



ASSEMBLY COMMITTEE OF THE WHOLE WORKSESSION AGENDA

November 28, 2022 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

C. ROLL CALL

D. APPROVAL OF AGENDA

E. AGENDA TOPICS

1. Gondola Installation Funding - Draft Agreement with Goldbelt, Inc.

2. Cruise Ship Season Update & Discussion

3. Ordinance 2022-21 An Ordinance Related to Property Tax Appeals and Codifying the Board of Equalization Rules of Procedure.

This ordinance would amend the Juneau Board of Equalization's rules of procedure, which govern property tax appeals. The substance of this ordinance comes from three sources: the Anchorage Board of Equalization rules, the existing Juneau Board of Equalization rules, and changes to state law since the existing Juneau property tax appeal code was adopted in the 1970s.

The Juneau Board of Equalization reviewed this ordinance on September 20, 2022. The Assembly Committee of the Whole reviewed this ordinance on September 26, 2022 and November 7, 2022. This ordinance was introduced on November 21, 2022.

F. STAFF REPORTS

G. NEXT MEETING DATE

Monday, December 19, 2022 @ 6:00pm

H. SUPPLEMENTAL MATERIALS

I. 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.

MEMORANDUM



DATE: November 28, 2022

TO: CBJ Assembly

FROM: Jeff Rogers, Finance Director

105 Municipal Way
Juneau, AK 99801
Phone: (907) 586-5215
Fax: (907) 586-0358

SUBJECT: Proposed Revenue Sharing Agreement with Goldbelt, Inc

Eaglecrest has been negotiating a Revenue Sharing Agreement (RSA) with Goldbelt, Inc., pursuant to Goldbelt's announcement of its intent to invest in the Eaglecrest Gondola Project. This memo updates the Assembly Finance Committee on the status of those negotiations. The current proposal calls for Goldbelt to contribute \$10 million to the Gondola Project in three separate payments, in December 2022, April 2023, and August 2023.

The RSA has a term of 25 years from day the Gondola Project opens, unless it is terminated by either Goldbelt or Eaglecrest. Over the life of the RSA, Goldbelt will repaid a minimum of \$20 million in compensation for its initial investment. If that \$20 million repayment doesn't happen in 25 years, the term will be extended until the repayment has occurred. The contract sets an opening date of May 31, 2027, and allows Goldbelt to terminate if it hasn't opened by that date. In that event, Goldbelt would be repaid the total amount it has invested plus 5% simple interest, with a cap of 110% of the total investment.

The RSA provides that Goldbelt will receive revenue in two phases according to a progressive schedule of increasing percentages based on visitor numbers. Phase 1 will pay Goldbelt from 10% to 25% of summer operation receipts until Goldbelt has received \$20 million. Once the \$20 million threshold is passed, Goldbelt will be paid from 10% to 12.5% for the remainder of the term of the RSA. A sample calculation of this phased revenue sharing is attached.

The RSA allows for termination under four circumstances: mutual agreement; by Eaglecrest for convenience; by Eaglecrest for cause; or by Goldbelt for cause, with different fiscal consequences for each scenario. Termination by mutual agreement would presumably include payment terms. If Eaglecrest terminates for convenience during Phase 1, the termination fee would be the total Goldbelt had contributed to date plus 5% interest, less any amount already paid to Goldbelt, the total capped at 110% of the total investment. If this yields a negative sum, the termination fee is what Goldbelt was owed but had not yet been paid. If Eaglecrest terminates for convenience in Phase 2 the termination fee would again be what Goldbelt was owed but had not yet been paid.

Eaglecrest may terminate for cause if Goldbelt fails to make a contribution payment, otherwise breaches the agreement and fails to or cannot cure the breach, becomes insolvent, or has a force majeure event. If Eaglecrest terminates for cause in Phase 1, the termination fee would be the total contribution to date less Goldbelt's share already paid. If the foregoing results in a negative sum, the fee would be only what Goldbelt had earned but hadn't yet been paid. If Eaglecrest terminates for cause in Phase 2 the termination fee would once again be what Goldbelt was owed but had not yet been paid.

