn't want to expand composting in a way that's fair and competitive through competitive procurement, then the city cannot move forward with the grant.

Mr. Bryson added that solid waste, Juneau's waste stream diversion, and trash are standing topics at the Public Works and Facilities Committee.

Mr. Kelly recalled reading emails from staff which said the city didn't get the grant that would subsidize building a facility and asked for clarification. Manager Koester answered that he is correct, the \$2.5 million would not build a facility, it would go to site development, utilities, and lights.

H. CONSENT AGENDA

Public Request for Consent Agenda Changes, Other than Ordinances for Introduction

Assembly Request for Consent Agenda Changes

Assembly Action

MOTION by Ms. Hale to adopt the Consent Agenda and asked for unanimous consent. *Hearing no objection, the Consent Agenda was adopted by unanimous consent.*

I. Ordinances for Introduction

1. **Ordinance 2023-14(b)(E) An Ordinance Deappropriating \$950,000 from the Manager for Childcare Programs.**

This housekeeping request would deappropriate \$950,000 from the Manager for childcare programs. Since the FY24 budget was adopted, the City and Borough of Juneau was awarded a \$2,000,000 grant from the State of Alaska for childcare programs and grants, appropriated under Ordinance 2023-14(b)(B). The deappropriated funds will be added to the FY25 budget as a one-time increment for childcare programs and grants.

The Committee of the Whole reviewed this request at the August 7, 2023 meeting.

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

2. **Ordinance 2023-14(b)(R) An Ordinance Appropriating \$1,600,000 to the Manager for the Affordable Housing Fund; Funding Provided by General Funds.**

This ordinance would appropriate \$1,600,000 for the Affordable Housing Fund. The Lands, Housing and Economic Development Committee (LHED) recently completed the third round of housing project proposals. The committee received six housing project proposals in the amount of \$6.3 million. Projects were ranked based on criteria from the 2023 Juneau Affordable Housing Fund (JAHF) program description and guidelines. Due to limited funds available, the committee selected one project and recommended a second project if additional funding was available. Due to the critical need for housing in the community, it is recommended that the top two ranked projects are funded. This request would provide sufficient funding to award the top two projects.

The Lands, Housing and Economic Development Committee approved this request at the November 6, 2023 meeting.

The City Manager recommends the Assembly introduce this ordinance and refer it to the next Committee of the Whole meeting.

3. **Ordinance 2023-05 An Ordinance Authorizing an Alternative Procurement Method Related to the Eaglecrest Pulse Gondola Construction Project.**

Eaglecrest Ski Area is in the process of expanding summer and winter opportunities through the development of a gondola project. Shortly after the Assembly appropriated \$2M for the purchase

of a gondola, Goldbelt Inc. injected \$10M to fund installation of the gondola and associated infrastructure. This ordinance would allow the CBJ to use the Construction Manager At Risk form of alternative procurement to complete design and construction work necessary for the gondola project. A number of factors justify an alternative procurement including: complexity of the aerial system, short construction windows, alpine environment, and the need to stay within budget.

The City Manager recommends the Assembly introduce this ordinance, refer it to the Committee of the Whole, and schedule it for public hearing at the next regular Assembly meeting.

J. Resolutions

4. Resolution 3021 A Resolution Approving Amendments to the Bylaws of the Board of Directors of Docks and Harbors.

The Docks and Harbors Board approved changes to its bylaws at its November 30, 2023 regular Board Meeting. Changes to the bylaws require Assembly approval and were last updated in 2014. In addition to administrative housecleaning issues, some of the changes include:

- Acknowledging and leveraging virtual Board member participation in a post-pandemic world.
- Allowing citizens to transmit communications (written presentations and exhibits) to the Board via email instead of hard copies to the Port Director's Office.
- Reducing the number of standing committees from two (Operations & Planning, and Finance) to only the Operations & Planning Committee.
- Defining the quorum for special committees.

CBJ Law reviewed the proposed changes and found them to be legally sufficient.

The City Manager recommends the Assembly approve the Docks and Harbors updated bylaws.

K. Liquor/Marijuana Licenses

5. Liquor & Marijuana License Actions

These liquor and marijuana license actions are before the Assembly to either protest or waive its right to protest the license actions.

Liquor License – New

Licensee: Kaitlyn Morgan d/b/a Pittman's Pub

License Type: Recreational Site, License: #6166 Location: 3000 Fishcreek Rd., Juneau

Marijuana License – Renewals

Licensee: The Fireweed Factory LLC d/b/a The Fireweed Factory LLC

License Type: Retail Marijuana Store, License: #10800 Location: 237 Front St., Juneau

Licensee: The Fireweed Factory LLC d/b/a The Fireweed Factory LLC

License Type: Standard Marijuana Cultivation, License: #10266 Location: 8415 Airport Blvd. Space B, Juneau

Licensee: Tree Logic LLC d/b/a Stoned Salmon Farms

License Type: Standard Marijuana Cultivation License: #27531 Location: 5763 Glacier Hwy, Juneau

Staff from Police, Finance, Fire, Public Works (Utilities) and Community Development Departments have reviewed the above licenses and recommended the Assembly waive its right to protest the applications. Copies of the documents associated with these licenses are available in hardcopy upon request to the Clerk's Office.

The City Manager recommends the Assembly waive its right to protest the above-listed liquor and marijuana license actions.

L. PUBLIC HEARING

6. Ordinance 2023-18 An Ordinance Amending the City and Borough of Juneau Code Related to Development in Landslide and Avalanche Hazard Areas.

The City and Borough of Juneau currently regulates development in mapped landslide and avalanche hazard areas based on 1987 maps. In 2020, the City & Borough of Juneau contracted with Tetra Tech to update the landslide and avalanche hazard maps. Tetra Tech completed its task and produced a report with new maps in 2022. Since then, the Planning Commission, Assembly committees, and the Assembly have discussed the Tetra Tech maps and different regulatory options. Ordinance 2023-18 is the result of that public process.

This ordinance would repeal the 1987 landslide and avalanche maps, repeal the landslide provisions of Title 49, adopt the 2022 Tetra Tech avalanche maps, and regulate development in moderate and severe avalanche hazard areas based on the 2022 Tetra Tech avalanche maps.

On November 6, 2023, the Assembly Committee of the Whole recommended the Assembly introduce this ordinance.

The Manager recommends the Assembly adopt this ordinance.

Public Comment

Mary Alice McKeen, a downtown resident, said her pitch is that the Assembly make sure it keeps its commitment to property owners to have an effective disclaimer stating that the landslide maps have not been adopted; do not in any way indicate that specific properties may have a significant landslide risk; might have errors; and that property owners have not been given the opportunity to correct the maps.

Mary Ellen Duffy, a downtown resident, suggested that not adopting the landslide maps and the ordinance could avoid economic impact on Juneauites. She explained that adoption of the maps would have had negative economic impacts on her as a mortgage holder. She asked members to not initiate a notification policy to specific properties that cites the maps that weren't adopted, and to adopt effective disclaimer language. She said that her concern in citing the maps is that financial lenders and insurers will use the maps for their purposes, and that they'll consider the properties hazardous. She elaborated that there are several areas in the borough that have potential hazards, and that by calling out a few specific neighborhoods, the city sends the message that all other areas don't have hazards.

Yvette Soutiere, a Starr Hill resident, concurred with previous testifiers and asked members to not issue notices.

Shawn Eisele, a downtown resident, stated that landslides and avalanches are risks in Southeast Alaska and should be addressed to keep the community physically and financially safe. He said the issue is "un-ringing the bell" when it comes to the hazard zone maps that were developed but not adopted. He recalled at the last public testimony held there was information about mortgages requiring unattainable landslide insurances for houses in the zone. He said there are zones in the map that are not accurate, and there is no way for residents to do the next steps or be exempted from the maps. He suggested that the city goes on record with a disclaimer stating that the maps are unadopted, and why it's not appropriate for the maps to be used for specific property determinations. He relayed that the unadopted maps are already being used by appraisers, so not adopting the maps isn't enough and the Assembly must take further steps. He said that the city sending postcards to residents based on the hazard zones is not a good idea.

Mr. Kelly highlighted Mr. Eisele's comment that there are some ways to improve public safety that weren't addressed in the ordinance, and asked if he would like to elaborate on that point. Mr. Eisele said doing a study is important and ideally would be done borough-wide to give a sense of the hazards. He suggested that the Assembly should think about what actions to take to make the community safer, like putting together insurance pools, monitoring on slopes in conjunction with monitoring rainfall, and a risk warning system.

Mark Ridgway, a Twin Lakes resident, said he followed the Planning Commission, and pointed to the November 6th meeting. He recalled that the motion made was to not adopt the maps and to not adopt the ordinance. He urged members to reconsider using the study, take a long view of the matter, and look toward mitigation efforts.

Ms. Hughes-Skandijs asked Mr. Ridgway if it would be his desire to have no regulation for any level of severity. Mr. Ridgway responded no, and said he is talking about what is stated in the ordinance. He stressed that the Tetra Tech study does not have enough definition, as there is no geotechnical data, and are only LIDAR (Light Detection and Ranging) maps. He suggested that it is premature to overutilize the Tetra Tech study.

Brianna Ackley, a Starr Hill resident, urged members to not adopt the maps. She asked that language be added, directing that the maps not be used for lending or insurance purposes. She shared that she bought her house last year, and if she cannot sell or insure it, then her entire financial well-being is gone.

Steve Soenksen, a valley resident, shared that he has been a builder for 30 years and has been working on a downtown housing project for the last five years. He stressed that the overlay maps are the single biggest barrier to downtown housing, as well as financing. He said the perception of the hazard is larger than the problem and recommended addressing the risk rather than regulating and designating. He relayed that he has worked on six projects, which could have added 166 units downtown, that did not go forward due to the hillside ordinance and hazard zone map. Further, in applying for funding from banks and local funders, he was told to find a level lot in the valley instead because downtown is a hazard. He suggested that the Assembly do not adopt any maps and just manage the risk, like adopting effective planning and land use policies to regulate what happens in the zones; conduct monitoring and assessments; put out warning and forecasts; and enhance emergency preparedness, awareness, and response. He offered that the city could get more housing downtown if it moves forward with a mitigation strategy and manages the risk.

Ms. Hughes-Skandijs asked Mr. Soenksen about the six projects that did not go forward and whether they were attempted in the same areas. He responded that the projects were throughout downtown, with most of them in the downtown core area. He explained that parking was one of the issues, but the hazard zones prevented people from looking seriously at doing anything downtown. He noted that Tlingit & Haida Housing Authority cannot participate in any housing projects where a civic government has placed an overlaid map calling an area a hazard zone, which he said is a problem because this is Tlingit land and there shouldn't be an ordinance that prohibits them from working in areas of downtown.

James Bibb, a Thane resident, architect by profession, conveyed that the overlay maps can be used in terms of the regulation and oversight from the city. He relayed that planning directors recommend non-approval on a proposed housing project because of restrictions that the maps and other regulations place. He said he would like to see a more proactive approach from the city as it relates to promotion of downtown development and to promote more description beyond just adopting the maps.

Tom Fletcher, a Starr Hill resident, stated that he is located a couple of blocks in and is in green zone on Kennedy Street; there is medium to high risk just 60 to 70 feet from his house. He concurred with

statements calling on the city to deal with hazard areas, and said the current maps aren't defined enough and don't include mitigation strategies.

Olivia Sinaiko, a downtown resident, commented that she had testified on this issue at the September meeting and felt that the concerns had been heard; comments and questions from Assemblymembers show that thought was seriously being put into how to minimize future harm to homeowners based on the Tetra Tech maps. She stated that, now hearing today's meeting, she thinks the Assembly is close but not there yet. She pointed to the lack of a disclaimer, and that whereas language in the proposed ordinance appears to validate the maps. She stressed that she would like to see an explicit disclaimer in the ordinance and the maps.

Charles Renick, a Starr Hill resident, concurred with previous testifiers suggesting that postcards do not go out saying there is risk based on maps that are not being adopted, and that there be clear disclaimer language.

