



ASSEMBLY COMMITTEE OF THE WHOLE WORKSESSION AGENDA

February 13, 2023 at 6:00 PM

Assembly Chambers/Zoom Webinar/YouTube Livestream

<https://juneau.zoom.us/j/95424544691> or 1-253-215-8782 Webinar ID: 954 2454 4691

Assembly Committee of the Whole Worksession-no public testimony will be taken.

A. CALL TO ORDER

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 AGENDA

E. APPROVAL OF MINUTES

1. June 6, 2022 Assembly Committee of the Whole Draft Minutes

F. AGENDA TOPICS

2. **BRH - Management Agreement for Wildflower Court**
3. **Ordinance 2022-64** An Ordinance Reorganizing and Consolidating the Aquatics Board, the Treadwell Arena Advisory Board, the Jensen-Olson Arboretum Advisory Board, and the Parks and Recreation Advisory Committee. (Referred from the January 9, 2023 HRC/Assembly Meetings)
4. **Resolution 3023** A Resolution of the City and Borough of Juneau Opposing the Wild Fish Conservancy Lawsuit and Protecting the Southeast Alaska Troll Fishery from Closure.

G. STAFF REPORTS

5. **Telephone Hill Update-verbal report**

H. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

I. NEXT MEETING DATE: March 6, 2023, 6:00p.m.

J. SUPPLEMENTAL MATERIALS

K. ADJOURNMENT

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.org.

**ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE**
DRAFT Meeting Minutes – June 6, 2022

I. CALL TO ORDER

The Assembly Committee of the Whole Meeting, held in the Assembly Chambers and broadcasted virtually via Zoom following the Special Assembly meeting, was called to order by Deputy Mayor Gladziszewski at 6:07p.m.

II. LAND ACKNOWLEDGMENT

Mayor Weldon provided the following land acknowledgment: 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 a part of this community, and to honor the culture, traditions, and resilience of the Tlingit people. *Gunalchéesh!*

III. ROLL CALL

Assemblymembers Present: Maria Gladziszewski, Wade Bryson, Alicia Hughes-Skandijs, Greg Smith (via Zoom), Christine Woll, Michelle Hale, Carole Triem, ‘Wáahlaal Gíidaak and Mayor Beth Weldon.

Assemblymembers Absent: None

Staff Present: City Manager Rorie Watt, City Attorney Robert Palmer, Municipal Clerk Beth McEwen, Deputy Clerk Diane Cathcart, CDD Planning Manager Scott Ciambor, Finance Director Jeff Rogers, Engineering/Public Works Director Katie Koester, City Architect Jeanne Rynne, Port Director Carl Uchytel, Library Director John Thill, City Museum Director Beth Weigel, Lands and Resources Director Dan Bleidorn, Parks and Recreation Director George Schaaf, Tourism Manager Alexandra Pierce, Assistant City Attorney Sherri Layne, CDD Planners Teri Camery and Irene Gallion.

IV. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented by unanimous consent.

V. APPROVAL OF MINUTES

- A. February 14, 2022 DRAFT Assembly COW Minutes
- B. March 7, 2022 DRAFT Assembly COW Minutes

Hearing no objection, the above minutes were approved by unanimous consent.

VI. AGENDA TOPICS

A. Short Term Rentals & Housing Action Plan Update

Assemblymember Greg Smith disclosed that he does not currently have AirBnB customers but will be starting to have customers through AirBnB in the near future. He stated that he discussed

this with the City Attorney and was advised that any actions that he may take from a policy standpoint was likely in a general enough nature that he would not need to recuse himself.

Hearing no comments or objections, Mr. Smith remained at the dais for the remainder of this discussion.

Community Development Planning Manager Scott Ciambor gave a presentation touching on the status of Housing in the community focusing on those areas currently under high pressure on the housing stock, a rise in Short Term Rentals (STRs) and he provided an update on the Housing Action Plan. He explained that what we do know about Short Term Rentals in the community is that they are currently very dynamic and there are a lot of unknowns that CBJ does not have data about.

Mr. Ciambor and Mr. Rogers then answered questions from Assemblymembers related to collections of sales tax on short term rentals, specifically as it relates to AirBnB. Mr. Rogers said that at this time, CBJ does not currently have an agreement with AirBnB to collect sales tax on behalf of CBJ. He said that most rental owners list their spaces on multiple sites. The owners would be required to collect and remit sales tax regardless of the platform they rent from. He cautioned that if AirBnB was collecting the sales tax, CBJ would not have as much data that they currently receive from the owners when they register and remit sales tax on their own behalf.

When asked about the tracking and collecting of sales taxes for STRs, especially for services like AirBnB and Vacation Rental By Owners (VRBO), Mr. Rogers explained that those are classified as local sales rather than remote sales since the owners and services are located within the community. He said that it is a nuanced issue but at present the remote sales tax collection commission considers the STRs as a local brick and mortar sale within the local community and would not qualify as a remote sales tax service.

Mr. Ciambor, in continuing with his presentation, explained that the land use code does not have a definition of Short Term Rentals (STRs) in the Table of Permissible Uses (TPU). Ms. Gladziszewski asked how it is that AirBnBs/STRs were not already incorporated into the Bed and Breakfast section of the TPU. Mr. Ciambor said that the land use code does have a very specific definition with respect to Bed-and-Breakfasts (BnBs), boarding houses and rooming houses and that differs from STRs by the requirement that the BnBs are owner occupied dwellings with multiple rooms available to rent.

Ms. Gladziszewski spoke to a document that she had compiled in Excel format that compared parts of the TPU, what is and isn't allowed or defined in the current code.

Mr. Ciambor then finished up his presentation answering questions from Assemblymembers. He pointed to the following recommendations as found on the memo in the packet:

- Continue to aggressively pursue Housing Action Plan strategies to increase supply to the housing stock;
- Appropriate funding to hire short-term rental monitoring services;

- Prioritize updates to the Land Use Code Table of Permissible Uses to better define classifications of housing, including Short-Term Rentals.

Assemblymember Hale and 'Wáahlaal Gíidaak noted that whatever programs they implement, they wanted to be sure that whatever the Assembly does with respect to helping to create housing opportunities, they want to be sure those aren't then turned into STRs.

Mr. Ciambor answered additional questions from Assemblymembers about the current policies and procedures for the accessory apartment grant program and the tax abatement program.

Assemblymembers weighed in on the need to get more data, to be mindful that Juneau is the Capital City and there is the potential for special sessions of the Legislature overlapping with the summer season and the competitive nature of providing housing during those times even if it is short term. They also noted the challenges that CDD has been having with staffing resources and while they just restored one position, they have to be mindful to also provide the resources to their department so they can handle the workload the Assembly has tasked them with.

Ms. Gladziszewski noted that they have been discussing a myriad of issues as relates to this topic: Land Use Code, Sales Tax Abatement, and Housing Action Plan all combined in the same conversation. She said that makes it difficult to determine which path they should be looking at going down.

Ms. Triem said that Juneau's role as the Capital City goes both ways that we need to have enough housing options for state employees full time as well as those who are here for legislative session. She noted that if there is not enough housing available in Juneau, state jobs will be located elsewhere where they can find housing.

MOTION by Ms. Triem to direct attorney to draft ordinance requiring the registration of short term rentals and for the ordinance to be brought back to the COW for review and consideration.

In speaking to her motion, Ms. Triem asked that they start this process right away so that they can collect the data. She said many other communities already have these types of ordinances on the books and we don't have to begin from scratch; she suggested the Atlanta regulations could be a model for a new CBJ ordinance.

Ms. Gladziszewski asked for comments on the motion.

Ms. Woll asked Ms. Triem about the requirement for people to register their STRs rather than have a 3rd party consultant monitoring them.

Ms. Triem noted that the ordinance could provide for both those things to go hand in hand. She said that they could potentially contract with one service to provide the registration process that would make it very simple and another service that would be doing the monitoring. She said she doesn't see those services as mutually exclusive.

Ms. Gladziszewski said that the motion is one step on this path and, if it passes, it would be brought back to the next meeting.

Mr. Watt said that implied in that motion is that staff would bring back a number of options for definitions of STRs since different jurisdictions handle them differently and he would expect that would become part of the Assembly's discussion at the next meeting.

Ms. Hale asked if Ms. Triem could clarify that she is proposing that this ordinance would require people to register their STRs in addition to their sales tax registration. Ms. Triem agreed that was correct.

There being no further questions and hearing no objection, the motion passed by unanimous consent.

MOTION by Mayor Weldon for staff to draft an ordinance that would appropriate up to \$20,000 to hire one of these firms to monitor the registration process for short term rentals.

Ms. Triem asked Mr. Ciambor to clarify if both the registration and monitoring services he mentioned in his presentation could be done by one company or if it would be two separate things. Mr. Ciambor responded that of the four companies he mentioned in his slide presentation, they could perform both the registration and the monitoring services and those could be tailored to fit the definitions of the STRs in the CBJ ordinance and that could be done for \$12,000-\$20,000.

Ms. Gladziszewski asked Mayor Weldon if she intended this ordinance to come back to the COW to be discussed at the same time as the ordinance requested by Ms. Triem. Mayor Weldon confirmed that was the case.

Hearing no objection, the motion passed by unanimous consent.

Ms. Gladziszewski asked members what else they need to know when they discuss this next, specifically as it relates to STRs.

Mr. Smith said that he would be interested in moving in the direction of looking at the companies that are out there that collect and remit sales tax.

Ms. Woll asked if the money in the previous motion would be a one-time fee or a long term ongoing payment. Mayor Weldon stated that her intent was for a one-time fee. Any additional fees could potentially be paid from the revenues from the STRs.

Mr. Rogers provided the following information on the sales tax collection/remitting options: Option 1 is the current status quo where the owner themselves is the responsible party, they are required to register, collect and remit the sales tax. Option 2 is that CBJ would sign an agreement with AirBnB and/or VRBO stating that they are responsible for collecting and remitting sales tax and hotel bed tax on behalf of the property owners.

Option 3 would be for CBJ to use a separate 3rd party that would operate and work a little bit more like the remote sales tax platform.