Goldbelt may terminate for cause if Eaglecrest fails to pay or breaches and fails to cure a breach of the RSA. The RSA provides that the funds which Eaglecrest will pay Goldbelt will be generated from gross summer operations receipts. It allows recourse to court for either party to seek damages from the other party, with limitations on consequential and indirect damages. Because the fund source is limited, there is a possibility that a future Assembly might not have funds to remit to Goldbelt if the summer operation receipts were insufficient, but the obligation would not be guaranteed by the full faith and credit of CBJ.

Analysis of Eaglecrest/Goldbelt Revenue Sharing Agreement Terms

by CBJ Finance

11/28/2022

Section E, Item 1.

Visitor Growth %: 4%

Rev per Visitor Growth %: 3%

Goldbelt Internal Rate of Return

11.3607%

Year				Goldbelt % Share of Revenue				Goldbelt Revenue Share				Goldbelt Annual Revenue Share	Goldbelt Cumulative Revenue Share	Eaglecrest Annual Revenue Share*
	Annual Gondola Visitors	Rev per Visitor	Total Revenue Subject to Sharing	<55,000 Visitors	55,001 - 65,000 Visitors	65,001 - 75,000 Visitors	>75,001 Visitors	<55,000 Visitors	55,001 - 65,000 Visitors	65,001 - 75,000 Visitors	>75,001 Visitors			
1	75,000	\$ 65.00	\$ 4,875,000	10.0%	15.0%	20.0%	25.0%	\$ 357,500	\$ 97,500	\$ 130,000	\$ -	\$ 585,000	\$ 585,000	\$ 4,290,000
2	78,000	\$ 66.95	\$ 5,222,100	10.0%	15.0%	20.0%	25.0%	\$ 368,225	\$ 100,425	\$ 133,900	\$ 50,213	\$ 652,763	\$ 1,237,763	\$ 4,569,338
3	81,100	\$ 68.96	\$ 5,592,534	10.0%	15.0%	20.0%	25.0%	\$ 379,272	\$ 103,438	\$ 137,917	\$ 105,162	\$ 725,788	\$ 1,963,551	\$ 4,866,746
4	84,300	\$ 71.03	\$ 5,987,598	10.0%	15.0%	20.0%	25.0%	\$ 390,650	\$ 106,541	\$ 142,055	\$ 165,138	\$ 804,384	\$ 2,767,934	\$ 5,183,214
5	87,700	\$ 73.16	\$ 6,415,963	10.0%	15.0%	20.0%	25.0%	\$ 402,369	\$ 109,737	\$ 146,316	\$ 232,277	\$ 890,700	\$ 3,658,634	\$ 5,525,263
6	91,200	\$ 75.35	\$ 6,872,177	10.0%	15.0%	20.0%	25.0%	\$ 414,440	\$ 113,029	\$ 150,706	\$ 305,179	\$ 983,354	\$ 4,641,988	\$ 5,888,822
7	94,800	\$ 77.61	\$ 7,357,750	10.0%	15.0%	20.0%	25.0%	\$ 426,874	\$ 116,420	\$ 155,227	\$ 384,186	\$ 1,082,707	\$ 5,724,695	\$ 6,275,043
8	98,600	\$ 79.94	\$ 7,882,262	10.0%	15.0%	20.0%	25.0%	\$ 439,680	\$ 119,913	\$ 159,884	\$ 471,657	\$ 1,191,133	\$ 6,915,828	\$ 6,691,129