Reverend Karen Perkins, a valley resident, said she is not testifying today for or against adopting the maps, rather, to point out that the city's new warming warehouse is in the middle of a middle to high-risk zone that may or may not be safe for human habitation.

Ke Mell, a downtown resident, concurred with previous testimony and thanked the Planning Commission as well as the Assembly for the work on the matter. She asked that members adopt enhanced clarification for the maps in order to clarify what they do and do not represent.

The Assembly took a break at 8:28 p.m. and returned at 8:36 p.m.

Assembly Action

MOTION by Mr. Smith to adopt Ordinance 2023-18.

AMENDMENT #1 by Mr. Smith, as follows:

Amend Ordinance 2023-18 in Section 9, page 11, to insert a disclaimer related to the 2022 unadopted landslide hazard assessment maps and to renumber existing Section 9 to Section 10:

"Section 9. Amendment of Chapter. CBJC 49.70 Sensitive Areas is amended by adding a new section to read:

49.70.305 Landslide hazard assessment disclaimer. The following disclaimer should appear on or be associated with Tetra Tech's mapping related to the Landslide Hazard Designation figures 1.6a-j (10 pages), dated, April 27, 2022:

The City and Borough of Juneau did not adopt these landslide hazard assessment maps. The landslide hazard assessments maps do not consider any human-made structures or mitigating measures. The landslide hazard assessment maps do not provide an indication of risk as would be necessary to determine whether landslide hazards actually pose a threat to specific properties. A more detailed site-specific investigation and evaluation would be required to determine risk to and appropriate mitigations for specific properties.

Section 10 ~~Section 9~~. Effective Date. This ordinance shall be effective 30 days after its adoption."

(Clerks Note: For numbered lines of Amendment #1, please see attached.)

Mr. Smith explained that he worked with the city attorney on the statement language, and that the intent is to stamp it on the maps.

Ms. Hughes-Skandijs objected to the amendment for the purposes of a question. She asked City Attorney Palmer where he had pulled the statements from. Mr. Palmer answered that the first statement is a

statement of fact, if that's what the assembly does, and the second, third, and fourth statements are summarized from language in Tetra Tech's report. In response to a follow-up, Mr. Palmer confirmed that lines 11-17 of the amendment are summarized from the Tetra Tech report.

Ms. Woll recalled a previous meeting where adding disclaimer language was discussed, and that the Assembly provided direction to do that. She asked if the amendment is needed (to get the disclaimer language in) or if direction was already provided. Mr. Palmer responded that there is some tension with the disclaimer: on the one hand, the Assembly is saying it does not intend to adopt landslide maps, but to have a disclaimer, he had to somehow identify the maps, which he has tried to do. He explained that there's challenge as to how to create a disclaimer. He said it's probably preferred not to have a disclaimer in code and to have it somehow attached to the maps, as people may either lose this add-on to the map or not remember that there's a non-code ordinance. He explained that the best approach is to put the disclaimer in code, specify the landslide hazard maps, and be explicit that the Assembly is not adopting them. Ms. Woll asked what a disclaimer accomplishes when it comes to insurers and mortgage companies and their use of the maps. Mr. Palmer said it is tricky, as it is almost a "chicken and the egg" concept, did the landslide hazard come first or did the maps; Tetra Tech's report identifies that they are only mapping current conditions and what they expect to be the hazards for those current conditions. He said that, even without the maps, the finance industry, the assessing industry, and the lending industries could make their own determinations that there are risks and hazards.

Mr. Smith commented that he reached out to appraisers about the ordinance and disclaimer, and explained that, even with the new maps, they look at the adopted 1987 maps when they write hazards on a report that they provide to a lender. He said his sense is they will continue to do that even if the Assembly un-adopts the 1987 maps.

Mr. Kelly asked Mr. Palmer what the effect of lines 8 through 10 would be, and what the language "should be associated with Tetra Tech's mapping" means. Mr. Palmer said the concept is that, if the city has the ability to put a watermark on the maps, this language would be on the maps. If the city can't, and if the maps are on the Community Development Department's webpage, then the language would be associated either as a cover page or on the maps so that people can recognize that disclaimer language exists.

AMENDMENT #1a by Ms. Woll to strike the sentence that begins on line 13 to read as follows:

"Section 9. Amendment of Chapter. CBJC 49.70 Sensitive Areas is amended by striking a section to read:

49.70.305 Landslide hazard assessment disclaimer. The following disclaimer should appear on or be associated with Tetra Tech's mapping related to the Landslide Hazard Designation figures 1.6a-j (10 pages), dated, April 27, 2022:

~~The City and Borough of Juneau did not adopt these landslide hazard assessment maps. The landslide hazard assessments maps do not consider any human-made structures or mitigating measures. The landslide hazard assessment maps do not provide an indication of risk as would be necessary to determine whether landslide hazards actually pose a threat to specific properties. A more detailed site-specific investigation and evaluation would be required to determine risk to and appropriate mitigations for specific properties."~~

Ms. Woll explained that the Assembly is trying to strike a balance between letting the public know about the safety risks associated with landslides, and respecting homeowners' desire to insure their properties. She said she is supportive of not adopting the maps because they are not great for regulating and site-specific information.

Mr. Smith objected for the purposes of discussion. He asked Mr. Palmer to reference the language used to write the language for Amendment #1a. Mr. Palmer cited that, on page 10 of the Tetra Tech report, and page 30 of the PDF, "The hazard designations assigned do not account for current or future positioning of infrastructure or people as this is considered risk mapping, which beyond the scope of this study. Similarly, analysis of magnitude, frequency run out, and risk assessment are not part of the study."

Mr. Bryson asked what the impact would be in removing the proposed sentence. Mr. Palmer answered that the sentences don't specifically refer to risk, and the value of the sentence is the reference to risk.

Ms. Hale referred to an email sent September 8th, which mentioned that the maps do not indicate the site-specific risk level for individual Juneau properties and says they shouldn't be used for insurance, home lending, financing, or other site-specific purposes. She said this is what members of the public are asking the Assembly to do: point out that the maps don't indicate site specific risk level. She added that the proposed sentence that is being struck is talking about the same thing just in a different way.

Ms. Hughes-Skandijs thanked Mr. Smith for bringing the main amendment forward and recognizes that Ms. Woll's amendment would delete the section related to risk. She offered that there is a cleaner way to bake risk and mitigation into the third sentence and capture what the Assembly is trying to do, as well as capturing the sentiment of the Tetra Tech.

Mr. Smith maintained his objection and commented that the language is important and beneficial to include.

Ms. Woll opined that a member of the public who's going to be reading the language is probably not going to know the specific definition of all the words when they are just trying to understand what they are looking at.

Mr. Kelly said he is supportive of removing the language to insert a phrase that might be clearer.

Mayor Weldon objected and said the statement should remain.

Roll Call Vote on Amendment #1a

Yeas: Ms. Woll, Mr. Kelly, Ms. Hughes-Skandijs

Nays: Ms. Adkinson, 'Wáahlaal Gíidaak, Mr. Bryson, Mr. Smith, Ms. Hale, Mayor Weldon

Amendment #1a failed to pass: 3 Yeas/6 Nays.

The Assembly took a break at 9:00 p.m. and returned at 9:06 p.m.

Amendment #1b by Ms. Hughes-Skandijs to add language starting on line 15, as follows:

"A more detailed site-specific investigation and evaluation would be required to determine risk to and appropriate mitigations for specific properties."

Hearing no objection, Amendment #1b passed by unanimous consent.

Hearing no objection, Amendment #1, as amended by #1b, passed by unanimous consent.

Ms. Woll asked Manager Koester to provide an overview of what the ordinance would accomplish. Ms. Koester explained that the ordinance will repeal the current landslide avalanche combined maps from 1987, and though they won't be available on the website anymore, they would be available as a public record. She said CBJ would post the avalanche and landslide maps online, and that the avalanche maps

will be used to regulate development in avalanche zones, while the landslide maps will be for information purposes only and will have a watermark of the disclaimer language. She commented that she expects to get direction from the Assembly regarding the notification process.

Mr. Smith asked what compels the Assembly to remove the 1987 maps from the website. Mr. Palmer responded that the ordinance specifically repeals the 1987 maps and replaces them with the newer maps.

Ms. Hughes-Skandijs thanked members of the public for being engaged in the process. She pointed to the Wrangell and Haines landslides, and said that, as climate change continues and the weather gets warmer and wetter, there is a real danger.

Ms. Woll said she concurs with Ms. Hughes-Skandijs and that, during discussions at the retreat last week, the Assembly committed to the priority of continuing to research emergency preparedness.

Mayor Weldon thanked members and said that, while the ordinance is not a perfect document, it is the best they could come up with.

Hearing no objection, the motion to adopt Ordinance 2023-18, as amended, passed by unanimous consent.

MOTION: by Ms. Hale to direct the manager that a general notice be included in the property tax letter all property owners get, which would state:

“If you live on a slope, you may be in danger of landslides or avalanches. If you live by the water, you may be in danger of flooding or erosion.”

Ms. Hale explained that this statement gets the city providing a general notification rather than a specific notification based on the maps.

Ms. Woll asked if this language would be used instead of a specific notification to owners within 500 feet, or in addition to notice being sent to owners within 500 feet of potential hazards. Ms. Hale answered that the proposed language would be used instead of a notification to specific owners. Ms. Woll objected and said she would prefer that the city notify individuals that are known to be in a dangerous area. She shared a personal anecdote about not knowing the landslide risk in Juneau until one hit a house she moved out of. She said she would have liked to have known that there was information about the risks.

Mr. Bryson voiced his support for Ms. Hale’s motion, as Juneau has hazards everywhere, and there are people who live in hazard areas that think there aren’t any hazards. He said he would support an overall announcement on people’s property tax mailer to remind residents that they live in a hazard prone area.

Ms. Hughes-Skandijs pointed out that some residents rent where they live, and so may not get a disclaimer via a property tax notice. She said she is not sure about this approach.

Mr. Kelly said he likes the idea in concept, but understands Mr. Hughes-Skandijs’ concerns, and so would appreciate more reflection.

MOTION by Mr. Kelly to refer the motion to the Assembly Committee of the Whole.

Objection by Ms. Hale. In conversations with people who have been affected, she said they suggested that the city conduct broader scale hazard identification before it sends hazard area notifications to people. She pointed out that directing staff to send the notification with the property tax announcement does not preclude the city from doing anything broader in the future.

Mr. Bryson also voiced objection to referring the motion to the Committee of the Whole.

Mr. Kelly withdrew his motion.

Roll Call Vote on Ms. Hale’s motion

Yeas: Ms. Hale, Mr. Bryson, Mr. Smith, Ms. Adkinson, Mr. Kelly, Mayor Weldon

Nays: Ms. Hughes-Skandijs, Ms. Woll, ‘Wáahlaal Giidaak

Motion passed: 6 yeas/3 nays

The Assembly took a break at 9:28 p.m. and returned at 9:39 p.m.

[Clerk’s Note: During the break, Mr. Bryson and Waahlaal Giidaak left the meeting.]

7. Ordinance 2022-60(b) An Ordinance Amending the Purchasing Code Regarding Public Notice, Price Thresholds, Contracting Process, Contract Requirements, and Approval Process.

The intent of this ordinance is to clarify purchasing code provisions and increase efficiency of CBJ purchasing while maintaining competition for CBJ services and contracts. Section 2 would define new terms and amend existing terms. Section 3 would create a new purchasing category and process for purchases between \$25,000 and \$50,000. Section 4 would require Assembly review of competitively solicited general contracts in excess of \$750,000 and public improvement contracts in excess of \$1.5M. Section 5 would modify the exemptions for competitive solicitation.

The Assembly Finance Committee discussed this ordinance on November 2, 2022 and November 1, 2023.

The Manager recommends the Assembly adopt this ordinance.

Public Comment

None

Assembly Action

MOTION by Ms. Hughes-Skandijs to adopt Ordinance 2022-60(b) and asked for unanimous consent. Hearing no objection, the motion passed by unanimous consent.