Additional discussion took place and Ms. Gladziszewski asked staff to bring back some of those options, any analysis of what might be the best method for registration, collection, and remitting sales taxes and hotel taxes. She also asked staff to bring back any reports on neighborhood and land use issues and analysis and whether or not we are hearing complaints from people in the neighborhoods.

Mr. Bryson asked about the time length where a residential rental becomes a STR and if that was already in the code.

Mayor Weldon asked if there is anything in code that is or could be incorporated into code that would require the ownership of STRs to be owned by Alaska residents.

Mr. Palmer answered Mr. Bryson's question that the timeline for STR vs. residential rentals is 30 days. Any rentals over a 30 day timeline are not required to collect and remit sales and hotel/bed taxes. Any rentals at 30 days or less are required to collect and remit sales and hotel/bed taxes. Mr. Palmer said that with respect to the Mayor's questions, we have something similar to the concept in our code already with BnBs in that it has to be owner occupied on site. That gets around a delicate issue of "outside owners" since an outside owner could be a business.

MOTION by 'Wáahlaal Gíidaak that management bring back an ordinance to fix the accessory apartment funds that it be mandatory to be used for long term rental units only.

Objection by Ms. Woll and Ms. Hale.

Ms. Woll said that she was objecting as she would like to see the data come back about who should be in charge of doing STRs before they limit those funds.

Ms. Hale said since the amount is \$6,000 and barely enough to pay for their CDD permits, she is in favor of letting that 2-year process play out and then circling back to this to see if they may want to increase the amount given through that program.

Mayor Weldon also objected for the same reasons stated by Ms. Woll.

Ms. Hughes-Skandijs spoke in favor of the motion as even if it is a small amount of money, since it is still public money some of it is still going to potentially affect what is a crisis in community.

'Wáahlaal Gíidaak said that she wasn't around for the initial discussion and she appreciates this discussion. In looking at the notes in front of them, at the time it was adopted, 8 of the 27 units are being used for STRs. She said that is a significant number in her book and a significant number that they can make one small fix in the grant program to affect that change.

Mr. Bryson said he sees two different trains of thoughts before them – he said the current motion is a band aide to try and fix one small portion of the issue where the other path is to look at the big picture and find solutions. He said that he would not be supportive of this motion as he'd rather try to tackle the bigger issue at hand and not try to put a number of band aide solutions together.

Ms. Gladziszewski spoke in favor of the motion. She said that this is public money in the form of a tax abatement subsidy for \$6,000 of public money, some of which is currently going to fund STRs. She said the purpose of the tax abatement program was to subsidize the creation of rental housing for the residents of Juneau.

Roll Call Vote

Ayes: 'Wáahlaal Gíidaak, Hughes-Skandijs, Smith, Triem, Gladziszewski

Nays: Bryson, Hale, Woll, Weldon

Motion carried 5 Ayes, 4 Nays.

Ms. Triem thanked staff for bringing this to them, for their presentation and she agrees with Ms. Hughes-Skandijs that this is a crisis and unlike Mr. Bryson, she feels that one solution isn't going to be able to fix everything and she thinks this is something the Assembly will need to continue to work on. She said that the number 1 recommendation in the memo is to pursue aggressively Housing Action Plan strategies and she would like to continue to do that, preferably within the COW if the Deputy Mayor would allow it.

Mayor Weldon echoed Ms. Triem's comments and reiterated Ms. Triem's recommendation to Assemblymembers to be sure to read the Housing Action Plan. Mayor Weldon said she re-read it today and found hidden gems that she had not remembered were in there.

B. 1% Sales Tax

Ms. Gladziszewski, in speaking to Mr. Watt, said that they discussed this topic this morning. The packet contains a list, which is in very tiny print, but she asked if staff could provide an updated list along with explanations to bring back to the next meeting that they could vote on.

Mr. Watt said that they are working on a version 2 that is more readable with a description of everything on the list. He said that the goal for this meeting is to confirm that all the ideas are there that were submitted to them. He said that if the committee is happy with everything that is listed, he will bring them back something easier to work on.

Mayor Weldon thanked staff for this information and their work on this. She agreed with Ms. Gladziszewski that they would like to see the next list include detailed explanations and she also noted that the Capital Civic Center group has asked to be removed from the list.

Mr. Smith asked if there were projects on this list that may be of too small a size to be included. He said that maybe that is something they deal with when it comes to voting on the items on the list at the next meeting.

Mr. Watt said that generally this funding source has been used in bigger blocks but that doesn't mean that there cannot be smaller projects included. He said that there are some items on this list that historically may not have been included. He said that they will try to categorize it and make it a little more accessible. He said that some of these ideas have other options such as possibly doing bonds for schools and/or parks. He said that the five years of sales tax are estimated at \$60.2 million and if they can't fund everything on the list, they may look at alternative avenues to take for some of those projects.

Ms. Triem asked about the process and how the decisions are made with respect to the amounts and scheduling for each project happens. She asked how those decisions occur and when they occur and how do they care for inflation rates for those projects that are done in year 5 as opposed to those done in year 1.

Additional discussion took place regarding the overall list/projects that are determined by the Assembly and staff determines the various timelines associated and they follow the Capital Improvement Project (CIP) list that is adopted annually by the Assembly. Mr. Watt walked them through the list that was included in the COW packet. He provided the explanation that the items at the top portion of the list were the projects discussed by the Assembly Finance Committee Worksession and that the bottom portion of the list are from those items that the public provided input on.

Ms. Gladziszewski asked about the timing and when the Assembly would receive an updated/ranked list. Mr. Watt explained that he would get a consolidated list with descriptions within a week to Assemblymembers and ask them to return their ranking preferences to him by June 22. He said that provides a little more time to see what the state budget (and any vetoes) might look like to affect this list.

C. New City Hall

Engineering/Public Works Director Katie Koester invited the architect team to provide a presentation and concept of the New City Hall proposed for the 455 Whittier location. The architect team was comprised of James Bibb and Sean Boily of Northwind Architects and Steve Simpson from SRS Architecture in Portland, OR who joined them via Zoom.

Mr. Bibb provided a slide show presentation explaining the location and the conceptual designs for the building of approximately 45,000 square feet, uses, and provided comparative examples from city halls within Alaska as well as across the U.S.

Mr. Simpson provided an overview of the building shape separating the underground parking garage from the pedestrian entrance/access as well as their proposed building design elements to make it LEED energy efficient that would be solar energy ready.

Mr. Boily then provided an overview of the associated costs for the proposed design. He said that using a two-year escalation formula at (5%/year), the construction cost would be \$28,403,000 with development cost at \$9,515,000 bringing the amount to \$37,918,000 for a model that would not include a parking garage in the basement. If they were to add the cost of the basement parking similar to the parking under the State Museum parking garage under its structure, that parking cost would be \$3,330,000, that would bring the total project cost with basement parking to \$41,248,000.

Staff and the architects answered questions related to the presentation as well as the memo in the packet from Director Koester. The first portion of the discussion was related to whether or not the Assembly Chambers would or would not be included in the New City Hall. They also discussed the pros/cons of using brick vs. metal structure. In answer to questions from the Assembly, the architects explained that their charge was to provide conceptual renderings along with potential numbers. Mayor Weldon asked if this proposal included the cost to implement solar within the design. The architects explained that their design concept was to make it solar ready but not to include full solar panel implementation at this early stage. Director Koester also noted that this conceptual design was the high level basis concept to be able to bring a cost estimate to the voters. The last slide showed that there still needs to be a refinement of a number of the decisions on the design along with conversation about parking. This is a vision of what it could be but this is far from the design element details at this time.

Ms. Triem asked Mr. Boily about the ability or risk of putting parking underground this close to the ocean and what type of risk might be involved. Mr. Boily said they looked at similar basement spaces in the area and said they compared the Sealaska which has its archives in the basement while the State Archives and Museum has their parking in the basement.

Mr. Smith asked if underground parking would prohibit a ground source heat pump. Mr. Boily said that the location of the building site is a bit small for ground source heat. He said that this proposed design includes an air source heat pumps. He answered questions from Ms. Hughes-Skandijis about the possibility for solar panel heat sources as well.

Director Koester pointed the members to page 3 of 4 of her memo and to discuss and decide upon the below recommendations listed in the memo. She noted that this lists the items in order of easiest decisions first.

- Discuss and confirm that Assembly Chambers should be included in the facility.
- Discuss and confirm that underground parking should not be included in the project; that municipal resources for parking in the area should go towards the North State Office Building Garage project.
- Discuss and determine whether to direct staff to draft an ordinance for introduction to put a general obligation bond before the voters at the October 2022 municipal election. Dollar amount of bond is either \$38.2M, \$31.9M, or \$25.6M depending on whether Assembly is willing to appropriate proposed \$6.3M of general fund and whether the project will also be included in the slate of projects for the 1% sales tax extension.

MOTION by Mayor Weldon to include the Assembly Chambers in the New City Hall project.
Hearing no objection, the motion passed by unanimous consent.

MOTION by Mayor Weldon that the underground parking should not be included as part of the discussion until they get to a later date.

She noted that we are currently working on trying to help facilitate the north State Office Building parking solution and that may also help with our own parking needs and this would shave off money from the project while also helping relieve the risk concerns raised by Ms. Triem.

Ms. Triem objected for purposes of a question. She asked if parking could be added after the fact. Ms. Koester noted that there is surface parking available in the area and they are also working the proposed north State Office Building parking solution. Ms. Triem maintained her objection stating she was concerned that they were making a decision for a long term building with only short term availability of parking and that surface parking anywhere is not the highest and best use of any surface lots in the area.

Ms. Hale spoke about attending the Chamber of Commerce meeting at the previous week talking about the north State Office Building parking and she agreed with Ms. Triem that they should be reducing the use of surface area parking. Additional discussion took place about the state funding for that project, the timelines involved, and Mr. Watt provided timelines and funding sources for the state project as well as those involved with the New City Hall spaces.

Mr. Bryson spoke to the cost of constructing and maintaining a parking garage space downtown is approximately \$80,000 per space.