9	102,500	\$ 82.34	\$ 8,439,856	10.0%	15.0%	20.0%	25.0%	\$ 452,870	\$ 123,510	\$ 164,680	\$ 566,088	\$ 1,307,148	\$ 8,222,976	\$ 7,132,707
10	106,600	\$ 84.81	\$ 9,040,773	10.0%	15.0%	20.0%	25.0%	\$ 466,456	\$ 127,215	\$ 169,621	\$ 670,001	\$ 1,433,293	\$ 9,656,270	\$ 7,607,480
11	110,900	\$ 87.35	\$ 9,687,621	10.0%	15.0%	20.0%	25.0%	\$ 480,450	\$ 131,032	\$ 174,709	\$ 784,007	\$ 1,570,198	\$ 11,226,468	\$ 8,117,423
12	115,300	\$ 89.98	\$ 10,374,141	10.0%	15.0%	20.0%	25.0%	\$ 494,864	\$ 134,963	\$ 179,950	\$ 906,500	\$ 1,716,277	\$ 12,942,745	\$ 8,657,864
13	119,900	\$ 92.67	\$ 11,111,667	10.0%	15.0%	20.0%	25.0%	\$ 509,710	\$ 139,012	\$ 185,349	\$ 1,040,271	\$ 1,874,341	\$ 14,817,086	\$ 9,237,327
14	124,700	\$ 95.45	\$ 11,903,200	10.0%	15.0%	20.0%	25.0%	\$ 525,001	\$ 143,182	\$ 190,909	\$ 1,186,025	\$ 2,045,117	\$ 16,862,203	\$ 9,858,083
15	129,700	\$ 98.32	\$ 12,751,888	10.0%	15.0%	20.0%	25.0%	\$ 540,751	\$ 147,477	\$ 196,637	\$ 1,344,503	\$ 2,229,368	\$ 19,091,571	\$ 10,522,519
16	134,900	\$ 101.27	\$ 13,661,037	10.0%	15.0%	20.0%	25.0%	\$ 556,973	\$ 151,902	\$ 202,536	\$ 1,516,487	\$ 2,427,897	\$ 21,519,468	\$ 11,233,140
17	140,300	\$ 104.31	\$ 14,634,120	10.0%	12.5%	12.5%	12.5%	\$ 573,683	\$ 130,382	\$ 130,382	\$ 851,397	\$ 1,685,844	\$ 23,205,313	\$ 12,948,276
18	145,900	\$ 107.44	\$ 15,674,781	10.0%	12.5%	12.5%	12.5%	\$ 590,893	\$ 134,294	\$ 134,294	\$ 952,144	\$ 1,811,624	\$ 25,016,937	\$ 13,863,156
19	151,700	\$ 110.66	\$ 16,786,841	10.0%	12.5%	12.5%	12.5%	\$ 608,620	\$ 138,323	\$ 138,323	\$ 1,060,935	\$ 1,946,200	\$ 26,963,137	\$ 14,840,641
20	157,800	\$ 113.98	\$ 17,985,712	10.0%	12.5%	12.5%	12.5%	\$ 626,878	\$ 142,472	\$ 142,472	\$ 1,179,671	\$ 2,091,494	\$ 29,054,631	\$ 15,894,217
21	164,100	\$ 117.40	\$ 19,264,885	10.0%	12.5%	12.5%	12.5%	\$ 645,685	\$ 146,747	\$ 146,747	\$ 1,307,512	\$ 2,246,689	\$ 31,301,321	\$ 17,018,196
22	170,700	\$ 120.92	\$ 20,640,898	10.0%	12.5%	12.5%	12.5%	\$ 665,055	\$ 151,149	\$ 151,149	\$ 1,446,495	\$ 2,413,848	\$ 33,715,169	\$ 18,227,050
23	177,500	\$ 124.55	\$ 22,107,043	10.0%	12.5%	12.5%	12.5%	\$ 685,007	\$ 155,683	\$ 155,683	\$ 1,595,755	\$ 2,592,129	\$ 36,307,298	\$ 19,514,914
24	184,600	\$ 128.28	\$ 23,681,065	10.0%	12.5%	12.5%	12.5%	\$ 705,557	\$ 160,354	\$ 160,354	\$ 1,757,479	\$ 2,783,744	\$ 39,091,042	\$ 20,897,321
25	192,000	\$ 132.13	\$ 25,369,270	10.0%	12.5%	12.5%	12.5%	\$ 726,724	\$ 165,165	\$ 165,165	\$ 1,932,425	\$ 2,989,478	\$ 42,080,520	\$ 22,379,793