8. Ordinance 2023-14(b)(Q) An Ordinance Appropriating \$500,000 to the Manager for the Cruise Ship Dock Safety Railing Capital Improvement Project; Funding Provided by Docks Funds.

Since the construction of the new berths in 2017, Docks and Harbors has submitted annual Marine Passenger Fee requests for the installation of safety railings along the downtown waterfront. With increased Seawalk users, there are concerns for the safety and well-being of users in areas without safety railings. This funding would provide approximately 25% of the installation of safety railings along the Seawalk from the CT Dock to Marine Park.

The Public Works and Facilities Committee reviewed and approved this request at the November 6, 2023 meeting.

The City Manager recommends the Assembly adopt this ordinance.

Public Comment

Kirby Day, Twin Lakes resident, encouraged members to adopt the ordinance, as the Seawalk is a fantastic amenity. He pointed out the need for safety railings along the entirety of the Seawalk, and that a bull rail is not going to keep anyone from going over the ridge.

Assembly Action

MOTION by Ms. Woll to adopt Ordinance 2023-14(b)(Q) and asked for unanimous consent.

Objection by Ms. Hughes-Skandijs. She said that they passed it out of Public Works and Facilities Committee but she has issues about the funding source being used for this project. She said that residents sit on the bull railing to eat and tourists to take a rest, and while it might be a potential safety

hazard, there are already safety hazards throughout the community. She offered that out of the 1.6 million passengers using the Seawalk, she has heard of only two incidents, and so has not proven itself to be a major safety concern.

Ms. Hale asked Mr. Etheridge to speak to the ordinance, namely, what the discussion was at the Docks and Harbors board, and does the board support it.

Docks & Harbors Chair Don Etheridge said that all but one member of the board was in support of the ordinance and the one member who was opposed said they wanted people to still be allowed to jump off the docks into the water.

Mr. Smith asked about the \$500,000 only covering 25% of the project costs and how they intend to finance the remaining 75% of the project.

Chair Etheridge said that it is their intention to use fund balance monies to construct as much as the funding allows.

Ms. Hale asked whether the safety railing would go outside the bull railing so people could still sit on the railing, or on the railing. Port Director Carl Uchtyl answered that the safety railing would go on top of the bull railing, which means there would be no room to sit on the bull railing.

Mr. Kelly asked, since just 25% would be constructed, what section of the Seawalk would be prioritized. Mr. Uchtyl responded that work would start towards the Cruise Ship Terminal (CT) dock due to the railing there being newer and more cost effective to install at.

Mr. Smith asked Mr. Uchtyl if he anticipates using dock funds for the remaining 75%. Mr. Uchtyl answered that his intentions are to make requests for money from marine passenger fees, though that hasn't been approved by the board yet. He pointed to Chair Etheridge also indicating that the board believes in building what they can, and if there is no money available from passenger fees, then money from the fund balance would be used.

Mayor Weldon also objected to the ordinance and concurred with the points Ms. Hughes-Skandijs expressed. She said she understands that the safety railing is being proposed for safety, but said people need to have some personal responsibility. She added that she would like to keep the bull railing the same.

Roll Call Vote on Motion to Adopt Ordinance 2023-14(b)(Q)

Yeas: Ms. Woll, Mr. Kelly, Ms. Adkison, Ms. Hale

Nays: Mr. Smith, Ms. Hughes-Skandijs, Mayor Weldon

[Absent: Bryson & Waahlaal Giidaak]

Motion failed: 4 Yeas, 3 Nays

[Clerk's note: it takes 5 votes in the affirmative to pass a motion.]

Mr. Kelly gave notice of reconsideration on the motion to adopt Ordinance 2023-14(b)(Q)

9. Ordinance 2022-06(b)(BB) An Ordinance Appropriating \$6,320,400 to the Manager for the City and Borough of Juneau's Fiscal Year 2023 Operating Costs; Funding Provided by Various Sources.

The following departments and funds require supplemental budget authority in FY2023:

Human Resources: \$35,000 of supplemental authority is needed to cover unbudgeted costs relating to the NeoGov implementation, one of the initiatives to improve recruitment; funding provided by general funds.

Airport: this ordinance appropriates \$309,700 of Federal CARES Act funding for required repairs and maintenance upgrades at the Airport.

Eaglecrest: this ordinance appropriates \$17,400 of Eaglecrest funds for increased insurance, road plowing, and vehicle repair costs, and \$43,800 of Eaglecrest’s inventory reserve balance to write off obsolete inventory.

Debt Service Fund: this ordinance appropriates \$60,400 for bond issuance costs; funding provided by Debt Service funds.

Pandemic Response Fund: this ordinance provides budget authority to transfer federal revenue to the General Fund, including the last tranche of federal ARPA funds and the first tranche of the Local Assistance and Tribal Consistency Grant. This ordinance also appropriates approximately \$320,000 for CBJ’s FY2023 COVID-related costs, funded by FEMA revenue.

The City Manager recommends the Assembly adopt this ordinance.

Public Comment

None

Assembly Action

MOTION by Mr. Smith to adopt Ordinance 2022-06(b)(BB) and asked for unanimous consent. Hearing no objection, the motion passed by unanimous consent.

M. UNFINISHED BUSINESS – None

N. NEW BUSINESS – None

O. STAFF REPORTS

10. Sales Tax Cap Change

City Manager Koester provided a notice to the public and members that the sales tax cap will increase January 1, 2024.

P. ASSEMBLY REPORTS

Mayor's Report

Mayor Weldon congratulated the Thunder Mountain-Juneau-Douglas High School wrestling team for winning the Region V Championship, as well as the Ice Hockey Team for winning against Kodiak over the weekend. She also congratulated Ms. McEwen for being named Municipal Clerk of the Year for Alaska.

Committee and Liaison Reports

Assembly Committee of the Whole (COW) Chair Hale said the next meeting will be on the 18th at 6 pm.

Assembly Finance Committee (AFC) Chair Woll relayed that the committee had a good budget discussion at its retreat. She said she will be working with staff to figure out what the next couple finance committee meetings will look like. She noted that the sales tax holiday proposal was discussed at the last meeting.

Lands, Housing, and Economic Development Committee (LHEDC) Chair Hughes-Skandijs said the committee reported out the Crazy Horse Drive lease renewal and discussed the Juneau Affordable Housing Fund 2023 funding recommendations. It was also updated on the Christmas tree and firewood harvesting policy by Mr. Bleidorn. She said the next meeting will be on Monday, December 18.

Human Resources Committee (HRC) Chair Smith forwarded the following board recommendations for appointment:

Juneau Economic Development Council (JEDC) reappointments of Mark Guevara to the at-large seat and Joe Whites to the nonprofit environmental organization seat, and appointment of Brian Klein Henz to the at-large seat all to terms beginning immediately and expiring October 31, 2026.

Local Emergency Planning Committee (LEPC) to forward the recommendations to the State of Alaska Emergency Response Commission the reappointment of Scott Erickson to Peace Officer Seat 2, Destiny Sargeant to General Public Seat 4, Louisa Phillips to General Public Seat 4a, Evan Price to Bartlett Regional Hospital Seat 5, Kenneth Murphy to Haz/Mat Transporter Seat 10a, and Krag Campbell to Peace Officer Seat 2a for terms beginning January 1, 2024, and ending December 31, 2026, and appointment of Sabrina Boone to Alaska Native Tribal Representative Seat 12 and Rhonda Butler, Alaska Native Tribal Seat 12a for terms beginning immediately and ending December 31, 2024.

Douglas Advisory Board (DAB) appoint Shannon Crossley to a term beginning immediately and ending September 30, 2024.

Hearing no objections, all the appointments passed by unanimous consent.

Mr. Smith relayed that the HRC also voted to introduce a resolution that would petition for new restaurant and eating place liquor licenses in Juneau. He said information is still being gathered and a number still needs to be chosen, but the committee asked that such a resolution be drafted.

Ms. Hughes-Skandijs said the Alaska Municipal League (AML) conference was a positive experience. She added that she has not been to a SRRC meeting yet but will be attending her first meeting tomorrow. She noted that Travel Juneau has gotten traction on its NatGeo campaign, the office is fully staffed, and the board is preparing to hold a retreat on January 30, 2024.

Ms. Woll commented that she attended the Eaglecrest Board meeting, and said they finalized a request to use alternative procurement for the next steps in the Gondola. She shared that the Chamber of Commerce has not had a meeting since the Assembly's meeting but did hold a retreat where she and the Mayor were given their draft priorities.

Ms. Adkinson said that the Docks and Harbors Board meeting covered preparations for the Joint Assembly-Docks and Harbors Board meeting; an area the Docks and Harbors Board wishes to discuss is the potential changes to Title 85. She added that the board forwarded on its CIP list as well as a bylaw clean-up. She said the Juneau Economic Development Council had reviewed and forwarded candidates during its meeting, which were approved today.

Mr. Kelly shared that the Planning Commission met and approved permits for the learning center on St. Anns. The Title 49 subcommittee talked about amending code for accessory dwelling units and will be receiving language for consideration on December 21. He thanked the assembly for taking him to the AML conference, as well as Ms. Koester for speaking on a housing panel. He also thanked the Zach Gordon Youth Center for inviting him to their gratitude dinner.

Mr. Smith reported that the Downtown Business Association met and discussed that they are looking for new members. They were also given a presentation on the proposed Huna Totem dock. He said the School Board meets tomorrow.

Ms. Hale concurred with Mr. Kelly, and said she missed the Parks and Recreation Advisory Committee meeting due to being at the AML conference.

MOTION by Ms. Hale to adopt the revised 2024 Assembly Meeting Calendar. Hearing no objection, the motion passed by unanimous consent.

Presiding Officer Reports

11. TDLH LLC v. Community Development Department

This appeal relates to a grading permit for property located near 3101 Mendenhall Loop Road. The Community Development Department revoked the grading permit in early March 2021. Travis Arndt, the representative for the property owner, TDLH LLC, appealed.

The parties have been working on a resolution and recently agreed to withdraw this appeal. The Hearing Officer dismissed the appeal on November 14.

There is no action for the Assembly.

12. Hart v. Planning Commission & Huna Totem Corporation

In the summer of 2023, the Planning Commission issued a conditional use permit for a new cruise ship dock at the Juneau Subport. Ms. Hart filed a timely appeal.

The State Office of Administrative Hearings is providing a Hearing Officer. Ms. Hart filed her opening brief. Huna Totem and the Planning Commission’s briefs are due on January 2.

There is no action for the Assembly.

Q. ASSEMBLY COMMENTS & QUESTIONS – included under Committee Liaison Reports

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

S. EXECUTIVE SESSION - None

T. SUPPLEMENTAL MATERIALS

13. 2024 Assembly Meeting Calendar - Revised 12/11/2023

U. ADJOURNMENT

The Assembly adjourned the meeting at 10:22 p.m.

V. INSTRUCTION FOR PUBLIC PARTICIPATION

The public may participate in person or via Zoom webinar. Testimony time will be limited by the Mayor based on the number of participants. **Members of the public that want to provide oral testimony via remote participation must notify the Municipal Clerk prior to 4pm the day of the meeting by calling 907-586-5278 and indicating the topic(s) upon which they wish to testify.** For in-person participation at the meeting, a sign-up sheet will be made available at the back of the Chambers and advance sign-up is not required. Members of the public are encouraged to send their comments in advance of the meeting to BoroughAssembly@juneau.gov.

Signed: _____

Beth McEwen,
Municipal Clerk

Signed: _____

Beth A. Weldon,
Mayor

1 **Ord 2023-18 Amendment 1b (via Assemblymembers Smith & *Hughes-Skandijs*)**

2 Motion: I move to amend Ordinance 2023-18 as follows to insert a disclaimer related to
3 the 2022 unadopted landslide hazard assessment maps:

- 4 1. Insert a new Section 9 and renumber existing Section 9 as Section 10:
5

6 “**Section 9.** Amendment of Chapter. CBJC 49.70 Sensitive Areas is amended by adding a
7 new section to read:

8 **49.70.305 Landslide hazard assessment disclaimer.** The following disclaimer should
9 appear on or be associated with Tetra Tech’s mapping related to the Landslide Hazard
10 Designation figures 1.6a-j (10 pages), dated, April 27, 2022:

11 The City and Borough of Juneau did not adopt these landslide hazard assessment maps.
12 The landslide hazard assessments maps do not consider any human-made structures or
13 mitigating measures. The landslide hazard assessment maps do not provide an
14 indication of risk as would be necessary to determine whether landslide hazards actually
15 pose a threat to specific properties. A more detailed site-specific investigation and
16 evaluation would be required to determine **risk to and appropriate mitigations for**
17 specific properties.