Mayor Weldon said that she was just following the recommendations in the memo but in fact she would object to her own motion as she would like to continue to have this as an option on the table for future discussion. ***Mayor Weldon withdrew her motion and replaced it with the following motion:***

MOTION by Mayor Weldon to include the underground parking in the New City Hall concept and continue this discussion at a later date.

Ms. Gladziszewski asked Mr. Watt if he could provide feedback on the costs associated with parking garage spaces as raised by Mr. Bryson. Mr. Watt explained that there would be a range and that when talking about parking garages, they are also talking about the circulation space, the stairwells/elevators and when it comes to the full price tag, it would be realistic to think it could range between \$70-80,000.

AMENDED MOTION by Mayor Weldon that we continue this discussion and not put this GO Bond before the voters at the October 2022 Municipal Election.

In speaking to her motion, Mayor Weldon said that while she appreciates the work and presentation by the architects, she thinks this is a cool project and there is hope for it but she doesn't think we have brought the public along. She said there is quite a bit of fine tuning needed to be done, including the parking or no parking question. She said that when the voters are unsure, she doesn't want to have it on the same election as when they are asking voters to vote on the 1% Sales Tax ballot question. She said that she wants more time to bring the public along further in this process.

Ms. Triem asked if this does get put back a year, what money may need to be spent in the current City Hall facility since there are some immediate needs for building maintenance on the current building.

Ms. Koester explained that they had been deferring some maintenance on the current City Hall while they were awaiting the decisions about the New City Hall. She noted that the estimated repairs at this time come to approximately \$12,000,000 which includes a wide variety of repairs including repainting the façade, fixing the plaster, replacing the windows and roof. She noted that some decisions on investing real dollars into the current City Hall need to be made in the near term.

Mr. Bryson asked for a brief at ease.

Mayor Weldon withdrew her amended motion as some of the points raised by Mr. Bryson during the recess have changed her mind.

MOTION by Mr. Bryson to direct staff to draft an ordinance to introduce a General Obligation (GO) Bond to put before the voters at the October 2022 Regular Municipal Election with a dollar amount up to \$41,248,000.

In speaking to his motion, the concern was that the public has not bought into the concept of a new city hall. He said that we rent space all over town and that our current City Hall is too old and needs too much in repair costs while at the same time paying as much as we do for rent. He spoke to the long term fiscal impacts and that this would solve the issue for the long run and he believes the community would support this.

Mayor Weldon said that she would support Mr. Bryson's motion as this is just June and there is time for educating the public on this issue and she too was concerned with the price it would cost to do the needed repairs at the current City Hall.

Mr. Smith asked if staff could provide additional information about what they know about commercial office space locations/availability. Director Koester explained that taking into account that she is neither an economist nor a real estate professional, they did answer some of those questions when they did their site selection search. She said that they were really looking for a vacant facility with an approximate square foot size and while they were looking at potential properties, they were getting scooped up by other entities so the market for those

facilities has been relatively hot. She said that they did talk with the state and the state leasing officer about leasing the Goldbelt/PFD building and they were told that lease had already been turned over. Mr. Watt said that all along, they were trying to look at apples to apples comparisons. He said that when looking at this being a long term, nothing is going to be as good of a solution as a purpose built New City Hall. When looking at other options, yes there would be entities that may want to rent long term to the city but in looking at the other options out there, none of them looked like good long term solutions.

Ms. Hale objected for purposes of a question. She asked if the ordinance was drafted for an amount of up to \$41,248,000.00, would that be the question that would go to the voters or if they were to forward fund or pay down some of those costs, what discretion does the Assembly have in order to change the question on the ballot. She then removed her objection.

Mr. Palmer said that the current motion is for an ordinance to be drafted in the amount of \$41,248,000 and that is the amount that would go to the voters if the motion passes. He said that if they wanted that number to be smaller, they would need to put cash towards that fund to make the GO Bond smaller.

Ms. Hale asked when they need to make that decision on the actual amount. Ms. Gladziszewski said that Mr. Bryson's motion was using the "up to \$41,248,000" language because they are not sure of the number and he is trying to get something drafted. Mr. Watt explained that the ordinance introduction date would be at the July 11 Assembly meeting with public hearing/adoption on August 1 for inclusion on the ballot. He said that the subtlety here is that they are asking the voters for the authorization to issue debt. He said that the up to language doesn't really matter with the voters because the question being asked of the voters would be yes or no, could incur debt at this amount.

He said that in other instances in which the Assembly has used the "up to" language, that has been on appropriating ordinances out of funds the Assembly already has the availability and authority to spend. This would be asking the voters for the authority to incur debt at a certain amount and they would need to decide what ordinance will be introduced at the July 11 meeting. Mr. Watt provided a timeline and options. They have introduced an ordinance for \$6,300,000 of general funds that will be up before them on at the June 13 Assembly meeting which would reduce the \$41,248,000 amount if they pass that ordinance. He said that they could determine if they want to include that project in the 1% Sales Tax options and they may also reduce any GO Bond amounts. He said those questions have to be sorted out before they put anything on the ballot.

Ms. Gladziszewski asked Mr. Bryson about his intention for his motion and that the number he proposed was as a placeholder. Mr. Bryson agreed that his motion was to continue to move this discussion further.

Ms. Triem asked a process question how they would decide tonight not know what the outcome will be on June 13. Mr. Watt said that he thinks that what they are trying to decide tonight is

whether or not to put something forward on the ballot to the voters. He said that if they vote yes, the amount would potentially be adjusted on Monday, June 13 based on the action on the \$6,300,000 general fund ordinance action and that potentially it would be adjusted again if they also include it in the sales tax which adds some complexity to how the questions may appear on the ballot.

Mr. Watt said that he would think that Mr. Bryson's motion might be reworded to state: ***"to direct preparation for a GO Bond with the amount as determined through Assembly committee process over the next couple of weeks."***

Ms. Gladziszewski asked Mr. Bryson if he would like to amend his motion. ***Mr. Bryson said that Mr. Watt's suggested motion language is exactly what he would like his motion to say.***

Mr. Smith said that he objects to the motion. He said that while he appreciates all the work that has been put into this, there are too many unknowns coming on the heels of the pandemic and this is not the right time to be asking the voters to fund a New City Hall.

Mayor Weldon stated that for purposes of a quick back of the napkin figure, if they do adopt the \$6,300,000 ordinance that would lower the amount of they are asking the voters to approximately \$35,000,00.

Mr. Watt noted that they did not cover the portion of the presentation that spoke to the debt capacity and they showed the slide of the Status Quo Forecast of Debt Service Mill Rate which showed that due to debt retirement in FY23, they would have the rare ability to incur debt service without raising the mill rate above the current 1.2 debt mill rate and that there would even be additional capacity for other GO debt if the Assembly chose to pursue that path for other projects. Additional discussion took place about the mill levy, the process still ahead of them.

Ms. Gladziszewski said that she agreed with Mr. Smith that there are a lot of details that still need to be worked out that she is concerned the voters would not be willing to support this even if with a robust educational campaign about the complexities involved.

Roll Call Vote on Mr. Bryson's motion to direct staff to prepare a GO Bond ordinance to put a question on the ballot with the amount to be determined through Assembly committee process.

Ayes: Bryson, Woll, 'Wáahlaal Gíidaak, Hale, Hughes-Skandijs, Triem, Weldon

Nays: Smith, Gladziszewski

Motion carried 7 Ayes, 2 Nays.

The Assembly then provided flowers to Ms. Hughes-Skandijs and wished her a happy birthday.

V. ADJOURNMENT

There being no further business to come before the Assembly, the Committee of the Whole meeting was adjourned at 8:40 p.m.

Bartlett Regional Hospital

3260 Hospital Drive, Juneau, Alaska 99801

907.796.8900

www.bartletthospital.org

DATE: February 9, 2023
 TO: City & Borough of Juneau Assembly Committee of the Whole
 FROM: Bartlett Regional Hospital Senior Leadership
 RE: Bartlett Regional Hospital and Wildflower Court Merger Overview

ATTACHMENT: Bartlett Regional Hospital's Wildflower Court RFI Response (minus Appendix materials)

Why Merge Now? "Continuity of Care Makes a Difference – Demand Continues to Grow"

- Bartlett Regional Hospital (Bartlett) was already in the process of standing up home health and hospice services when Wildflower Court (WFC) approached the hospital about taking over operations. Adding long-term care services to our post-acute care service line is a positive addition that will help improve continuity of care and patient throughput, grow revenue, and achieve cost reductions.
- About 80% of hospitals nationwide own some sort of post-acute care provider (ex: nursing facility, home health agency). Further, about 40 percent of nationwide Medicare patients discharged from the hospital require some type of post-acute care.
- Juneau's population is aging and will require increased healthcare needs. Juneau's population age 75+ are expected to grow by 37% by 2025 and another 36% by 2030. There is currently significant demand in the community for post-acute and long-term care services.
- Currently, Bartlett refers one third of its patients to WFC and it takes twice as long as referrals to other long-term care facilities. Due to staffing shortages and other reasons, WFC has been operating well below maximum occupancy.

WFC and Bartlett – "A Strategic Investment - Better When We Partner Together"

- WFC and Bartlett leadership share a history of respect, partnership, and support. Our visions align as we aim to provide leadership in healthcare that benefits the greater Southeast Alaska community. Merging our organizations will expand the scope and quality of these services for our residents and patients in a truly sustainable manner.
- Research suggests that stronger hospital-nursing facility relationships reduce rehospitalization rates.
- Further, enhanced care coordination improves patient throughput, freeing up needed acute-care beds.
- Research suggests that nursing facilities that share medical providers with hospitals experience fewer readmissions, shorter lengths-of-stay, and increased successful community discharges.
- Also, research has proven that, in nursing homes where hospice is available and present, residents enrolled in hospice have superior outcomes. Hospice enrollment is associated with higher-quality symptom assessment and management, and lower rates of hospitalizations.
- Hospital leadership is stable and focused on executing the CEO's 100-Day Plan and pursuing strategic initiatives that help increase revenue.
- A merger with WFC aligns with all 7 of the primary areas of focus under the 100-Day Plan, and particularly addresses (1) Labor & Cost Management, (2) Master Facility Planning, and (3) Patient Throughput (remaining areas of focus: Workforce Recruitment, Organizational Structure, Physician Alignment, and Behavioral Health Enterprise).