*All costs for summer operations will be paid from this revenue share. Net profit/loss to Eaglecrest will depend on annual expenditures required for operations.

**MEMORANDUM**

DATE: November 23, 2022

TO: Assembly Committee of the Whole

FROM: Alexandra Pierce, Tourism Manager

SUBJECT: Long-Term Tourism Strategy

This memo is intended to advise the Assembly on a long-term strategy for tourism management, provide an update on the big picture recommendations set by the Visitor Industry Task Force (VITF) in 2020, and provide context on current tourism management priorities ahead of a more detailed discussion at the Assembly retreat.

Adopting the VITF Recommendations

The VITF met in 2019 and 2020. The final report was delivered in March of 2020, as the cruise industry ground to a halt, followed by the rest of the world. The Assembly accepted, but never formally adopted the VITF recommendations because the immediate challenges of COVID-19 required the Assembly's full attention. The approach to date has been to deal with VITF-recommended issues as they arise. As a reminder, the four questions in the Mayor's charging document can be summarized as follows:

1. Management of the Visitor Industry
2. Long Range Waterfront Plan Updates
3. Restrictions on Numbers of Visitors
4. Public Opinion Surveys

The VITF created multiple recommendations for each of these questions (Attachment A). They range from straightforward and specific to nebulous and complicated. The more complicated, "bigger ticket" items help shape CBJ's strategic direction on visitor industry management and the public should have the opportunity to testify on that direction. The smaller, more functional recommendations can serve as a guide for minor operational decisions and appropriating ordinances. I recommend that the Assembly adopt a resolution that formalizes CBJ's intent on the following long-range policy objectives:

1. Five ship per day limit
2. Complete the Seawalk
3. Increased scheduling input and transparency
4. Dock electrification

5. Developing a strategy for meeting community and regional goals for emissions, congestion mitigation, and proactive industry management

The Assembly has never formally adopted these policy objectives. While staff is working on these issues, it is important that the Assembly have a public process and formally adopt a resolution articulating these objectives. One of the key recommendations was to create a centralized Tourism Management function and the Tourism Manager position was created and tasked with implementing the VITF recommendations. It is appropriate to go back and revisit these objectives and formally set a strategic direction for tourism management.

VITF Goals

We are making on progress on the following broader goals established by the VITF:

Five Ship Limit

A limit of five ships allows CBJ to make infrastructure decisions to support our existing ship capacity and manage passenger volume. The VITF determined that numerical caps are legally questionable, somewhat arbitrary, and difficult to enforce.

The VITF report states that “CBJ should negotiate a formal agreement with the industry to limit the number of ships to five larger ships per day, one ship at each dock or four ships at dock and one at anchor (if the fifth dock is not built or if a fifth ship chooses to anchor instead of dock).”

The VITF also extensively discussed scheduling considerations and the concept of “best ship at best dock”. The five ship limit is a first step towards scheduling improvements. Additionally, Juneau, Skagway, Ketchikan and Sitka sent a joint letter asking for increased regional transparency and context on scheduling to help inform scheduling discussions in our communities (for example, what does a five ship limit in Juneau mean for Sitka or Ketchikan?).

Waterfront Management

There are several significant infrastructure projects that will require passenger fee funding over the coming years. The COW recently received a presentation from Docks & Harbors about a potential bond package for shore power. CBJ staff is currently working with landowners between the Franklin and AJ Docks on planning and design for a seawalk extension. A dock development at the Subport may also prompt a seawalk project. The restrictive lease discussion below further explains the Assembly role in waterfront management specific to the Subport development project.