18
19 **Section 10 ~~Section 9.~~ **Effective Date.**** This ordinance shall be effective 30 days after
20 its adoption.”
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Presented by: The Manager
Presented: 06/17/2024
Drafted by: R. Palmer III

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 3067

A Resolution Amending the City and Borough of Juneau Personnel Rules.

WHEREAS, the Assembly has adopted personnel rules in accordance with CBJC 44.05.050; and

WHEREAS, the personnel rules apply to non-represented employees of the City and Borough of Juneau and to represented employees when the collective bargaining agreement does not apply; and

WHEREAS, the personnel rules occasionally should be updated to reflect modern human resources practices or to address recruitment and retention needs; and

WHEREAS, the personnel rules were amended in 2023 to reflect a new voluntary retirement benefit to eligible CBJ employees in the State of Alaska Public Employee Retirement System (PERS) Tier 4 Defined Contribution Retirement plan; and

WHEREAS, the personnel rules should be amended to provide further clarity to this benefit program.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. The Assembly of the City and Borough of Juneau approves and hereby modifies the Personnel Rules to reflect the language below.

18 PR 075. Deferred Compensation Employee Benefit.

The CBJ offers a Deferred Compensation plan under IRC Section 457(b), under which payment of compensation may be deferred, to all eligible employees. Additionally, tThe CBJ offers a deferred compensation benefit employer matching contribution for employees enrolled in the State of Alaska Public Employees Retirement System (PERS) Tier 4 Defined Contribution Retirement plan. The intent of the benefit is to match \$1.00 in an employer funded 401(a) plan account for every \$2.00 of employee contribution into a 457(b) plan account in a manner that grows with the employee's total length of service with the CBJ. This benefit is subject to yearly Assembly appropriation.

42 (a) The CBJ provides an escalating employer match into a separate 401(a) retirement
43 account to an employee contribution into the CBJ deferred compensation plan based on
44 years of service, as follows:
45

<u>Years of Service</u>	<u>Voluntary 457(b) Employee Contribution Eligible for Employer Match</u>	<u>Employer 50% Matching Contribution to 401(a)</u>
<u>0 – 1.99 years</u>	<u>up to 2% of wages</u>	<u>up to 1% match</u>
<u>2 – 4.99 years</u>	<u>up to 4% of wages</u>	<u>up to 2% match</u>
<u>5 – 9.99 years</u>	<u>up to 6% of wages</u>	<u>up to 3% match</u>
<u>10 years and longer</u>	<u>up to 8% of wages</u>	<u>up to 4% match</u>

46

- 47 ~~1. 0-2 years: Employer matching contribution of 50% of an employee's voluntary~~
- 48 ~~contribution up to 2% of that employee's wages~~
- 49
- 50 ~~2. 2-5 years: Employer matching contribution of 50% of an employee's voluntary~~
- 51 ~~contribution up to 4% of that employee's wages~~
- 52
- 53 ~~3. 3-5-10 years: Employer matching contribution of 50% of an employee's voluntary~~
- 54 ~~contribution up to 6% of that employee's wages~~
- 55
- 56 ~~4. 4-10+ years: Employer matching contribution of 50% of an employee's voluntary~~
- 57 ~~contribution up to 8% of that employee's wages~~
- 58

59 (b) Vesting for the employer match is as follows based on years of service after the start of
60 the match plan:

- 61 1. 20% after 1 year ~~years~~
- 62 2. 40% after 2 years
- 63 3. 60% after 3 years
- 64 4. 80% after 4 years
- 65 5. 100% after 5 years
- 66 6. Those who reach the age of fifty-nine and a half (59 and ½) will automatically
- 67 be vested at 100% regardless of years of service.
- 68 7. If a rehired CBJ employee previously cashed out their 401(a) matching
- 69 account, their vesting time will be restarted with reemployment.

70 (c) Everyone has a unique tax situation and employees should consult their tax professional
71 for advice about the tax implications of this benefit.

72

73 (d) The employee contribution to the deferred compensation plan and the employer match
74 are subject to annual contribution limits as outlined by the Internal Revenue Service (IRS).

75 At the end of each calendar year, the CBJ may audit matching employer payments to ensure
76 that the employee achieves the appropriate matching contribution for the calendar year.
77

78 (e) CBJ employees who are in the State of Alaska PERS Defined Benefit Retirement plans
79 (Tiers 1, 2, and 3) are eligible to participate in the CBJ deferred compensation plan without
80 the employer matching contributions outlined in this section. (Res. 3028, 2023)

81
82 **Section 2. Effective Date.** This resolution shall be effective immediately after its
83 adoption.
84

85 Adopted this _____ day of _____ 2024.

86
87 _____
88 Beth A. Weldon, Mayor

88 Attest:
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91 _____
92 Elizabeth J. McEwen, Municipal Clerk
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MEMORANDUM

Date: June 26, 2024

To: City and Borough of Juneau Assembly

Thru: Katie Koester
City Manager

From: Dallas Hargrave 
Human Resources & Risk Management Director

Re: Update to CBJ Personnel Rules in proposed Resolution 3067

In 2023, the City and Borough of Juneau (CBJ) Assembly approved changes to the CBJ Personnel Rules that added 18 PR 075, Deferred Compensation Employee Benefit. The new matching employer contribution established with 18 PR 075 has been in place for one year, and we realized the need for “housekeeping” changes to improve the clarity of the language that implemented the program. These proposed changes to the Personnel Rules were considered by the Human Resources Committee (HRC) at the June 17, 2024 meeting, and the HRC passed the proposed resolution out of committee with a recommendation to move forward to the Assembly meeting on the consent agenda.

As an example of the “housekeeping” changes, we believe that including the table that was originally provided to the Assembly to explain the matching employer contribution in the personnel rules would provide better clarity to employees than the current language in the personnel rule. The proposed change is in the table below:

<i>Years of Service</i>	<i>Voluntary 457(b) Employee Contribution Eligible for Employer Match</i>	<i>Employer 50% Matching Contribution to 401(a)</i>
<i>0 – 2 years</i>	<i>up to 2% of wages</i>	<i>up to 1% match</i>
<i>2 – 5 years</i>	<i>up to 4% of wages</i>	<i>up to 2% match</i>
<i>5-10 years</i>	<i>up to 6% of wages</i>	<i>up to 3% match</i>
<i>Over 10 years</i>	<i>up to 8% of wages</i>	<i>up to 4% match</i>

The one substantive change that is different than how the program is currently being administered relates to 18 PR 075 (b) (6). The proposed new language is below:

Those who reach the age of fifty-nine and a half (59 and ½) will automatically be vested at 100% regardless of years of service.

The original language in 18 PR 075 did not address an age in which an employee would vest automatically, regardless of years of service, so the plan designated this age as 55 years old. We are recommending the language implementing the change to age 59 ½ because this is the age of retirement in the State of Alaska Tier 4 Defined contribution retirement plan. The impact of making this change is that when this change to the personnel rule goes into effect, those who

were active in the 401(a) match plan prior to the change would be “grandfathered” at age 55, and those who become active in the 401(a) match plan after the change of the personnel rule would have age 59 ½ applied.

Recommended Action

The Manager’s Office recommends that the Assembly approve the resolution to amend the Personnel Rules.

Presented by: The Manager
Introduced: 06/17/2024
Drafted by: Bond Counsel

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2024-25

An Ordinance Authorizing the Issuance of General Obligation Bonds in the Principal Amount of Not to Exceed \$12,750,000 to Finance Public Safety Communication Infrastructure within the City and Borough, and Submitting a Proposition to the Voters at the Election to Be Held Therein on October 1, 2024.

WHEREAS, certain public safety communication infrastructure improvements within the City and Borough of Juneau, Alaska (the “City and Borough”) are needed in order to meet the current and future needs of the City and Borough; and

WHEREAS, the new public safety communication infrastructure project described in Section 3 below (the “Project”) has been identified and approved by the Committee of the Whole as necessary to meet the needs of the City and Borough; and

WHEREAS, in order to provide funds for paying the cost of acquiring, constructing and equipping the Project, it is deemed necessary and advisable that the City and Borough issue and sell its unlimited tax levy general obligation bonds in the principal amount of not to exceed \$12,750,000 (the “Bonds”);

NOW, THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Findings. The Assembly of the City and Borough hereby finds and declares that the acquisition, construction and equipping of the Project identified in Section 3 hereof is necessary and is in the best interest of the inhabitants of the City and Borough.

Section 3. Purposes. To improve public safety by improving communication infrastructure, including, but not limited to, the following, the Assembly has determined that the City and Borough is in need of certain public safety improvements including replacing the outdated radio communication system with a new system that will be Alaska Land Mobile Radio compliant.

The foregoing is herein referred to as the “Project.” The cost of all necessary architectural, engineering, design, and other consulting services, inspection and testing, administrative and relocation expenses, costs of issuance of the Bonds and other costs incurred in

connection with the Project that is approved by the electors shall be deemed capital improvement costs of the approved Project. The approved Project may be completed with all necessary furniture, equipment and appurtenances.

If the City and Borough shall determine that it has become impractical to accomplish any portion of the approved Project by reason of changed conditions or needs, incompatible development or costs substantially in excess of those estimated, the City and Borough shall not be required to accomplish such portions and shall apply Bond proceeds as set forth in this section.

Interest earnings on Bond proceeds may be used and applied by the City and Borough, at the direction of the City Manager or his or her designee, for the Project or for other public safety capital improvements or for the retirement of the Bonds or other general obligation bonds of the City and Borough.

If the approved Project has been completed in whole or in part, or its completion duly provided for, or its completion found to be impractical, the City and Borough may apply Bond proceeds or any portion thereof as provided in Section 10.10 of the Home Rule Charter.

In the event that the proceeds of sale of the Bonds, plus any other monies of the City and Borough legally available, are insufficient to accomplish the approved Project, the City and Borough shall use the available funds for paying the cost of those portions of the approved Project for which the Bonds were approved deemed by the Assembly most necessary and in the best interest of the City and Borough. No Bond proceeds shall be used for any purpose other than a capital improvement.

Section 4. Details of Bonds. The Assembly hereby authorizes the issuance of general obligation bonds in order to fund the costs of the Project described in Section 3 (the “Bonds”). The Bonds shall be sold in such amounts and at such time or times as deemed necessary and advisable by the Assembly and as permitted by law and shall mature over a period of up to 10 years of date of issue. The Bonds shall be issued in an aggregate principal amount of not to exceed \$12,750,000. The Bonds shall bear interest to be fixed at the time of sale or sales thereof. Both principal of and interest on the Bonds shall be payable from annual tax levies to be made upon all of the taxable property within the City and Borough, without limitation as to rate or amount and in amounts sufficient with other available funds, to pay such principal and interest as the same shall become due.

The full faith, credit, and resources of the City and Borough are hereby irrevocably pledged to the payment of both the principal and interest on such Bonds. The exact form, terms, conditions, contents, security, options of redemption, and such other matters relating to the issuance and sale of said Bonds as are deemed necessary and advisable by the Assembly shall be as hereinafter fixed by ordinance and resolution of the City and Borough.

Section 5. Submission of Question to Voters. The Assembly hereby submits to the qualified electors of the City and Borough the proposition of whether or not the City and Borough

should issue the Bonds for the purpose of financing the costs of the approved Project at the regular municipal election to be held on October 1, 2024.

The City and Borough clerk shall prepare the ballot proposition to be submitted to the voters as provided by this ordinance and shall perform all necessary steps in accordance with law to place the proposition before the voters at the regular election.