WFC Finances – Baseline Income & Business Equity

- WFC's historic business model is one that is profitable. For the five years prior to the pandemic (2015-2019), WFC's average annual operating income was approximately \$1,100,000.
- During this same period, WFC was able to generate approximately \$11,000,000 in operating revenues.

- WFC's total equity, or total assets less total liabilities, is roughly \$4,000,000.
- If the building was valued at full-market value instead of depreciable cost, the total equity that Bartlett would be receiving would be considerably higher. The business as well as the assets would become Bartlett's at no cost to the hospital.

WFC Current Challenges:

- Due to staffing shortages and other reasons, WFC has been operating at an average occupancy of 49 residents out of the total 61 beds available.
- For the recent fiscal year ending 12/31/2022, WFC's revenues dipped to around \$9,000,000, or a loss of \$2,000,000 from previous averages.
- Currently, WFC is operating in a position where they expect to lose about \$1,700,000.
- Additionally, WFC's Medicaid reimbursement rates are some of the lowest in the state for freestanding nursing facilities at 68% of the state average. Through recent conversations with the State of Alaska, Bartlett believes there may be a path toward "rebased" or reviewing those rates and potentially pushing them higher, which would provide a significant boost to WFC's revenues.
- Bartlett believes there are additional revenue generating services that could be provided through WFC such as skilled nursing, physical therapy, and rehabilitation that could further enhance profitability.
- On the expenditure side, WFC has seen an increase in operating costs during the pandemic of roughly 13%, and that is given the decrease in volume of residents. Labor costs due to a supply/demand imbalance and the use of locums is a major contributing factor.

Future Opportunities Through a Merger:

- There is a significant demand in the community for these services, and with the trend of an aging population, this demand is expected to grow. Bartlett is certain that, under Bartlett's stewardship, WFC can be filled again.
- If Bartlett could open an average of 8 of the 12 vacant beds that would represent a \$1.7M opportunity and almost completely erase the current deficit.
- In a transition, WFC gains access to Bartlett's ability to recruit, the administrative staff, dietary staff, materials management staff, 24/7 clinical staff and security personnel, amongst much else. Bartlett sees a lot of efficiencies to be gained and believes we could see 5 - 10% cost reductions on WFC's current structure, which would be anywhere between \$500,000 - \$1,000,000.
- If Bartlett can increase revenues through increasing resident occupancy and meeting the current demand of the community for its services and we can also find efficiencies, we believe the path to profitability or, at a minimum, being a self-sustaining service is within our short-term reach. By merely generating revenues commiserate to what was expected prior to the pandemic and by finding 5% efficiencies in the operating structure, we would expect to be in the black by several hundred thousand dollars.

Request to the Assembly - Funding to Cover PTO & Bond Liabilities:

- To reduce the liability assumed by the hospital, it has been recommended that the outstanding PTO and bond liabilities be extinguished prior to any merger. The Assembly could choose to help facilitate the merger by contributing funding in the amount of these liabilities (\$1,475,300) for their extinguishment.
- Projected PTO Liability - \$400,000
- Projected 401(k) Liability - \$200,000 (will most likely be less)
- The balance for the debt principal is \$1,465,000; 2023 interest due is \$34,706; bond reserve is \$589,706.

WILDFLOWER COURT RFI RESPONSE

December 2, 2022



Bartlett
Regional Hospital

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Contents

Executive Summary..... 2

Section 1 - Resident Care 3

Section 2 – Staff Transition/Retention..... 6

Section 3 – Staff Salaries and Benefits..... 7

Section 4 – Other 9

Appendix

Executive Summary

Wildflower Court (WFC) and Bartlett Regional Hospital (Bartlett) share a history of respect, partnership, and support. We honor the experience and knowledge of the WFC board, leadership, and staff. Our visions align as we aim to provide leadership in healthcare that benefits the greater Southeast Alaska community. Merging our organizations will expand the scope and quality of these services for our residents and patients in a truly sustainable manner.

Bartlett recognizes the importance of the full continuum of care and is actively expanding its service offerings to include a post-acute care service line. WFC helps Bartlett facilitate a comprehensive, fully integrated and supported post-acute care service line, putting high-quality resident and patient care at the center of our operations through:

- Achieving the highest national accreditation standards;
- Providing available, robust staffing, including 24/7 resident support and access to Bartlett's existing clinical and support services;
- Offering strong staff development, education, and clinical ladder programs to ensure the highest-quality training and delivery of care;
- Addressing WFC's facility and infrastructure integration, connectivity, maintenance, and improvement needs; and
- Ensuring operational efficiency and affordability, resulting in a reinvestment of resources into the organization.

Employees are Bartlett's greatest asset, and we welcome all current WFC employees to transition into the Bartlett organization. WFC employee focus will continue to be on WFC residents and operations. Each employee's individual skillset will be evaluated to determine the best fit, whether that be within existing Bartlett departments or in the new post-acute care service line that includes WFC.

To create a seamless employee transition, we commit to offering:

- Salary/wage at or above current levels for all transitioning WFC employees;
- Paid Time Off/Paid Leave accrual rates accounting for service time credits earned while employed at WFC;
- Transfer of existing accrued Paid Time Off up to 750 hours; and
- Integration of WFC employees into Bartlett's comprehensive and highly competitive benefit, insurance, and retirement plans.

Bartlett is taking active measures to prepare for a possible merger and is excited about working together and learning from your expertise to implement a successful and timely transition process for residents, employees, and ongoing operations.

Section 1 - Resident Care

Please share your current mission and vision for patient care, as well as how you see adding Wildflower Court to your operations will complement that vision.

Bartlett's mission is to provide the community and region with quality, patient-centered care in a sustainable manner. The residents of Southeast Alaska have relied upon our health care services continuously since 1886, and Bartlett is proud of its longstanding history and commitment to this vibrant community.

The mission is embodied through our C.A.R.E. values. These core values drive our daily actions as we put patient needs at the center of every decision.

Courtesy: We act in a positive, professional, and considerate manner, recognizing the impact of our actions on the care of our patients and the creation of a supportive work environment.

Accountability: We take responsibility for our actions and their collective outcomes, working as an effective, committed, and cooperative team.

Respect: We treat everyone with fairness and dignity by honoring diversity and promoting an atmosphere of trust and cooperation. We listen to others, valuing their skills, ideas, and opinions.

Excellence: We choose to do our best and work with a commitment to continuous improvement. We provide high-quality, professional healthcare to meet the changing needs of our community and region.

The mission for patient care and values is internalized by our employees, starting with our senior leadership team. The organizational structure of Bartlett is well suited to support the existing WFC team through clear leadership channels, empowered interdisciplinary committees, and a culture of collaboration.

Bartlett's organizational vision is to be the best community hospital in Alaska. This vision can only be achieved by responding to community needs and addressing the continuum of care, especially with the changing healthcare landscape. We believe strongly in our role as the leader in lifelong healthcare in our community, and most residents agree. 72% of respondents to a community healthcare survey conducted by McDowell Group rated Bartlett's quality of care as better than other facilities in Southeast. Further, the studies highlight the community's desire for expanded services, including senior care.

Bartlett's accountability also includes proactively assessing gaps in service and supporting an integrated system – ultimately, *coordinated efforts to provide health care mean better outcomes for patients*. A direct example is Juneau's recent loss of home health and hospice services. Recognizing this critical gap in the continuum of care and addressing our population-wide health goals, Bartlett is establishing its own home health and hospice services. We believe this effort can be further complemented by the integration of WFC and the development of a post-acute care service line. Research has proven that, in nursing homes where hospice is available and present, residents enrolled in hospice have superior

outcomes (National Institute of Health, 2002). Hospice enrollment is associated with higher-quality symptom assessment and management, and lower rates of hospitalizations.

Another example of Bartlett's proactive, solution-based management is the implementation of an "earn-as-you-learn" approach to recruiting and retaining certified healthcare workers. With continued grant support through the Alaska Hospital and Healthcare Association beginning in October 2021, our Education Services team successfully trained 30 Certified Nursing Assistants (CNA), 15 of whom are currently employed at Bartlett and five at WFC. We are committed to offering CNA courses at Bartlett as interest remains high within the community and the efforts support our vision to respond proactively to gaps in service, including our own healthcare workforce. We also partner with the University of Alaska Southeast CNA program and University of Alaska Anchorage and Alaska Pacific University nursing programs to provide lab and clinical experience for students pursuing a career in the healthcare field to ensure growing demand for care is met throughout the region.

As a community hospital, services extend beyond the organization to be proactive, engaged, and responsive to patient and community care needs. The pandemic highlighted how broadly our organization partnered with, and supported the community, and these partnerships and systems will benefit the residents of WFC. During the pandemic, Bartlett partnered with the City & Borough of Juneau (CBJ), Capital City Fire & Rescue (CCFR), shelter managers, the State Division of Public Health, and others on a continuous basis to bridge gaps. We supported the growth of CCFR's Mobile-Integrated Health (MIH)/community paramedics program. We coordinated medical respite for the entire community to support isolation for our unsheltered or under-sheltered citizens. Our teams worked with vulnerable patients in outpatient, emergency care, and acute care settings before they needed to transition to skilled nursing.

The addition of WFC complements our vision by directly addressing the development of a post-acute care service line and further supporting an integrated system. Ultimately, there will be a shared understanding of patient care needs from all levels of care with a holistic and comprehensive perspective, direct communication, and minimal interruptions and delays in care. Bartlett hospice services, in conjunction with WFC, would develop a close clinical working relationship benefiting the staff at both entities by the joint sharing of knowledge and resources to improve the overall quality of care for the residents they serve. The skills and core competencies of the hospice staff will be disseminated to the nursing home staff, exposing them to palliative care processes and approaches, and familiarizing them with the outcomes terminally ill patients experience. Such diffusion of knowledge, skills, and attitudes can only occur when two organizations are compatibly working together at all levels of the organization's administrative, support, and clinical staff. Further, with improved inter-organizational relationships between WFC and Bartlett Home Health and Hospice, those residents that can be strengthened and reconditioned may be able to be discharged back into their homes with home health services for intermittent skilled nursing and/or therapy services, resulting in improved outcomes and patient satisfaction/quality of life.