Emissions Reduction

CBJ continues to actively participate in Green Corridor discussions. Recently, the “First Movers” group (ports, cruise lines, NGOs) met and agreed to fund a technical feasibility study for net zero emissions cruise operations in Southeast Alaska. It was agreed that this initial study would be jointly funded by the ports of Seattle and Vancouver and CLIA’s member cruise lines. There is no financial request for Alaska ports at this time. Additionally, as mentioned above, Docks and Harbors has prioritized electrifying the Alaska Steamship dock and building the uplands infrastructure to electrify the Cruise Ship Terminal.

Maximizing Local Benefits

The VITF recommended maximizing “localism” through efforts to promote local business and stimulate economic benefit to the community. Another component of localism is ongoing communication with our regional neighbors and working together to collectively maximize benefits and minimize impacts. CBJ has led formation of the Port Communities of Alaska group, which meets monthly. One of our primary aims for this group is to develop a regional strategy where ports articulate their long-term goals for cruise tourism both individually and collectively.

As part of this regional effort, we have committed to working with the industry on port shopping programs, particularly Princess Medallion Pay, which was cancelled in Alaska last year due to local opposition. In recent years, local merchants have made progress in adapting port shopping programs to work for small, local businesses. CBJ’s intent is to support those efforts and advocate for onboard shopping programs that drive passengers to, rather than away from, local businesses.

Centralized Tourism Management

The VITF recommended “CBJ should establish a centralized tourism management function funded by CBJ with full-time staff” which is partially implemented through the creation of the Tourism Manager position. This has been a positive step for CBJ as it tries to negotiate with the industry – and by and large the industry greatly appreciates our approach. However, there is some complexity in the charges of the various pieces of CBJ that work in tourism issues. Some clarification of roles and responsibilities is necessary, and may necessitate updating Title 85. The complexities of Docks and Harbors charge are frustrating to carry out and this is compounded by overlapping roles with the Manager’s Office. Both functions have structurally different approaches to similar tasks and this is challenging and frustrating for all involved.

Scheduling:

For years, Cruise Line Agencies of Alaska has provided dock scheduling for the region. It is a complicated task, and CLAA provides value. CBJ would not benefit from taking over the scheduling function and doing so would create a piecemeal approach that would ultimately hurt our regional neighbors. However, CLAA has no contractual relationship with CBJ and no obligation to schedule to meet community goals. We have improved communication with CLAA over the past year and they have been helpful and responsive to our request for a 2024 schedule that respects the five ship limit. No other municipal asset is managed in this passive manner and it is inappropriate to have a for profit entity managing a municipal asset absent a contractual agreement. In order to meet broad community goals, dock scheduling of the CBJ owned facilities (Alaska Steamship Wharf and Cruise Ship Terminal) must be brought under a formal contractual relationship. An example of the need for a scheduling contractual relationship is the changing dynamics for ship visitation. CLAA and CBJ may have conflicting ideas about the “best ship at best dock” concept and about what arrangement is in the community’s best interest. We need a structured process for these discussions.

Methods for Achieving Goals

Regulation

One option for achieving the VITF goals is to simply pass an ordinance establishing a five ship limit. The VITF recommended, “At this time, the CBJ should not pursue a hard numerical ‘cap’ on numbers of visitors because it is legally questionable and logistically impractical. Limitations can be achieved through other measures, including port infrastructure capacity to better manage the impacts of visitors.” Establishing limits through regulation is a clear, straightforward process. However, it is difficult to anticipate how private dock owners and cruise lines would react, either individually or collectively. So, while regulation is straightforward in the short term, it is likely to present unforeseen challenges in the long-term.