Section 6. Ballot Proposition. The proposition to be submitted to the qualified voters of the City and Borough as required by Section 5 above shall read substantially as follows:

Explanation

The proposition will authorize the issuance of \$12,750,000 in general obligation bond debt for paying the cost of undertaking certain public safety improvements including acquisition and installation of a replacement radio communication system. The total annual debt service costs, assuming an interest rate of 3.50%, will be approximately \$1,539,000. This amount of debt service would require an annual property tax levy of approximately \$23.50 per \$100,000 of assessed value. This example of a property tax levy is provided for illustrative purposes only.

PROPOSITION NO. _____

GENERAL OBLIGATION BONDS

\$12,750,000

To improve public safety by improving communication infrastructure, including, but not limited to, acquisition and installation of a replacement radio communication system that will be Alaska Land Mobile Radio compliant within the City and Borough, shall the City and Borough of Juneau, Alaska, issue and sell its general obligation bonds, maturing within 10 years of their date of issue, in the aggregate principal amount of not to exceed \$12,750,000?

BONDS, YES

BONDS, NO

After voter approval of the proposition and in anticipation of the issuance of the Bonds, the City and Borough may issue short term obligations, under such date and in such amount, form, terms, maturity, and bearing such rate or rates of interest, all as may hereafter be fixed by ordinance of the City and Borough, consistent with limitations imposed by State law and by the Home Rule Charter and Code of the City and Borough.

Section 7. Notice of Election. The Assembly shall cause a notice of election to be published once a week for three consecutive weeks in a newspaper for general circulation in the

City and Borough. The first notice shall be published not later than September 11, 2024, which is 20 days prior to the regular municipal election. The notice shall contain the information required by Section 10.5 of the Home Rule Charter of the City and Borough.

Section 8. Effective Dates.

(a) The authority to issue general obligation bonds proposed in Section 6 of this ordinance shall become effective on the day following the date the election results are certified for the regular municipal election held on October 1, 2024, if a majority of the qualified voters voting on the proposition set forth in Section 6 votes for the proposition.

(b) Section 6 of this ordinance authorizing the submission of the ballot proposition to the qualified voters of the City and Borough shall become effective thirty days after adoption of this ordinance.

Adopted this ___ day of _____, 2024.

Beth Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk

Presented by: The Manager
Introduced: 06/17/2024
Drafted by: Bond Counsel

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2024-26

An Ordinance Authorizing the Issuance of General Obligation Bonds in the Principal Amount of Not to Exceed \$10,000,000 to Finance Wastewater Utility Infrastructure within the City and Borough, and Submitting a Proposition to the Voters at the Election to Be Held Therein on October 1, 2024.

WHEREAS, certain wastewater utility infrastructure improvements within the City and Borough of Juneau, Alaska (the “City and Borough”) are needed in order to meet the current and future needs of the City and Borough; and

WHEREAS, the new wastewater utility infrastructure project described in Section 3 below (the “Project”) has been identified and approved by the Committee of the Whole as necessary to meet the needs of the City and Borough; and

WHEREAS, in order to provide funds for paying the cost of constructing and equipping the Project, it is deemed necessary and advisable that the City and Borough issue and sell its unlimited tax levy general obligation bonds in the principal amount of not to exceed \$10,000,000 (the “Bonds”);

NOW, THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Findings. The Assembly of the City and Borough hereby finds and declares that the acquisition, construction and equipping of the Project identified in Section 3 hereof is necessary and is in the best interest of the inhabitants of the City and Borough.

Section 3. Purposes. To improve wastewater utility service by improving wastewater utility infrastructure, including, but not limited to, the following, the Assembly has determined that the City and Borough is in need of certain wastewater utility infrastructure improvements including replacement of the wastewater clarifier building at the Juneau Douglas Wastewater Treatment Plant that services Thane, Downtown and Douglas.

The foregoing is herein referred to as the “Project.” The cost of all necessary architectural, engineering, design, and other consulting services, inspection and testing,

administrative and relocation expenses, costs of issuance of the Bonds and other costs incurred in connection with the Project that is approved by the electors shall be deemed capital improvement costs of the approved Project. The approved Project may be completed with all necessary furniture, equipment and appurtenances.

If the City and Borough shall determine that it has become impractical to accomplish any portion of the approved Project by reason of changed conditions or needs, incompatible development or costs substantially in excess of those estimated, the City and Borough shall not be required to accomplish such portions and shall apply Bond proceeds as set forth in this section.

Interest earnings on Bond proceeds may be used and applied by the City and Borough, at the direction of the City Manager or his or her designee, for the Project or for other wastewater utility infrastructure capital improvements or for the retirement of the Bonds or other general obligation bonds of the City and Borough.

If the approved Project has been completed in whole or in part, or its completion duly provided for, or its completion found to be impractical, the City and Borough may apply Bond proceeds or any portion thereof as provided in Section 10.10 of the Home Rule Charter.

In the event that the proceeds of sale of the Bonds, plus any other monies of the City and Borough legally available, are insufficient to accomplish the approved Project, the City and Borough shall use the available funds for paying the cost of those portions of the approved Project for which the Bonds were approved deemed by the Assembly most necessary and in the best interest of the City and Borough. No Bond proceeds shall be used for any purpose other than a capital improvement.

Section 4. Details of Bonds. The Assembly hereby authorizes the issuance of general obligation bonds in order to fund the costs of the Project described in Section 3 (the “Bonds”). The Bonds shall be sold in such amounts and at such time or times as deemed necessary and advisable by the Assembly and as permitted by law and shall mature over a period of up to 10 years of date of issue. The Bonds shall be issued in an aggregate principal amount of not to exceed \$10,000,000. The Bonds shall bear interest to be fixed at the time of sale or sales thereof. Both principal of and interest on the Bonds shall be payable from annual tax levies to be made upon all of the taxable property within the City and Borough, without limitation as to rate or amount and in amounts sufficient with other available funds, to pay such principal and interest as the same shall become due.

The full faith, credit, and resources of the City and Borough are hereby irrevocably pledged to the payment of both the principal and interest on such Bonds. The exact form, terms, conditions, contents, security, options of redemption, and such other matters relating to the issuance and sale of said Bonds as are deemed necessary and advisable by the Assembly shall be as hereinafter fixed by ordinance and resolution of the City and Borough.

Section 5. Submission of Question to Voters. The Assembly hereby submits to the qualified electors of the City and Borough the proposition of whether or not the City and Borough

should issue the Bonds for the purpose of financing the costs of the approved Project at the regular municipal election to be held on October 1, 2024.

The City and Borough clerk shall prepare the ballot proposition to be submitted to the voters as provided by this ordinance and shall perform all necessary steps in accordance with law to place the proposition before the voters at the regular election.

Section 6. Ballot Proposition. The proposition to be submitted to the qualified voters of the City and Borough as required by Section 5 above shall read substantially as follows:

Explanation

The proposition will authorize the issuance of \$10,000,000 in general obligation bond debt for paying the cost of undertaking certain wastewater utility infrastructure improvements including replacement of the wastewater clarifier building at the Juneau Douglas Wastewater Treatment Plant that services Thane, Downtown and Douglas. The total annual debt service costs, assuming an interest rate of 3.50%, will be approximately \$1,210,000. This amount of debt service would require an annual property tax levy of approximately \$18.48 per \$100,000 of assessed value. This example of a property tax levy is provided for illustrative purposes only.

PROPOSITION NO. ____

GENERAL OBLIGATION BONDS

\$10,000,000

To improve wastewater utility service by improving wastewater utility infrastructure, including, but not limited to, replacement of the wastewater clarifier building at the Juneau Douglas Wastewater Treatment Plant that services Thane, Downtown and Douglas within the City and Borough, shall the City and Borough of Juneau, Alaska, issue and sell its general obligation bonds, maturing within 10 years of their date of issue, in the aggregate principal amount of not to exceed \$10,000,000?

BONDS, YES

BONDS, NO

After voter approval of the proposition and in anticipation of the issuance of the Bonds, the City and Borough may issue short term obligations, under such date and in such amount, form, terms, maturity, and bearing such rate or rates of interest, all as may hereafter be fixed by ordinance of the City and Borough, consistent with limitations imposed by State law and by the Home Rule Charter and Code of the City and Borough.

Section 7. Notice of Election. The Assembly shall cause a notice of election to be published once a week for three consecutive weeks in a newspaper for general circulation in the City and Borough. The first notice shall be published not later than September 11, 2024, which is 20 days prior to the regular municipal election. The notice shall contain the information required by Section 10.5 of the Home Rule Charter of the City and Borough.

Section 8. Effective Dates.

(a) The authority to issue general obligation bonds proposed in Section 6 of this ordinance shall become effective on the day following the date the election results are certified for the regular municipal election held on October 1, 2024, if a majority of the qualified voters voting on the proposition set forth in Section 6 votes for the proposition.

(b) Section 6 of this ordinance authorizing the submission of the ballot proposition to the qualified voters of the City and Borough shall become effective thirty days after adoption of this ordinance.

Adopted this ____ day of _____, 2024.

Beth Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk

Presented by: The Manager
Introduced: June 17, 2024
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2023-14(b)(AK)

An Ordinance Appropriating \$1,446,827 to the Manager for the Power Upgrades for Electric Buses Capital Improvement Project; Grant Funding Provided by the Alaska Department of Transportation and Public Facilities.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$1,446,827 as funding for the Power Upgrades for Electric Buses Capital Improvement Project (D71-091).

Section 3. Source of Funds

Alaska Department of Transportation and Public Facilities \$1,446,827

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2024.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk

Presented by: The Manager
Introduced: June 17, 2024
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA
Serial No. 2023-14(b)(AL)

An Ordinance Transferring \$400,000 from CIP H51-113 Waterfront Seawalk to CIP P41-107 Homestead Park

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Transfer of Appropriation. It is hereby ordered by the Assembly of the City and Borough of Juneau, Alaska, that \$400,000 be transferred:

From: CIP

H51-113 Waterfront Seawalk (\$ 400,000)

To: CIP

P41-107 Homestead Park \$ 400,000

Section 3. Source of Funds.

Marine Passenger Fees \$ 400,000

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2024.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk

Presented by: The Manager
Introduced: June 17, 2024
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2023-14(b)(AM)

An Ordinance Appropriating \$36,712 to the Manager for the Construction Phase of the Float Pond Improvements Capital Improvement Project; Funding Provided by the Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grant.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$36,712 for the construction phase of the Float Pond Improvements Capital Improvement Project (A50-092).

Section 3. Source of Funds

Federal Aviation Administration \$ 36,712

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2024.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk

Presented by: The Manager
Introduced: June 17, 2024
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2023-14(b)(AN)

An Ordinance Appropriating \$170,660 to the Manager for the Airport Snow Removal Equipment Building Capital Improvement Project; Funding Provided by Passenger Facility Charge Fees.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$170,660 for the Airport Snow Removal Equipment Building Capital Improvement Project (A50-086).

Section 3. Source of Funds

Passenger Facility Charge Fees \$ 170,660

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2024.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk

Presented by: The Manager
Introduced: June 17, 2024
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2023-14(b)(AO)

An Ordinance Appropriating \$222,066 to the Manager for the Ramp Improvement Capital Improvement Project; Funding Provided by Airport Funds.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$222,066 for the Ramp Improvement Capital Improvement Project (A50-104).

Section 3. Source of Funds

Airport Funds \$ 222,066

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2024.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk

Presented by: The Manager
Introduced: June 17, 2024
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2023-14(b)(AP)

An Ordinance Appropriating \$34,367 to the Manager for the Airport Master Plan Capital Improvement Project; Funding Provided by Sales Tax Funds.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriation. There is appropriated to the Manager the sum of \$34,367 for the Airport Master Plan Capital Improvement Project (A50-113).