How will your organization ensure the highest quality care for our residents?

Achieving National Care Standards

At Bartlett we choose to pursue the highest national standards of care. This voluntary effort demonstrates to the community our commitment to achieving high-quality care and safety for our patients. Bartlett continues to earn The Joint Commission (TJC) Gold Seal of Approval for Hospital Accreditation by demonstrating continuous compliance with its performance standards. We are proud

to be the sole health care organization in Southeast and one of 13 in Alaska with Hospital Accreditation by TJC. With the merger, WFC residents will benefit from Bartlett's continued commitment to the highest national standards of patient-centered care, treatment, and services.

Staffing & Patient Services

A primary means to ensure high quality care is through robust staffing and patient services. As a 24-hour facility, we have the support and backup of staff available to residents any time of day or night. This allows us to help ensure safe staffing levels for CNA and direct care personnel. Further, our existing physical connection to the WFC facility allows for quick and easy access, enabling responsive, quality care for residents. WFC residents and staff will have 24/7 support and access to pharmacists, nurses, laboratory specialists, security personnel, respiratory specialists, hospitalist services, emergency care, psychiatric emergency services, and diagnostic imaging.

WFC Resident Services will be supported by nutrition and dietary services, spiritual care, occupational, physical and speech therapy, cardiac rehabilitation, and outpatient respiratory therapy services. Case managers will help ensure streamlined transitions of care and will proactively collaborate to coordinate care from the community, skilled nursing, acute care, and all other levels of care – ultimately supporting transitions when residents are clinically ready for care transitions.

The ability to integrate common operational functions within each organization will create efficient delivery of resident and patient services. This will create the opportunity to reinvest resources into the organization, further improving resident and patient care, employee satisfaction, and community support initiatives.

Bartlett has a full continuum of outpatient to inpatient behavioral health services. Many of these services will soon be housed in the new Aurora Behavioral Health Center located on the Bartlett campus. The proximity of these services to WFC will enable access to integrated behavioral health care for WFC residents. The number of people over the age of 65 with psychiatric disorders is estimated to more than double by the year 2030, from 7 million in 2000 to 15 million, according to the American Psychiatric Association. Accessibility to behavioral health services creates opportunities for integrated care management and multidisciplinary psychiatric interventions to improve patient care.

Bartlett has a strong staff development and education program incorporating best practices and evidence-based learning to support staff in advancing their education. The program provides opportunities to advance their careers through our clinical ladder programs, CNA program, nursing programs, and surgical and pharmacy technician programs. With the merger, WFC staff will benefit from Bartlett's culture of supporting growth and continued learning.

The perspective of our patients is highly valued and is a major driver of our process improvement efforts. With the merger, we look forward to inviting WFC residents to share their voices and views through our Patient and Family Advisory Committee and other patient feedback reporting systems to improve resident care and organizational processes.

Resident and Staff Safety

WFC resident care will benefit from access to the strong early recognition and team support within our rapid response system. The WFC staff and residents will be serviced by our existing safety nets to identify changes in a resident's condition. We will look at how we can provide extra support to manage a resident in their home or have more resident-focused care if they need to be transferred to an inpatient

status. This will assist the long-stay quality measure of outpatient emergency department visits, which is currently higher than the national average for long term care.

Bartlett's Quality department supports the hospital in the continued compliance with safe patient care and staff processes required by TJC, Centers for Medicare & Medicaid Services (CMS), and the Occupational Safety and Health Administration (OSHA). This is done through monitoring, analyzing, and reporting adverse events and other occurrences that happen at Bartlett, and supporting leaders and staff with performing the appropriate analysis and providing guidance on making system improvements. The team also analyzes Bartlett patient care data and patient feedback and shares findings with departments to develop process improvement projects, and provides staff resources, education, and activities to build and improve Bartlett processes.

Additionally, we have a support network for our employees that includes a system-wide environmental health and safety program. The program's focus is on the wellbeing and safety of our employees and advocates for the training, equipment, and needs of all staff to ensure a safe working environment. Staff concerns regarding their workflow and environment are the responsibility of this program and any existing programs or resources already in place at WFC will be supported and enhanced.

Further, Bartlett will support WFC leadership through our Quality and Safety teams to address any outstanding CMS reports and corrective actions to ensure compliance with safe and high-quality patient care, as well as any immediate infrastructure needs.

Also, please describe your vision on how you see WFC operating in 5 years?

In five years, we envision WFC operating at full capacity with a focus on bed availability to meet the needs of the community. WFC operations will continue to prioritize programs that enhance the freedom, privacy, and dignity of each resident with additional support from Bartlett.

WFC operations will be fully integrated into our care system and accredited as a nursing care center through TJC. Further, Bartlett and WFC will achieve the highest CMS rating possible. Goals will be established to pursue additional nationally recognized specialty certifications such as post-acute care and memory care to further demonstrate our continued commitment to providing the highest level of resident care. This will align WFC with the standards of the hospital and provide the hospital's support to the residents and staff of WFC.

In ten years, we plan to evaluate and possibly expand bed capacity based on demographic projections for Juneau and the increased healthcare needs of the aging population.

Section 2 – Staff Transition/Retention

Please provide insight on what job retention promise your organization would have for the current WFC employees and any immediate staffing changes anticipated to the current organization chart.

Bartlett strives to provide the best possible working environment for employees to continue to meet our mission of providing quality, patient-centered care. With this mission in mind, our goal is to seamlessly transition and orient WFC employees into our organization.

WFC employee focus will continue to be on WFC residents and operations. Clinical services at WFC will continue providing care to WFC residents within a new post-acute care service line at Bartlett. The post-acute care service line leader will be a member of the Bartlett senior leadership team, providing a seat at the table for important organizational strategy decisions. WFC support service employees will be incorporated into the current BRH departments that are the best fit.

Section 3 – Staff Salaries and Benefits

Please provide the salary range for RNs and LPNs, CNAs, housekeeping, and dietary staff. Feel free to include other salary ranges that are applicable to other WFC team members.

Please see [Appendix A](#) for salary range information for the positions requested, plus additional applicable positions.

Bartlett will integrate WFC employees into our current position classification and salary structure. Under our proposed transition plan, each WFC employee will be paid no less than the same rate of pay as their current WFC rate of pay. Each WFC employee's wage or salary will be reviewed on an individual basis to determine the appropriate position grade and step placement upon transition. Bartlett will place employees at the step on the Bartlett pay schedule that most closely matches the WFC employee's current rate of pay, without going below the employee's current rate of pay.

Please share your current PTO accrual matrix. Also, how much current PTO WFC staff would be able to carry over with a change in ownership.

Paid time off (PTO) is referred to as Personal Leave at Bartlett. Full-time and part-time employees accrue personal leave based on time served for purposes of vacation, holiday, and sick leave. Please see [Appendix B](#) for personal leave accrual rates and an example of accrual at each step.

As noted in Appendix B, personal leave accrual rates are based on employee service time; however, Bartlett can approve an advance personal leave accrual rate for transitioning employees from WFC. We will offer WFC employees service time credit for their employment at WFC as if they were employed at Bartlett to determine the appropriate personal leave accrual rate at Bartlett.

We recognize that employees work hard to save their personal leave and that it can be concerning to not have the safety net of personal leave available upon transitioning. Bartlett will offer the opportunity for all WFC employees to "transfer" their personal leave balance up to a total of 750 hours – this reflects the annual personal leave balance cap for Bartlett employees. Adding this additional balance of personal leave does come with a financial obligation; therefore, we will request that WFC fund the financial obligation associated with the transfer of leave hours.

Although we are providing a summary of the specific benefits requested in the RFI, we are also willing to provide our detailed personnel rules upon request.

Please provide information on your organization's retirement benefit package.

Bartlett strives to provide employees and their families with a competitive and valuable benefits package. We recognize the decisions employees make regarding benefits can have a significant impact

on their life and finances, so we offer a comprehensive online enrollment experience and access to online resources and live benefit counselors to help walk employees through enrollment options.

As an enterprise fund of the City and Borough of Juneau (CBJ), Bartlett participates in the Public Employees' Retirement System (PERS) administered by the State of Alaska. The PERS plan funds consists of employee and employer contributions into a defined benefit or defined contribution program, depending on date of hire, and investment earnings. Members who first entered PERS:

- Before July 1, 1986, are in Tier I
- On or after July 1, 1986, but before July 1, 1996, are in Tier II
- On or after July 1, 1996, but before July 1, 2006, are in Tier III
- Individuals who first entered PERS on or after July 1, 2006, are members of the PERS DCR Plans

Employees must have five years of paid-up PERS service to become 100 percent vested for employer contribution and change in value. Employee contributions and change in value are 100 percent vested from day one of enrollment in the plan.

Please see [Appendix C](#) to review a copy of the hospital's PERS Tier Chart.

Additionally, employees have the option to enroll in the CBJ Deferred Compensation Program with MissionSquare. Program highlights include:

- 457 Deferred Compensation and 457 Roth options available
- Low-cost investing—average is estimated at 0.35 percent each year
- Employer sponsored plan with on-going monitoring for cost and performance
- Professionally monitored investments
- Counseling services available at no cost, even after retirement

Please provide details on the insurance coverage to include cost-share for full-time and part-time staff (Health, Dental, Vision, Life/Disability).

Bartlett offers a comprehensive employee benefit package including medical, pharmacy, vision and dental. Coverage highlights include:

- Self-insured medical/pharmacy/vision plan that uses Premiera Blue Cross Blue Shield of Alaska as the third-party administrator - this allows for more control over plan design and cost
- Fully insured dental plan with Premiera Blue Cross Blue Shield of Alaska
- Coverage is effective on employee's date of hire; there is no wait period
- Coverage is available for employees and/or family with a no-cost employee only option
- Basic dental plan available at no cost with a buy-up option that includes orthodontia coverage
- Employees can enroll in benefits that work best for their family's needs
- Virtual care services are available for general medicine at no cost and dermatology, counseling, and chemical/alcohol dependency treatment are available subject to deductible and co-insurance
- Health Yourself Wellness Program provides wellness focused activities, education, and screenings to benefited employees and dependents with an opportunity to earn a discount of \$50.00 per pay period off the bi-weekly employee premium (\$1,300 annual savings)

Please see [Appendix D](#) for health insurance coverage and cost information for full time and part time staff.