Section 3. Source of Funds

Temporary 1% Sales Tax \$ 34,367

Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2024.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk

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Presented by: The Manager
Presented: 7/1/2024
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2024-09

An Ordinance Amending the Parking Notice Requirements, Parking Management Advisory Committee, and Penalties Related to Parking Violations.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment of Section. CBJC 03.30.070 Violations; civil fines, is amended to read:

03.30.070 Violations; civil fines.

(a) Notwithstanding any provision of the CBJ Code to the contrary, the offenses listed in the table below shall be considered violations subject to a civil fine not to exceed that set forth in the table below; payment of the listed civil fine shall be accepted in satisfaction of the violation; and the violation shall be subject to the procedure set forth in CBJ 03.30.075—03.30.085:

CBJ	Type of Violation	Civil Fine
...		
	TRAFFIC VIOLATIONS	
...		
72.14	Parking Payment Equipment	

72.14.020	Improper parking; vehicle other than motor vehicle	25.00
	<u>1st offense</u>	<u>35.00</u>
	<u>2nd offense within one year</u>	<u>50.00</u>
	<u>3rd offense within one year</u>	<u>100.00</u>
	<u>4th offense within one year</u>	<u>200.00</u>
	<u>5th and subseq. offense within one year</u>	<u>300.00</u>
72.14.025	Failure to deposit money	25.00
	<u>1st offense</u>	<u>35.00</u>
	<u>2nd offense within one year</u>	<u>50.00</u>
	<u>3rd offense within one year</u>	<u>100.00</u>
	<u>4th offense within one year</u>	<u>200.00</u>
	<u>5th and subseq. offense within one year</u>	<u>300.00</u>
...		

(b) *Late payment fee.* The above civil fines shall be increased by an additional \$15.00 in the event that the fine is not paid in full within 30 days of the date the notice of violation was issued, unless a timely appeal is filed or late-filed appeal accepted as authorized by CBJ 03.30.085(b)(1). In addition to the civil fines described above, the violator or presumed violator shall pay all collection and legal costs incurred in collection of a civil fine exclusive of the costs of administrative appeal described in CBJ 03.30.085 and the costs of mailing the notice described in CBJ 03.30.075(b).

(c) *Collection of civil fines, and costs.* An alleged violator of any of the ordinances described in subsection (a) of this section who has failed to pay all applicable fines, late payment fees, and costs described in this section shall, upon the expiration of any time for appeal, be indebted to the City and Borough in the amount of such fines, late payment fees, and costs. In addition to or in lieu of any other provision for collection of such fines, late payment fees, and costs, the City and Borough may collect these amounts as a debt and may use such collection services and methods as are determined by the manager.

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Section 3. Repeal of Section. CBJC 72.14.045 is repealed.

~~**72.14.045 — Parking Management Advisory Committee authorized.**~~

~~(a) The manager is authorized to establish a Parking Management Advisory Committee for the City and Borough to advise CBJ departments, the Planning Commission, manager, and assembly on matters related to parking.~~

~~(b) The Parking Management Advisory Committee shall be appointed by the manager and composed of CBJ department or division directors, or their designee, from the Lands and Resources Office, Parks and Recreation Department, Community Development Department, Juneau Police Department, Docks & Harbors Department, and four members of the public, one of whom shall be the owner of a business whose physical location is within that area formerly known as Service Area 1, and one of whom shall be a resident of a dwelling within that area formerly known as Service Area 1.~~

~~(Serial No. 2010-21, § 5, 7-19-2010)~~

Section 4. Repeal of Section. CBJC 72.22.045 is repealed.

~~**72.22.045 — Traffic citation on illegally parked vehicle.**~~

~~Whenever a motor vehicle without a driver is found parked, stopped or standing in violation of any of the restrictions imposed by this title, the officer finding such vehicle shall take its registration number and may take any other information displayed upon or within the vehicle which may identify its user, and shall conspicuously affix to such vehicle a traffic citation on a form provided by the City and Borough for the driver to answer to the charge against him or her in the municipal court at an appointed time within 20 days from such alleged violation specified in the citation.~~

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~~(CBJ Code 1970, § 72.22.045; Serial No. 71-59, § 4, 1971)~~

Section 5. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2024.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
BY THE CITY AND BOROUGH OF JUNEAU**

In the Matter of)	
)	
KARLA HART,)	
)	
Appellant,)	
)	
v.)	
)	
CITY AND BOROUGH OF JUNEAU)	
PLANNING COMMISSION,)	
)	OAH No. 23-0695-MUN
Appellee,)	Appeal Case No. APL 2023-AA01
)	
HUNA TOTEM CORPORATION,)	Appeal of:
)	PC Case No. USE2023 0003
Intervenor Appellee.)	Decision dated July 20, 2023
_____)	

AMENDED DECISION

I. Introduction

This case concerns an application of Huna Totem Corporation (HTC) for a conditional use permit (CUP) for a phased mixed-use development project involving a floating cruise ship dock, related retail space, underground bus staging and vehicle parking, and a community park. Following a public comment period and a public meeting to take testimony from members of the public, the CBJ Planning Commission (Commission) voted to approve the CUP application for the dock portion of the project only.

Juneau Resident Karla Hart appealed the Commission’s decision to the CBJ Assembly, expressing concerns that the permit, as conditioned, will materially endanger public health and safety and will violate the Long Range Waterfront Plan (as amended in 2022).

This decision concludes that substantial evidence supports the Commission’s determination that the permit will not materially endanger public health and safety and is in general conformity with the Long Range Waterfront Plan. The Commission’s approval of the CUP application is affirmed.

II. Facts and Proceedings

A. The Project Background

The project at issue involves the proposed construction of a fifth dock in the Juneau Subport at the southeast corner of Eagan and Whittier Streets.¹ The subport consists of tidelands owned in part by CBJ and in part by the State of Alaska, as well as 2.2 acres of associated uplands currently owned by HTC.²

Efforts to a build a dock have been ongoing since at least 2019, when Norwegian Cruise Lines (NCL) purchased the uplands property and began exploring the possibility of a floating cruise ship dock and related waterfront development.³ NCL engaged in various outreach efforts during its ownership of the property, including three community meetings, in which HTC participated.⁴

B. Process for Consideration of a Fifth Dock

The CBJ’s process for considering a fifth dock in Juneau was outlined at a public meeting in January 2022.⁵ The process entails three steps: (1) an update to the Long Range Waterfront Plan (LRWP), which is included in the CBJ Comprehensive Plan and codified at CBJ Code (CBJC) 49.05.200(b)(1)(C);⁶ (2) the application for a conditional use permit for consideration by the Planning Commission for compliance with Title 49 of the CBJC and related plans; and (3) an application for a tidelands lease, to be submitted to the CBJ Division of Lands and Resources for consideration by the CBJ Assembly.⁷

The first step in the process was completed on March 14, 2022, through the CBJ Assembly’s adoption of Ordinance 2022-12, which amended the LRWP “to allow for creation of a dock facility capable of accommodating one large cruise ship.”⁸ The ordinance also contained an appendix (Appendix B) that listed criteria for future dock construction projects, for reference

¹ R. 57.
² R. 61. The property at issue is identified as Lot C1 on the Plat 2009-37, which subdivided the Subport. R. 57. The tidelands are zoned Waterfront Commercial, and the uplands are zoned for mixed use development. R 346.
³ R. 75; Tr. at 60.
⁴ Tr. at 60.
⁵ This process was established when NCL still owned the property. R. 55.
⁶ CBJ Tourism manager Alexandra Pierce has described the LRWP as “an infrastructure plan and guidebook to manage waterfront change along four overarching goals identified by the CBJ: (1) enhance community quality of life; (2) strengthen tourism product offerings as well as downtown retail, entertainment, residential and service activities; (3) improve Juneau’s image and attractiveness for investment; and (4) recognize all current waterfront uses.” R. 765. The LRWP was originally adopted in 2004. R. 765.
⁷ R. 55.
⁸ R. 280.

during the conditional use permitting process.⁹ The criteria had been recommended by the Visitor Industry Task Force, a task force established by the CBJ Mayor in 2019 in part to make recommendations on tourism and updating the LRWP.¹⁰ Appendix B of the 2022 amendment to the LRWP states:

VITF Criteria for Subport Dock Construction

In 2020, the CBJ VITF established the following criteria for constructing a cruise ship dock at the Subport. This amendment supports the VITF’s criteria and any application for development needs to be evaluated consistent with the following:

1. One larger ship per day using one side of the facility;
2. Maximum of five larger ships in port per day;
3. No hot berthing at the new facility;
4. No larger ships allowed to anchor as the sixth ship in town. Larger ships may anchor but the number of larger ships in port would still be limited to five (CBJ to consider legal ramifications of limiting size of ships at anchor.”)
5. CBJ manages dock to some extent through a public private partnership or management agreement;
6. **Dock is electrified;**

The following criteria are related to uplands development and remain strong recommendations for uplands-related proposals:

7. High quality uplands development for community and visitors;
8. Year-round development orientation.¹¹

The bolding in the above quotation has been added.

Later in 2022, NCL transferred the uplands property to HTC.¹²

C. HTC’s Conditional Use Permit Application

The appeal in this case concerns the second step in the three-step process: an application for a CUP for development of the Subport. On January 25, 2023, HTC submitted a CUP application, which it revised and updated on May 18, 2023, for a development project referred to as the Aak’w Landing project.¹³ HTC described the project as:

⁹ R. 55 and 58.

¹⁰ R. 283 and 803. After meeting twelve times, holding two public meetings, and receiving written and public testimony, the task provided a final report with its recommendations to the Assembly. R. 803.

¹¹ R. 283 (emphasis supplied).

¹² R. 58.

¹³ R. 1-52; R. 58 R. 86. The original application was for development of the uplands only. The revised application proposed the construction of a floating dock in the tidelines. R. 1-52; R. 86.

a phased development of mixed use, including retail, food and beverage, community park, docking and associated parking. . . . The Aak’w Landing uplands project will be a concrete Bus Staging and vehicle Garage topped by a landscaped Park sloping up from Egan Drive. The project will include 34,000 sf of Retail spaces in the first phase with future phases adding 9,000 sf of additional Retail and 40,000 sf of facilities with a use yet to be determined. . . .

The pier portion of the project will utilize a proven steel float solution that will be built with a deck up to 70 feet wide and 500 feet long, allowing for the best facility layout and passenger handling solution.¹⁴

The application also states that the dock will include “cable trays and structure for integrating future shore power connections once the municipal feed is available.”¹⁵

D. Review and Approval of the CUP

The CUP application was distributed to various CBJ departments and outside agencies for review and comment, and a public comment period was held from June 2-20, 2023.¹⁶ Only one public comment, which opposed the project due to over-tourism concerns, was received.¹⁷ On June 29, 2023, the Community Development Department (CDD) submitted a staff report to the Planning Commission, evaluating the proposal under the permitting standards in CBJ 49.15.330(e) and (f), concluding, among other things, that the project would not materially endanger public health and safety and would conform with the CBJ comprehensive plan, the LRWP as amended, and various other adopted plans.¹⁸ The CDD recommended that the Commission approve the application with nine conditions, including the provision of shore power by HTC within 24 months of a power line being located nearby; the completion of a navigability study; a limit of one large cruise ship at the dock every 24 hours; no hot berthing; and no temporary certificate of occupancy for the dock until a tidelands lease is recorded.¹⁹

The Commission convened a public hearing on the CUP application on July 11, 2023.²⁰ Public interest in the application was surprisingly low, with only three members of the public

¹⁴ R. 120. HTC described the first phase of the project as developing the dock and a retail/welcome center; the second phase as adding retail space and an upper-level plaza; and the third phase as parking and a flexible space.
¹⁵ R. 119.
¹⁶ R. 74-75, 292-300, and 337.
¹⁷ R. 353.
¹⁸ R. 8—81.
¹⁹ R. 81-82.
²⁰ R. 346 and 1521.