Life insurance with Accidental Death and Dismemberment (AD&D) is available to all benefit eligible employees, spouses, and dependents. Insurance highlights include:

- Bartlett pays for \$5,000 Life with AD&D for employees, spouses, and children
- Optional coverage is available for employees and spouses up to \$300,000 (or 7 times your salary) and \$10,000 for children

Please see [Appendix E](#) for information about supplemental, optional health and life benefits available to employees including:

- Accident coverage (page 12)
- Critical Illness coverage (page 14)
- Short-term disability (page 11)
- Hospital Indemnity insurance (page 13)
- Pet Insurance (page 16)
- Employee Assistance Program (page 7)

Section 4 – Other

Please feel free to include any other information that you believe may be helpful in considering WFC's possible merger into your organization.

Bartlett has created a transition work group in preparation for a possible merger and is excited about working with, and learning from, WFC board members, leadership, and staff to implement a successful and timely transition process for residents, employees, and ongoing operations. Should Bartlett be selected as the preferred organization to proceed with a merger, we look forward to inviting WFC administration and board member(s) to serve on the transition team.

We are currently conducting our organization's annual strategic planning work plan development and review process. With the creation of the Bartlett post-acute care service line, and with the goal of executing a merger with WFC, we invite WFC leadership to share their knowledge and participate in this process.

What questions may your organization have for us?

1. It is extremely important to Bartlett to maintain a culture of courtesy, accountability, respect, and excellence throughout the transition process. With that, support and alignment with existing WFC leadership will be a critical factor for a successful transition. How long is WFC's Interim Administrator committed to staying in the position?
2. Although we have created a transition work group and are preparing for a possible merger, Bartlett places a high value on the longstanding stewardship provided by WFC's board. What are the WFC board's expectations regarding a transition plan, including timeline and key players?

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Presented by: The Manager
Presented: 12/12/2022
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA
Serial No. 2022-64

An Ordinance Reorganizing and Consolidating the Aquatics Board, the Treadwell Arena Advisory Board, the Jensen-Olson Arboretum Advisory Board, and the Parks and Recreation Advisory Committee.

WHEREAS, the Jensen-Olson Arboretum Advisory Board was most recently created by Resolution 2377 (12/11/2006); and

WHEREAS, the Parks and Recreation Advisory Committee was most recently created by Resolution 2646 (6/3/2013); and

WHEREAS, the Treadwell Arena Advisory Board was most recently created by Ordinance 2019-04(b) (1/28/2019); and

WHEREAS, the Aquatics Board was most recently created by Ordinance 2019-03(b) (1/28/2019); and

WHEREAS, the Assembly appreciates the community engagement and extensive volunteer hours members of the Jensen-Olson Arboretum Advisory Board, the Treadwell Arena Advisory Board, the Aquatics Board, and the Parks and Recreation Advisory Committee invested into our community; and

WHEREAS, the current Assembly Advisory Board Rules of Procedure are located in Resolution 2686 (6/9/2014); and

WHEREAS, Resolution 2686 requires appointments to advisory boards based on talent and interest instead of race, creed, color, age, religion, national origin, sex, marital status, political ideology, sexual orientation, or sensory, mental or physical handicap; and

1 WHEREAS, Resolution 2686 also requires diverse appointments to advisory boards to
2 reflect a membership appropriate for accomplishing the goals of the board, which should include
3 cultural, social, political, technical, and economic viewpoints sufficient to ensure wide-ranging
4 and active debate; and

WHEREAS, consolidation of the Jensen-Olson Arboretum Advisory Board, the Treadwell Arena Advisory Board, and the Aquatics Board duties into the Parks and Recreation Advisory Committee is in the best interest of the community because recruitment and retention of 43 engaged volunteers is challenging, board morale is low when meetings are not meaningful, staff support time can be better spent on other projects, and fewer boards representing a larger portion of the community would be more effective and impactful.

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

4 **Section 1. Classification.** Sections 2, 3, 4, and 7 are noncode provisions. Sections 5
5 and 6 are code provisions.

7 **Section 2. Repeal of Resolution 2377.** Resolution 2377 is repealed. The Jensen-Olson
8 Arboretum Advisory Board is dissolved upon the effective date of this ordinance.

Section 3. Repeal of Resolution 2646. Resolution 2646 is repealed. The Parks and Recreation Advisory Committee is reestablished consistent with Section 6 of this ordinance.

4 **Section 4. Repeal of Ordinance 2019-04(b).** Ordinance 2019-04(b) is repealed. The
5 Treadwell Arena Advisory Board is dissolved upon the effective date of this ordinance.

Section 5. Repeal of Chapter 67.10. Chapter 67.10 – Aquatics Facilities is repealed and reserved. The Aquatics Board is dissolved upon the effective date of this ordinance.

Section 6. Amendment of Chapter 67.01. Chapter 67.01 – Recreation Areas is amended by adding articles to reestablish the Parks and Recreation Advisory Committee.

Chapter 67.01 – RECREATION AREAS

ARTICLE I. RECREATION AREA ORDINANCE

- 67.01.010 Short title.**
...
- 67.01.020 Other ordinances not affected.**
...
- 67.01.030 Areas regulated.**
...
- 67.01.040 Intent.**
...
- 67.01.045 Regulations.**
...
- 67.01.050 Hours of operation.**
...
- 67.01.080 Use; liability insurance.**
...
- 67.01.090 Prohibited uses.**
...
- 67.01.095 Motorized uses on Auke Lake.**
...
- 67.01.100 Criminal liability.**
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ARTICLE II. PARKS AND RECREATION ADVISORY COMMITTEE

67.01.200 Establishment.

There is established the Parks and Recreation Advisory Committee (“PRAC”).

67.01.210 Membership.

(a) Membership. The members of the PRAC shall be nine citizens of the City and Borough of Juneau.

(b) Term. Members shall be appointed by the assembly. Members shall be appointed to staggered three-year terms. A new member shall be seated upon appointment and serve until their term ends or until their successor is appointed. A member serves at the pleasure of the assembly and may be removed at any time by an affirmative vote of six members of the assembly.

(c) Quorum. Five members constitutes a quorum.

67.01.220 Meetings.

(a) Procedure. The PRAC shall be governed by the Advisory Board Rules of Procedure, which generally follows Robert’s Rules of Order.

(b) Regular and special meetings. The PRAC should hold regular meetings on a schedule established by the PRAC and may hold special meetings—at the call of the chairperson or three members—as necessary to conduct business.

67.01.230 Subcommittees.

(a) Jensen-Olson Arboretum Endowment Subcommittee. There is established a permanent subcommittee to advise on use of the Jensen-Olson Arboretum Endowment. This subcommittee should meet at least once per year and as necessary to effectuate the business of the endowment.

(b) Special subcommittees. The chairperson—subject to ratification by the PRAC—or majority of the PRAC may create temporary special subcommittees to facilitate any discrete PRAC business issue. Members of such subcommittee are limited to PRAC members. While all PRAC members may attend and participate in subcommittee proceedings, only designated subcommittee members may vote. Temporary subcommittees should exist for no longer than 24 months and dissolve upon completion of the enabling charge.

67.01.240 Duties.

(a) Intent. With the exception of parking management and facilities maintenance services provided to other departments, the PRAC should advise the assembly regarding all Parks and Recreation Department managed lands, facilities, and services including, but not limited to, the Treadwell Arena, the Aquatics Facilities, and the Jensen-Olson Arboretum.

(b) The PRAC should review and provide recommendations to the parks and recreation director and assembly regarding the following:

- (1) Planning and development of all aspects of recreation and associated issues affecting parks and recreation in the community.
- (2) The Capital Improvement Plan (excluding Facilities Maintenance and Centennial Hall).
- (3) The department's Fee Schedule (excluding parking).

- (4) Adopted and proposed legislation, including regulations, related to the department.
- (5) Acquisition or disposal of City and Borough of Juneau lands managed or dedicated for park or recreation purposes.
- (6) Naming of parks or recreation facilities.

67.01.250 Staff Assistance.

Staff support and assistance to the PRAC may be provided by the City Manager as available and appropriate.

Section 7. Parks and Recreation Advisory Committee Transition Period. The Assembly intends on reestablishing the PRAC by April 1, 2023. Current members of the PRAC will continue to serve through March 30, 2023, and need to reapply if interested in a future PRAC position. In addition to new public members, all members of the Jensen-Olson Arboretum Advisory Board, the Treadwell Arena Advisory Board, and the Aquatics Board are encouraged to apply for a PRAC position. The Assembly shall appoint transitional PRAC positions as follows: three members for one-year terms, three members for two-year terms, and three members for three-year terms.

Section 8. Effective Date. This ordinance shall be effective March 15, 2023.

Adopted this _____ day of _____, 2023.

Carole Triem, Acting Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk

DATE: 12/21/2022
TO: Greg Smith, Chair Assembly Human Resources Committee
FROM: Adam Gottschalk, Assistant Municipal Attorney
SUBJECT: Ord. 2022-64: Parks and Recreation Reorganization

Through Ordinance 2022-64, three boards—the Treadwell Arena Advisory Board, the Aquatics Board, and the Jensen-Olson Arboretum Board—would be consolidated into the Parks & Recreation Advisory Board (“PRAC”). As a practical matter, consolidation would decrease the number of perennial vacancies and meetings cancelled due to lack of quorum. While consolidation *would* decrease the overall number of seats, each seat will likely attract a greater number of qualified applicants as each appointed officer would have a greater voice. As an advisory board, PRAC appointments are subject to Resolution 2686, which prohibits discrimination and requires diversity.