(other than the applicant) testifying, each in support of the project.²¹ Although Commissioners expressed concern that the uplands portion of the application (particularly phase 3) required further clarification, they determined that they had sufficient information about the proposed dock to take a vote on that portion of the project.²² At the conclusion of the hearing, they voted 5-2 to approve the CUP for the floating dock.²³ On July 20, 2024, they issued a decision approving a floating steel dock up to 70 feet wide and 500 feet long, with the nine conditions specified in the CDD’s staff report, including condition 5:

The dock owner will, at their own expense, provide shore power within 24 months after an appropriately-sized power line is within 25 feet of the property line. When shore power is provided, large ships using the dock will be required to use shore power instead of ship power.²⁴

Ms. Hart’s notice of appeal followed, which was accepted by the CBJ Assembly, and HTC was allowed to intervene as a real party of interest in the subject of the appeal. The appeal was referred to Alaska Office of Administrative Hearings to supply a hearing officer as permitted by CBJC 01.50.040.²⁵

A hearing by Zoom videoconference was held on January 24, 2024. In this context, a “hearing” consists of oral argument by the parties, with an opportunity for the hearing officer to ask questions of the presenters. Participants in the oral argument included Ms. Hart, and counsel for the Commission and HTC, respectively. A proposed decision was issued on March 12, 2024, followed by a written objection to the proposed decision by Huna, and a written response by Ms. Hart to the objection. On April 25, 2024, the undersigned requested additional briefing from the

²¹ Tr. 38-48. Commissioner Pedersen expected there would have been more public comment on the project, and Commission Chair LeVine described being “baffled” by the level of public participation. Tr. at 103-104.

²² Tr. at 81. Commission Chair LeVine expressed his hope that the Commission’s approve of the CUP for a dock “will signal to the developer and the Assembly that we’re supportive of this development and would like to see a complete application come back before the Commission as quickly as possible.” Tr. at 104.

²³ Tr. at 105.

²⁴ R. 362-363. The Commission did not adopt the analysis and findings regarding the uplands portion of the application because it “did not contain sufficiently specific information, particularly about the portion designated Phase 3, to support a conclusion that the project as a whole would comport with Title 49, including the MU2 land use designation.” R. 363. The uplands portion of the project was heard at the Planning Commission’s August 8, 2023, an approved as a separate CUP.

²⁵ The appeal was referred to the Office of Administrative Hearings after the Assembly granted a motion by Ms. Hart to disqualify the hearing officer originally designated to hear this case. Order Re Disqualification of Hearing Officer, October 25, 2023.

parties. Upon consideration of the parties’ briefs and all information in the record, this amended proposed decision follows.²⁶

The appeal points and arguments raised at the hearing and in the parties’ written filings are discussed below. Before turning to the merits of the arguments, however, a short explanation of the process and legal standards is provided.

III. Discussion

A. Procedure

A decision of the Commission to grant or deny a CUP may be appealed by “any party affected by the proceedings,” a member of the Assembly, or a municipal officer or employee.²⁷ The appeal is to the Assembly, which may appoint a hearing officer to conduct a hearing and issue a proposed decision for the Assembly’s consideration.²⁸

Appeals of a CUP are heard on the established record, as supplemented by relevant and admissible “new information” - i.e., information that was not presented to the Commission and that could not have been presented for reasons beyond the control of the party seeking its submission.²⁹ After briefing and oral argument, a proposed decision is issued, followed by the opportunity for parties to file written objections or statements of support after which either an amended proposed decision is issued, or a statement that no changes to the proposed decision should be made.

B. Standard of Review

The standard of review governing this appeal is established by the CBJC. For the Commission’s decision to be set aside, the appellant has the burden of proving at least one of the following: (1) the decision is not supported by substantial evidence in light of the whole

²⁶ Under the CBJC, after briefing and oral argument, a proposed decision is issued, to which the parties may file written objections and, potentially statements of support. CBJC 01.50.140(c)(1). Ultimately, upon consideration of these submissions, the Assembly issues a written decision affirming, modifying, or setting aside the proposed decision in whole or in part, remanding the matter to the Commission, or directing that the matter be reheard. CBJC 01.50.140(a) and (c).

²⁷ CBJ Home Rule Charter, 3.16(b).

²⁸ CBJC 01.50.030(e)(4)(A); CBJ 01.05.040.

²⁹ CBJC 01.50.030(f). CUP applications must be submitted to the CDD Director. Once the application is accepted, the CDD Director is required to schedule and notice a public hearing in front of the Commission. CBJC 49.15.330(d)(2). The Director shall also forward the application to the Commission with a report containing the Director’s recommendation for approval or denial of the application, and a determination of whether (1) the proposed project is an appropriate use of the property, (2) the application is complete, and (3) the project will comply with the requirements of Title 49. CBJC 49.15.330(d)(3) and 49.15.330(e).

record;³⁰ (2) the decision is not supported by adequate written findings, or the findings fail to identify the basis upon which the decision was made;³¹ or (3) a due process or other material procedural violation occurred.³²

“Substantial evidence” means “such relevant evidence a reasonable mind might accept as adequate to support a conclusion.”³³ This standard requires the reviewer to uphold the original factual findings if they are supported by substantial evidence, even if the reviewer may have a different view of the evidence. In a case reviewed on the substantial evidence standard, “[i]t is not the function of the [hearing officer] to reweigh the evidence or choose between competing inferences, but only to determine whether such evidence exists.”³⁴ For decisions based on the interpretation of a zoning ordinance implicating the Commission’s expertise or the formulation of fundamental policies, the decision is “entitled to considerable deference” and is reviewed under the “reasonable basis” standard of review.³⁵ In those circumstances, review of the Commission’s decisions is narrow, and a “presumption of validity” is applied.³⁶ Otherwise, the decision is reviewed under the “independent judgment” standard of review.³⁷

C. CUP Requirements

The standards applicable to CUP applications are set forth CBJC 49.15.330(e) and (f). Under section 330(e), at the hearing on the CUP, the Commission shall review the CDD Director’s report to consider:

- (1) Whether the proposed use is appropriate according to the table of permissible uses;
- (2) Whether the application is complete; and
- (3) Whether the development as proposed will comply with the other requirements of this title.³⁸

³⁰ CBJC 01.50.070(a)(1).

³¹ CBJC 01.50.070(a)(2).

³² CBJC 01.50.010. A fourth basis for setting aside the Commission’s decision, that it would violate the law, is implicit.

³³ CBJC 01.50.010.

³⁴ *Interior Paint Co. v. Rodgers*, 522 P.2d 164, 170 (Alaska 1974).

³⁵ *South Anchorage Concerned Coalition, Inc. v. Coffey*, 862 P.2d 168, 176 (Alaska 1993); *Balough v. Fairbanks North Star Borough*, 995 P.2d 245, 254 (Alaska 2000).

³⁶ *South Anchorage*, 862 P.2d at 173.

³⁷ *Balough*, 995 P.2d at 254.

³⁸ CBJC 49.15.330(e)(1).

The Commission is required to adopt the Director’s determination on each of these items “unless it finds by a preponderance of the evidence that the Director’s determination was in error, and it states its reasons for each finding with particularity.”³⁹

Under CBJC 49.15.330(f) if the Commission decides to adopt the staff report, it may nevertheless deny or place conditions on the permit in some circumstances. That section states:

- (f) *Commission determinations; standards.* Even if the commission adopts the Director’s determinations pursuant to subsection (e) of this section, it may nonetheless deny or condition the permit if it concludes, based on its own independent review of the information submitted at the hearing, that the development will more probably than not:⁴⁰
 - (1) Materially endanger the public health or safety;
 - (2) Substantially decrease the value of or be out of harmony with the property in the neighboring area; or
 - (3) Lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.

D. Points on Appeal

Ms. Hart raised a number of points in her notice of appeal, which she expressly narrowed through briefing to the two issues summarized below. She has not briefed any additional issues identified in her notice of appeal. Thus, those issues are waived.⁴¹

1. Appellant’s Arguments Regarding Health, Safety, and Welfare

Ms. Hart argues that the Commission’s finding that the project will not materially endanger public health and safety is not supported by substantial evidence, and the project is inconsistent with the goal of the Comprehensive Plan to “promote public health and the general welfare.”⁴² As support for her position, she contends that the CDD failed to consider relevant studies and research concerning the effects of cruise ship emissions on human health. She quotes a statement from a CBJ Dock Electrification Fact Sheet by the Juneau Commission on Sustainability regarding significant health problems from exposure to cruise-ship related air pollution; she cites an EPA Shore Power Calculator she purportedly used to estimate the costs of

³⁹ CBJC 49.15.330(e)(2).

⁴⁰ The language of the section that the Commission “may” deny a CUP if specific circumstances exist suggests that the Commission has the discretion, but not the obligation, to deny a CUP in those circumstances.

⁴¹ *Martinez v. GEICO*, 473 P.3d 316, 326 (Alaska 2020); *Hagen v. Strobel*, 353 P.3d 799, 805 (Alaska 2015) (argument “given only a cursory statement in the argument portion of a brief” was waived due to inadequate briefing and “will not be considered on appeal”).

⁴² Appellant Brief, November 30, 2023, at p. 1

one year of air emissions from a large cruise ship at dock for 16 hours per day during the cruise season, which she claims “are realized as deaths, disabilities, emergency room visits, asthma attacks, and other harms;” and she references a Harvard School of Public Health publication as “one of many examples” of scientific studies and other “peer-reviewed federal government tools” about diesel air pollution she alleges the CDD should have examined to properly assess the health effects of emissions from the project.⁴³

The threshold problem with Ms. Hart’s assertions on these points is that the studies and documents she references are not in the record in this case.⁴⁴ In the context of appellate review, the Commission’s approval of the CUP must be evaluated solely based on the established record – i.e., the information that was before it – not some larger body of evidence that was not presented to the Commission.⁴⁵

There are similar problems with other assertions by Ms. Hart. For example, she contends generally that “[d]iesel air pollution has been associated with respiratory, cardiovascular, and neurodegenerative disease (such as Parkinson’s and Alzheimer’s), as well as cancer,” and “[p]renatal exposure is also of concern” – without citing any supporting authority or clarifying how these concerns are related to potential cruise ship emissions in this case.⁴⁶ She also maintains that to properly assess the effect of emissions from the project on human health, the CDD should have commissioned its own studies.⁴⁷ Again, Ms. Hart cites no legal authority in the CBJC or elsewhere that supports this position. Where legal authority is asserted without citation, it is waived.⁴⁸

Here, the question is whether the finding that the project would not materially endanger public health and safety is supported by substantial evidence in the record. The 30-page CDD staff report that was presented to the Commission looked at the whole project and included a section on health, with a particular focus on shore power. The report recognized that shore

⁴³ Appellant Brief, November 30, 2023, at pp. 2-4.

⁴⁴ Nor did Ms. Hart seek to supplement the record to include any of these items. The deadline for motions to supplement the record was November 9, 2023. Prehearing Order, September 25, 2023, at p. 2.

⁴⁵ Ms. Hart wanted the Commission to consider particular information in its decision-making process, she could have availed herself of the opportunity to submit that information to the Commission through the public comment and public meeting process. She did not elect to do so.

⁴⁶ Appellant Brief, November 30, 2023, at p.4.

⁴⁷ Appellant Brief, November 30, 2023, at p. 2; Appellant’s Response Brief to Opposition Briefs of Appellee and Intervenor Appellee, January 16, 2023, at p. 4.

⁴⁸ *Coppe v. Bleicher*, 318 P.3d 369, 378–79 (Alaska 2014) (upholding determination that issues are waived where argument “lacked citation to authority or a legal theory to support it.”)

power would improve health through reduction of combustion byproducts, that the dock would be built to accommodate shore power when a municipal line is available, and identified suggestions of the local electric utility, Alaska Electric Light & Power (AEL&P), about options for a transmission line to the Subport. The report provided information on the effects of the project on safety, noting that sidewalk and traffic congestion in downtown are major concerns of Juneau residents, and the project would take pressure off downtown by moving roughly 120,000 passengers west of Main Street. The report provided information about sanitation, traffic, noise and lighting (among other things), and discussed the dock and related issues, including sidewalks, walkways, and bus traffic from the dock, passenger fees to offset impacts, and the percentage of local residents employed by tourism.