Procedural Background

On December 13, 2022, the Systemic Racism Review Committee (“SRRC”) reviewed Ordinance 2022-64. SRRC’s primary concerns were that there would be fewer seats and that nothing within the text of the proposed ordinance ensured positive steps would be taken to fill seats with racially diverse officers. SRRC was informed Ordinance 2022-64 was subject to Resolution 2686, which prohibits discrimination and requires diversity. Still, SRRC made the following recommendation¹ to cure Ordinance 2022-64 of potential systemic racism:

SRRC flags Ordinance 2022-64 for potential issues of systemic racism. SRRC is supportive of the underlying intent of the ordinance, however, SRRC has concerns about actual application and actual practice and potential aggravation of systemic racism within the community. Therefore, SRRC puts forth to the Assembly some recommendations to include in the ordinance in order to help mitigate:

- (1) language that goes above and beyond Resolution 2686 to actually have intentions or goals for inclusion and representation, particularly of marginalized communities, race being the core...;*
- (2) requirements or intentions for outreach to the community, and/or;*

¹ Because this recommendation was made orally, immaterial edits have been made for clarity.

- (3) *a potential sunset clause or review clause after some period of time to ensure this is going the way SRRC had hoped.*

Legal Issues

Under the Fourteenth Amendment of the United States Constitution, no state shall “deny to any person within its jurisdiction the equal protection of the laws.”² This guarantee is known as the Equal Protection Clause. If a particular piece of legislation is challenged as being in violation of the Equal Protection Clause, the legislation will be subject to judicial review. There are three key standards of review; strict scrutiny, intermediate scrutiny, and rational basis review.³ Higher standards of review place greater burdens on the government to justify challenged legislation.⁴ Strict scrutiny is the highest standard of review, and it is appropriate when legislation involves suspect classifications (i.e., classifications based on race, national origin, or alienage) or legislation burdens fundamental rights (e.g., voting, litigating, or the exercise of intimate personal choices).⁵ In order for legislation subject to strict scrutiny to survive, the government’s burden is to show the legislation furthers a compelling government interest and the legislation is necessary to achieve that interest.⁶ This is a far greater burden than rational basis review, in which the government merely needs to show it has a legitimate interest and the legislation is rationally related to achieving that interest.⁷ It is rare for legislation subject to the strict scrutiny standard of review to survive.⁸

The equal protection clause in Alaska’s Constitution affords greater protection to individual rights than its federal counterpart.⁹ Alaska’s Constitution also contains a civil rights clause expressly prohibiting discrimination based on certain inalienable traits such as race.¹⁰ Thus, as with challenges under the federal equal protection clause, race is considered a suspect classification and any ordinance involving race-based classifications will be subject to the strict

² U.S. Const. amend. XIV, § 1 (“No state shall...nor deny to any person within its jurisdiction the equal protection of the laws.”).

³ See, e.g., *State, Dep’t of Revenue, Permanent Fund Dividend Div. v. Cosio*, 858 P.2d 621, 626 (Alaska 1993).

⁴ See *id.*

⁵ *State v. Ostrosky*, 667 P.2d 1184, 1192 (Alaska 1983).

⁶ *Id.*

⁷ *Id.*

⁸ *State, Dep’t of Revenue, Permanent Fund Dividend Div. v. Cosio*, 858 P.2d 621, 626 (Alaska 1993) (“Laws often fail to survive strict scrutiny, prompting one commentator to label the test “strict” in theory, and fatal in fact.”) (quoting Gerald Gunther, *The Supreme Court Term 1971—Foreword: In Search of Evolving Doctrine on a Changing Court: A Model for Newer Equal Protection*, 86 HARV. L. REV. 1, 8 (1972)).

⁹ *Alaska Civil Liberties Union v. State*, 122 P.3d 781, 787 (Alaska 2005) (quoting *Malabed v. N. Slope Borough*, 70 P.3d 416, 420 (Alaska 2003)) (quotes removed). Compare Alaska Const. art. I, § 1 (relevantly providing, “all persons are equal and entitled to equal rights, opportunities, and protection under the law”), with U.S. Const. amend. XIV, § 1 (relevantly providing, “No state shall...nor deny to any person within its jurisdiction the equal protection of the laws.”).

¹⁰ Alaska Const. art. I, § 3 (relevantly providing, “No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin.”).

scrutiny standard of review.¹¹ To survive strict scrutiny, discriminatory legislation must further a compelling government interest and the enactment itself must be necessary to achieve that interest.¹² Note, “discrimination” in this context means “differential treatment,” and an ordinance may be discriminatory on its face (i.e., through its express terms)¹³ or facially neutral but with a discriminatory purpose.¹⁴ Note also, Alaskan courts employ a sliding-scale test to determine standards of review, ranging from strict to relaxed, rather than the three discrete standards of review used in federal equal protection challenges.¹⁵ However, Alaska’s sliding-scale test is more helpful when analyzing burdens on non-fundamental rights; any legislation involving suspect categories will automatically trigger strict scrutiny review and require a compelling government interest.¹⁶

If Ordinance 2022-64 were adopted with a requirement that a certain amount of seats be reserved for people of color (i.e., an ordinance following SRRC’s first recommendation), the ordinance would be facially discriminatory.¹⁷ Because the ordinance would be discriminating based on race—a suspect classification—the ordinance would be subject to strict scrutiny.¹⁸ The intentions for the racial classification do not lessen the level of scrutiny.¹⁹ Thus, the CBJ’s burden would be to show the legislation, with its use of a racial classification, supports a compelling government interest.²⁰ Presumably, the CBJ’s interest would be along the lines of, “Requiring a racially representative committee would facilitate broader community access to public resources and lessen the perpetuation of systemic racism.”²¹ However, interests such as remedying the effects of societal discrimination are consistently struck down as non-compelling.²² Race-based

¹¹ *Malabed*, 70 P.3d, at 428 (Matthews, J., concurring) (“Because by the express terms of the civil rights clause of the Alaska Constitution race is a suspect category, the ordinance must be subjected to strict scrutiny in order to determine whether it is permissible under the equal rights and civil rights clauses.”).

¹² *Ostrosky*, 667 P.2d, at 1193.

¹³ *Alaska Civil Liberties Union*, 122 P.3d, at 788.

¹⁴ *State v. Schmidt*, 323 P.3d 647, 659 (Alaska 2014).

¹⁵ See *Orstrosky*, 667 P.2d, at 1192-93. The three-step test weighs the nature of the interest impaired, the government’s interest served by the challenged ordinance, and the particular means chosen to achieve the goals of the ordinance. *Alaska Civil Liberties Union*, 122 P.3d, at 789. The weight of the interest impaired determines the government’s burden in justifying the discriminatory legislation. *Matanuska-Susitna Borough Sch. Dist. v. State*, 931 P.2d 391, 396 (Alaska 1997).

¹⁶ See *State v. Erickson*, 574 P.2d 1, 11-12 (Alaska 1978). This variance is also the reason for the two analyses in *Malabed*; the majority performed an interests or rights analysis (the right to seek and obtain employment) whereas the concurring justice performed a suspect classification analysis (Native American as a racial classification). See *Malabed v. N. Slope Borough*, 70 P.3d 416 (Alaska 2003).

¹⁷ *Alaska Civil Liberties Union*, 122 P.3d, at 788 (“When a ‘law by its own terms classifies persons for different treatment,’ this is known as a facial classification.”) (quoting J. Nowak and R. Rotunda, *Constitutional Law* § 14.4, at 711 (7th ed. 2004) (emphasis added)).

¹⁸ See *Ostrosky*, 667 P.2d, at 1192.

¹⁹ See, e.g., *Malabed*, 70 P.3d, at 428-29 (Matthews, J., concurring); see also *Alaska Civil Liberties Union*, 122 P.3d, at 788.

²⁰ See *Ostrosky*, 667 P.2d 1184, at 1193.

²¹ This purpose statement is based on SRRC’s duties and the body’s discussion regarding the proposed ordinance.

²² See, e.g., *Wygant v. Jackson Bd. of Educ.*, 476 U.S. 267, 276 (1986) (“Societal discrimination, without more, is too amorphous a basis for imposing a racially classified remedy.”); see also *City of Richmond v. J.A. Croson Co.*, 488 U.S.

Page 4

government action may be justified when it can be shown the action is necessary to remedy prior intentional discrimination *by the government unit involved*; however, it is unlikely the CBJ can show this without specific factual evidence, such as significant statistical evidence,²³ and provided longstanding anti-discrimination code provisions (e.g. CBJC 41.05.005-.045 (“Equal Rights”)) and anti-discrimination provisions advisory board rules resolutions (e.g., Resolution 2686, Resolution 2662, Resolution 2246).²⁴ A compelling government interest *could* be found if a federal law, such as the Indian Child Welfare Act (“ICWA”), mandated differential treatment.²⁵ But in the present case, there is neither past specific-to-this-government intentional discrimination to remedy²⁶ nor a federal law mandating differential treatment. As mentioned above, Alaska’s equal protection and civil rights clauses are even *more* protective of individual rights than their federal counterparts. Further, Alaska’s Supreme Court has historically been hostile toward any race-based discrimination; the Court would likely find the CBJ lacks not only a compelling interest, but even a legitimate one.²⁷ Without a compelling interest,²⁸ it is not necessary to analyze whether this legislation is necessary and narrowly tailored to achieve a compelling interest.²⁹

If Ordinance 2022-64 were adopted with certain outreach requirements (i.e., an ordinance following SRRC’s second recommendation), the ordinance would likely be facially

469, 499 (1989) (“[A]n amorphous claim that there has been past discrimination in a particular industry cannot justify the use of an unyielding racial quota.”).

²³ See *J.A. Croson Co.*, 488 U.S., at 501. Finding a sufficiently “gross statistical disparity” between applicants and appointees may be particularly challenging in this case as consolidation is largely sought because there are too few applicants—so it is unlikely a gross statistical disparity can be shown as, presently, virtually all qualified applicants are appointed.

²⁴ See *Wygant*, 476 U.S., at 278 n.5. Theoretically, racially discriminatory legislation or practices pre-dating the 1970 establishment of the CBJ would be insufficient as these would regard a different governmental unit (if not also sufficiently remote in time to have graduated into “societal discrimination”).

²⁵ See *Malabed*, 70 P.3d 429 n.9. Notably, the constitutionality of ICWA is currently being challenged in before the U.S. Supreme Court in *Brackeen v. Haaland*.

²⁶ See, e.g., *Mallory v. Harkness*, 895 F.Supp. 1556, 1559 (S.D. Fla. 1995) (finding that possible explanations for a lack of diversity in judicial nominating commissions are insufficient to show “direct findings of racial bias in the nomination process”). *Mallory* is also noteworthy because the case regarded official appointments, which had no apparent effect on the standard of review (classification still warranted strict scrutiny review). See *id.* at 1559. See also *Back v. Carter*, 933 F.Supp. 738, 755-59 (N.D. Ind. 1996) (challenging race and gender quotas regarding membership to county’s judicial nominating commission).

²⁷ See, e.g., *Malabed*, 70 P.3d, at 426-27 (stating, “Because the borough is a political subdivision of Alaska, its legitimate sphere of municipal interest lies in governing for all of its people; preferring the economic interests of one class of its citizens at the expense of others is not a legitimate municipal interest, regardless of whether we view its ordinance as drawing distinctions founded on political status or race.”).

²⁸ Note also, racial diversity alone would not be considered a compelling government interest. See *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 722 (2007).

²⁹ See *id.* Further, an attempt to perform a means-to-fit analysis on a particular piece of legislation that seeks to remedy systemic racism presents its own set of conundrums (i.e., How do you show *this* legislation is necessary to remedy systemic racism?). Note also quotas, percentages, or goals are reliably struck down as not narrowly tailored to achieve compelling interests. See, e.g., *Regents v. Univ. of California v. Bakke*, 438 U.S. 265, 315 (1978); see also *Mallory*, 895 F.Supp., at 1560-62.

Page 5

neutral.³⁰ This could be achieved by requiring notices of vacancies to be posted at a certain number of spots, or certain spots with high traffic, or posted for a certain amount of time. In order for a plaintiff to prove facially neutral legislation violates the equal protection clause, the plaintiff must show the legislation was applied in a discriminatory manner and there was an unlawful intent to discriminate.³¹

The concern then is to what extent, if any, does SRRC's first recommendation—that a certain amount of seats be reserved for people of color—"taint" a facially neutral version of Ordinance 2022-64 by indicating an illegitimate government objective?³² It is not clear, but Alaska's Supreme Court has acknowledged that due to "the extreme difficulty of proving discriminatory intent," even weak evidence may be sufficient to create a genuine factual dispute.³³ Critically, SRRC does not appoint officers, so SRRC's first recommendation and expressed intentions would likely be insufficient evidence standing alone to impute discriminatory intent on the appointing body.³⁴ Thus, to the extent SRRC's second recommendation is incorporated into an amended version of the proposed ordinance, the language should be facially neutral and the ordinance should be neutrally applied (e.g., applicants should be considered and evaluated based on neutral, objective criteria³⁵) to minimize any risk SRRC's first recommendation could be considered evidence of a discriminatory intent.

³⁰ However, if the ordinance had express references to suspect classifications (e.g., requirements that vacancies be advertised in places predominantly patronized by people of color or members of a particular national origin), the ordinance would be facially discriminatory and subject to strict scrutiny. See *Alaska Civil Liberties Union*, 122 P.3d, at 788 n.33 (quoting *Cook v. Babbitt*, 819 F.Supp. 1, 14 (D.D.C. 1993) ("In cases where a law or regulation makes an explicit reference to a suspect characteristic, purposeful discrimination is self-evident, and the measure is subject to challenge on its face without any evidentiary inquiry into the motives of the relevant government actors.")).

³¹ See *Alaska Civil Liberties Union*, 122 P.3d, at 788 n.33 (citing *Hamlyn v. Rock Island Cty. Metro. Mass Transit Dist.*, 986 F.Supp. 1126, 1133 (C.D. Ill. 1997) ("In cases where the particular law or policy is fair on its face, but is applied in a way that treats similarly situated individuals differently, the equal protection clause requires plaintiffs to allege and prove the presence of an unlawful intent to discriminate against the plaintiff for an invalid reason.")).

³² See *Esmail v. Macrane*, 53 F.3d 176, 179 (7th Cir. 1995) (regarding alleged ill intent).

³³ *Alaska Inter-Tribal Council v. State*, 110 P.3d 947, 963 n.62 (Alaska 2005) (noting discrimination is usually perpetuated through subtle acts and "[g]overnment officials will almost never openly avow a discriminatory intent....").

³⁴ See, e.g., *Welch v. N. Slope Borough*, 364 F.Supp.2d 1074, 1076 (D. Alaska 2005) (noting the plaintiff, a rejected job applicant bringing an action in light of an unconstitutional Native American hiring preference, failed to show the defendant mayor considered the plaintiff's race or national origin).

³⁵ In a 1978 Alaska Supreme Court case, *Alaska Gay Coalition v. Sullivan*, the Court held that the exclusion of an organization from a government publication (a public forum) due to the organization's beliefs violated the organization's constitutional rights including equal protection. *Alaska Gay Coal. v. Sullivan*, 578 P.2d 951, 960 (Alaska 1978). In a 2001 case, *DHSS v. Planned Parenthood of Alaska*, the Court, analogizing from *Alaska Gay Coalition*, noted the State was bound to apply neutral criteria in allocating health care. *Planned Parenthood of Alaska, Inc.*, 28 P.3d, at 910. As the Court stated, additionally referencing a case regarding workers' compensation and the constitutional right to travel, "under Alaska's equal protection provision the government may not allocate state benefits so as to deter citizens' exercise of constitutional rights." *Id.* at 910-11 (referencing *Alaska Pacific Assurance Co. v. Brown*, 687 P.2d 264, 274 (Alaska 1984) and *Alaska Gay Coal.*, 578 P.2d, at 960). Based on the Court's subsequent analysis, it is likely rejecting a potential applicant from serving on an advisory committee based on a racial classification would constitute "invidious discrimination" denying that applicant equal protection of the laws. See *Planned Parenthood of Alaska, Inc.*, 28 P.3d, at 911 (quoting *Shapiro v. Thompson*, 394 U.S. 618, 627 (1969)). Similarly, it would violate

Legal Advice

Especially in Alaska, any government attempt to use a racial classification in legislation—regardless of the intent—risks affecting the constitutional guarantee of “equal rights, opportunities, and protection under the law.”³⁶ If Ordinance 2022-64 were to contain an express reference to race, it would likely be subject to strict scrutiny, which it would not pass. Legislative goals, such as non-discrimination and diversity, may be legally pursued by increasing advertising and outreach efforts, not through quotas or race-conscious outreach efforts or criteria. Federal case law consistently reveals how rarely governments may use racial classifications, and Alaska case law is considerably more restrictive.

From
/AG

AS 18.80.255(1) (stating, “It is unlawful... to refuse, withhold from, or deny to a person any local, state, or federal funds, services, goods, facilities, advantages, or privileges because of race, religion, sex, color, or national origin.”), CBJ Charter 15.2(a) (stating, “No person may be discriminated against in any municipal appointment, employment, or promotion because of race, sex, color, political or religious affiliation, or national origin.”), and Resolution 2686. Further, as stated in the preamble to Resolution 2946, which reestablished JHRC, “the Assembly finds discrimination against an inhabitant of the municipality because of any characteristic unrelated to merit is a matter of public concern....”

³⁶ See *Planned Parenthood of Alaska, Inc.*, 28 P.3d, at 908-909 (quoting Alaska Const. art. I, § 1).

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Presented by: Triem
Presented: 2/27/2023
Drafted by: R. Palmer III

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 3023

A Resolution of the City and Borough of Juneau Opposing the Wild Fish Conservancy Lawsuit and Protecting the Southeast Alaska Troll Fishery from Closure.

WHEREAS, commercial fishing is a mainstay of Alaska’s economy, the largest private sector employer in the state, and sustains year-round employment in the fishing, processing, and support sector industries in Southeast Alaska; and

WHEREAS, the troll fleet is the second largest fleet in Alaska, and trollers derive an estimated 44% of their income from the Chinook catch; and

WHEREAS, commercial salmon trolling is a year-round contributor to Southeast Alaska economy and sustains year-round employment; and

WHEREAS, there are approximately 581 fishing and seafood processing jobs in Juneau that represent approximately \$27.4M in wages, which includes commercial salmon trollers and processors that depend on Chinook salmon; and

WHEREAS, the troll fleet, including fishing, processing, and all related multiplier effects, has a total annual economic impact of approximately \$85 million across Southeast Alaska; and

WHEREAS, a lawsuit, *Wild Fish Conservancy v. Rumsey et al.*, in the Western District of Washington State Federal Court (No. C20-417-RAJ-MLP) challenges the National Marine Fisheries Service fishery management plan and seeks the closure of the Southeast troll fishery—except from May 1 through June 30—in an effort to provide more Chinook salmon to the endangered Southern Resident killer whales located in the Pacific Northwest; and,

WHEREAS, many communities of Southeast will suffer severe economic hardship if the pending litigation results in the closure of the Southeast troll fishery.

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

Section 1. The City and Borough of Juneau urges the National Marine Fisheries Service (NMFS) to prioritize preparation of the necessary documents and processes to support prosecution of the Southeast winter and summer troll fisheries;

39 **Section 2.** The City and Borough of Juneau supports the NMFS and Alaska
40 Department of Fish and Game commitment to defend Southeast Alaska’s hatchery system
41 and troll fishery.

42 **Section 3.** The City and Borough of Juneau urges all state and local governmental
43 bodies to work with Alaska’s congressional delegation to protect Southeast Alaska’s
44 economic, cultural, and social livelihood related to Chinook salmon while also protecting the
45 Southern Resident killer whale population.

47 **Section 4.** This resolution shall be effective immediately after its adoption.

49 Adopted this _____ day of _____ 2023.

Beth A. Weldon, Mayor

53 Attest:

57 Elizabeth J. McEwen, Municipal Clerk