The Commission then reviewed the staff report and conducted its public hearing in July 2023. Following a presentation of the project proposal by HTC, the Commissioners asked many questions about the project design and timing, parking and traffic, and most notably, shore power. There was considerable discussion about the timing of shore power to the project, with HTC stating that it is “investing in the infrastructure as part of the initial plan” so it will be “plumbed and ready for shore power” as soon as a transmission line is available to the property. Because of power capacity limitations in Juneau, HTC emphasized that the timing of a power line to the property is largely out of its control, but it explained that it has met with the power utility to discuss the project, and approving the CUP would serve as a catalyst to help prioritize bringing power to the property.

The Commission considered and weighed all this evidence in deciding to adopt the staff report’s findings regarding the dock. There is substantial evidence in the record to support the conclusion that the CUP as conditioned will not materially affect public health and safety.

2. Appellant’s Argument that the Proposed Project Violates the LRWP

Ms. Hart contends that the conditions in Appendix B of the LRWP are mandatory, including the criterion that “the dock is electrified.” She observes that condition 5 of the CUP does not require shore power before the dock is allowed to operate – only that shore power be provided within 24 months of a line becoming accessible to the property. This means the dock could operate without shore power for at least some period of time, contrary to the condition about shore power in Appendix B. Thus, Ms. Hart argues that approving the CUP violated the LRWP.

The Commission and HTC dispute this contention, arguing that the LRWP is part of the CBJ comprehensive plan, which consists of aspirational goals and policies, rather than obligatory standards. Thus, they claim that the Appendix B criteria are likewise aspirational only, and while they should be considered in deciding whether to approve a CUP, but they are not compulsory. The Commission and HTC argue that if the criteria were mandatory, development of a fifth dock would be delayed indefinitely, contrary to the LRWP’s purpose “to allow a large cruise ship dock that accommodates one large cruise ship. . . .”⁴⁹ They reason that if a dock were required to have shore power before operating, no one would try to build a dock in Juneau, given the considerable uncertainty about electrical capacity beyond the dock operator’s control.

a. *The conditions in the LRWP are aspirational goals and policies rather than mandatory requirements.*

Whether the Appendix B condition that the “dock is electrified” is a mandatory requirement or an aspirational goal requires an interpretation of the land use ordinances concerning the LRWP. Because the Commission has expertise applying zoning and land use ordinances, including officially adopted plans of the CBJ, the reasonable basis standard of review applies to the Commission’s interpretation of the ordinances in this instance. According to the plain language of CBJC 49.05.200(c), the LRWP is a part of the CBJ comprehensive plan. That section specifically states:

There is adopted the comprehensive plan of the City and Borough of Juneau, that publication titled The Comprehensive Plan of the City and Borough of Juneau, Alaska, 2013 Update, including the following additions:

(C) The Long Range Waterfront Plan for the City and Borough of Juneau, dated January 22, 2004, as amended including by Ordinance 2022-12.

Thus, understanding the nature of the LRWP necessitates an understanding of CBJ comprehensive plan and its role in municipal land use planning and zoning. Alaska law defines a comprehensive plan as “a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development. . . of the borough. . . including recommendations for implementation of the comprehensive plan.” Consistent with this definition, CBJC 49.05.200(b) identifies the CBJ comprehensive plan as “the policies that guide and direct public and private land use activities in the City and Borough.”

⁴⁹ R. 282.

The CBJC makes clear that the policies of the comprehensive plan are aspirational only; they are not regulations of land. CBJ 49.05.200(c) specifically states:

The goals and policies set forth in the comprehensive plan are aspirational in nature, and are not intended to commit the City and Borough to a particular action, schedule, or methodology. **Neither the comprehensive plan** nor the technical appendix adopted under this section **nor the amendment of either** creates any right in any person to a zone change nor to any permit or other authority to make a particular use of land; neither do they **constitute a regulation of land nor a reservation or dedication of privately owned land for public purpose.** (Emphasis supplied)

Because the comprehensive plan consists of aspirational goals and policies, and the LRWP, including Appendix B, is part of the comprehensive plan, it follows logically that the Commission reasonably construed the Appendix B conditions as aspirational goals and objectives, albeit goals specific to development of the downtown waterfront area.⁵⁰ As aspirational goals, they are not mandatory requirements, despite their seemingly mandatory language, including that the “dock is electrified.”⁵¹

The language of the CBJ comprehensive plan supports this conclusion. The plan contains 123 policies, each of which contains an associated “Standard Operating Procedure”, “Development Guideline”, and/or “Implementing Action,” described as “directives for how to carry out [each] policy.”⁵² These actions include the adoption and revision of zoning ordinances. The language of the plan specifies that it is the zoning ordinances that “regulat[e] the use of land and the improvements on it. . . which implement the land use policies and maps of this Comprehensive Plan,” by “establish[ing] standards for development and create[ing] different zoning districts or classification of land. In CBJ, zoning regulations are adopted within Title 49, the Land Use Code.”⁵³

This conclusion is reinforced by the Alaska Supreme Court’s general description of the land use planning and zoning process in *Lazy Mountain Land Club v. Matanuska-Susitna Borough Board of Adjustment and Appeals*, 904 P. 2d 373, 378 (Alaska 1995). In that case, the Court drew a distinction between development policies and goals, which are contained in a

⁵⁰ This conclusion would be the same even if the independent basis standard of review were applied.
⁵¹ This conclusion is also supported under the “independent basis” standard of review.
⁵² <https://juneau.org/index.php?gf-download=2017%2F08%2F20170316UPDATEComp.Plan2013WEB.pdf&form-id=22&field-id=11&hash=44bf8467abf6aacec02114d42e16e845d6a7d6c9ebb1b73a4e0e299b018299a8>, p. 227.
⁵³ *Id.* at 243.

comprehensive plan and the measures that implement them. The Court described land use planning and zoning as a “hierarchical process in which the comprehensive plan of a municipality serves as a ‘long-range policy guide for development of the [municipality] as a whole,’”⁵⁴ which is then implemented through measures such as zoning regulations and permit requirements.⁵⁵

The determination that the Appendix B conditions are aspirational goals rather than mandatory requirements is not altered by the language of CBJC 49.05.200(b) regarding the relationship between the policies in the comprehensive plan and the ordinances implementing them. CBJC 49.05.200(b) states that the “implementation of policies” in the comprehensive plan “includes the adoption of ordinances in this title,” and “[w]here there is a conflict between the comprehensive plan and any ordinance adopted under or pursuant to this title, such ordinance shall take precedence over the comprehensive plan.” Relying on this language, Ms. Hart suggests that the ordinance adopting the LRWP, Ordinance 2022-12, conflicts with and takes precedence over the comprehensive plan, rendering the Appendix B conditions mandatory. But this argument is misplaced. Ordinance 2022-12 was not adopted pursuant to the comprehensive plan to implement the plan’s policies. As explained previously, the adoption of the ordinance incorporated the LRWP into the comprehensive plan, establishing goals and policies for development of the downtown waterfront area – not legally binding requirements.⁵⁶

The CBJ could certainly adopt specific ordinances providing mandatory permitting requirements for a fifth dock in the Subport, including a requirement mandating shore power, to implement the LRWP specifically. But the CBJ has not done so to date. Thus, only the general CUP requirements in CBJC 49.15.330(e) and (f) are binding in this context.

b. The application of CBJC 49.15.330(f) supports the Commission’s determination that the proposed project is in conformity with the LRWP.

⁵⁴ *Lazy Mountain*, 904 P.3d at 377.

⁵⁵ *Id.*, 904 P.3d at 377 (“the legitimate function of a zoning regulation is to implement a plan for the future development of the community.” Citing 1 Robert M. Anderson, *American Law of Zoning*, § 5.02, at 263 (2d. ed. 1976)).

⁵⁶ The CBJ could have adopted ordinances with specific permitting requirements for proposed dock projects in the Subport, to specifically implement the LRWP, but it has not yet done so. Thus, only the general CUP requirements in CBJC 49.15.330(e) and (f) apply here.

In this case, the Commission adopted the findings in the CDD staff report. Under CBJC 49.15.330(f), the Commission nevertheless had the authority to deny or condition the permit in certain circumstances. CBJC 49.15.330(f), in pertinent part, states:

- (f) *Commission determinations; standards.* Even if the commission adopts the Director’s determinations pursuant to subsection (e) of this section, it may nonetheless deny or condition the permit if it concludes, based on its own independent review of the information submitted at the hearing, that the development will more probably than not:⁵⁷

(3) Lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.
 (Emphasis supplied)

Here, the Commission concluded that the proposed development was in “general conformity” with the comprehensive plan and other officially adopted plans. The legal question is whether the Commission’s determination is supported by substantial evidence in the record.

The record reflects that proposed project is in general conformity with the goal of the LRWP that a fifth dock be electrified. The CDD recognized there is not currently a power line to the property, but it sought to ensure that the project be ready for shore power within a reasonable time of a power line becoming accessible. The CDD made note that the proposal includes cable trays and structures for integrating shore power once a power line to the property is available, and it recommended a condition requiring the dock owner to pay for and provide shore power within 24 months of a power line being within 25 feet of the property, and for large ships to use shore power at the dock once it is available.⁵⁸

For its part, the Commission spent substantial time at the public hearing on the subject of shore power. Vice-Chair Cole asked multiple questions about the timeline for the availability of a power line to the property, and Chair Levine asked whether any portion of the project could be expedited to enable shore power to be provided sooner.⁵⁹ HTC’s representatives explained that HTC is “committed to shore power,”⁶⁰ the dock will be “plumbed and ready” for shore power,⁶¹

⁵⁷ The language of the section that the Commission “may” deny a CUP if the specified circumstances exist suggests that the Commission has the discretion, but not the obligation, to deny a CUP in those circumstances.

⁵⁸ T. 70, 77, 79, and 81.

⁵⁹ T. 20 -24, 30-31.

⁶⁰ T. 31.

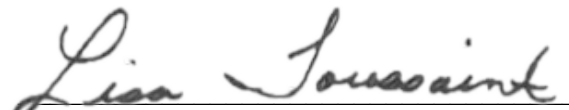
⁶¹ T. 20.

and all of the necessary infrastructure will be in place for the “power to come to us.”⁶² But HTC does not know when a transformer will be available to run power to the property,”⁶³ claiming that is “outside of our control,”⁶⁴ so it cannot promise shore power will be available on day one.⁶⁵ After robust questioning and discussion, the Commission voted to adopt the CDD’s findings and approve the project with condition that HTC pay for and provide shore power within 24 months of a power line being within 25 feet of the property. This condition was aimed at balancing the goal of providing shore power with the practical reality that the timing of availability of electricity to the dock is uncertain. Substantial evidence supports the Commission’s conclusion that the proposed project is in general conformity with the LRWP, including the goal in Appendix B that the dock “is electrified.

IV. Conclusion

Under the standard of review afforded to the Commission’s land use determinations, there is sufficient evidence to persuade a reasonable mind that the proposed CUP will not materially endanger the public health or safety, and that it is in general conformity with the LRWP. Accordingly, the Commission’s decision to adopt the CUP is AFFIRMED.

DATED: June 21, 2024.


Lisa M. Toussaint
Administrative Law Judge

Certificate of Service: I certify that on June 21, 2024, this document was distributed by email to Karla Hart, Sherri Layne, Garth Schlemlein, Even Garcia, Dan Bruce, Robert Palmer, Emily Wright, and the Juneau City Clerk.

By: 
Office of Administrative Hearings

⁶² T. 22 (“ . . . all the electricity is to the place where the transformer would sit.”); R. 24.

⁶³ T. 24 (“ . . . we’ve already been talking with the designer to have all of the connections and everything needed to bring the power to the ships that are ready to go, but the problem is going to be connecting from our property to the power supply. . . ”)

⁶⁴ T. 22 (“ . . . the city has already ordered or is in line for two transformers, so we’d be the third in line, but we wanted to make sure that we are plumbed, meaning that all the electricity is to the place where the transformer would sit, it’s run all the way to the dock, that we’ve invested in that infrastructure as part of the initial plan.”)

⁶⁵ T. 24 (“So we were initially anticipating that the project would have shore power on day one, and then we were told that there’s not enough capacity in town to provide it. So the problem wasn’t us; the problem was bringing power to us, and then to our location. . . ”)