Negotiated Agreements

Staff working on a second MOA with CLIA Alaska member lines that establishes and protects the five ship limit. Cruise Line Agencies has been asked to develop the 2024 schedule with five ships per day in Juneau. The MOA was discussed at CLIA’s Executive Council meeting in early November and we are awaiting comments on the draft.

In parallel to this effort, CBJ has approached private dock owners regarding a similar MOA to hedge against new cruise lines entering the market making arrangements with private dock owners to be the sixth ship in port.

Assuming both agreements are signed in the next few months, we will need to continue to work with the industry and our neighbors to manage growth. This means continued and improved coordination between Alaska ports and more control over our waterfront. These agreements will help focus the discussions around Huna Totem’s proposed development at the Subport.

While the industry prefers to work through negotiation and the VITF recommended achieving our long-term goals through negotiation, the process is slow and it is challenging to get all industry stakeholders in alignment on language and content, even if they have expressed their support for the intent. Next steps for negotiated agreements include a more formalized approach to scheduling and smaller negotiated VITF objectives.

Restricted Lease

Entering into a restricted tidelands lease with Huna Totem for development of the Subport allows CBJ to ensure the development reflects our management objectives. The VITF set a number of criteria for supporting a fifth cruise ship dock:

1. One larger ship per day using one side of the facility;
2. Maximum of five larger ships in port per day;
3. No hot berthing at the new facility;

4. No larger ships allowed to anchor as the sixth ship in town. Larger ships may anchor but the number of larger ships in port would still be limited to five (CBJ to consider legal ramifications of limiting size of ships at anchor);
5. High quality uplands development for community and visitors;
6. Year round development orientation;
7. CBJ manages dock to some extent through a public private partnership or management agreement;
8. Dock is electrified.

The VITF's intent was to put the dock development in context with other big-picture management objectives. Several of these criteria are beyond the control of any one cruise line, dock owner, or developer. As the Assembly works through tideland lease discussions with Huna Totem Corp., these criteria should be considered in combination with the other methods for achieving the VITF goals around scheduling and limits. Establishing the five ship limit allows the Assembly to evaluate the project on its merits and shifts the discussion around port capacity and away from a single development.

Ownership Authority

CBJ should seriously consider acquiring private docks and should begin to build a fund reserve to do so. Control over the waterfront will ensure that CBJ is able to manage volume appropriately, dictate scheduling to mitigate congestion, and allocate passenger fees across the entire waterfront. Dock acquisition also protects against business practices by private dock owners that do not support Juneau's visitor industry management goals.

It is difficult to negotiate limitations on use of private docks that anticipate future industry changes. Many modern waterfronts are controlled by Port Authorities that have more complete control of their waterfront decisions. When NCL wanted to add a berth in Seattle, the Port of Seattle negotiated an agreement whereby the Port built the facility and NCL entered into payment terms that facilitated use that it proposed.

Waterfront control provides the most flexibility for CBJ. It is also the most expensive option with the longest timeline. It is appropriate to consider the other options presented herein and set a long-term objective to control the Juneau waterfront.

Conclusion

In short, the long-term goals described above center around building a sustainable cruise industry presence in Juneau and the rest of Southeast Alaska that maximizes local benefits and prioritizes self-determination for Juneau and our regional neighbors. These goals also have implications for passenger fees. We will likely have several big ticket waterfront infrastructure projects in the next several years. This may mean that more of the passenger fee budget is dedicated to debt service with less room for smaller project requests. The rate study commissioned by Docks & Harbors should be part of the passenger fee discussion this year, and the Assembly should consider all options for funding visitor infrastructure projects.

Recommendation:

Staff recommends that the Assembly discuss tourism topics in depth at the retreat:

1. A round table to discussion about the pros and cons of the various policy objectives and the methods for which they can be achieved.
2. Direct the manager to provide administrative and legislative methods to achieve these objectives.

Attachment A: VITF Recommendations Graphic

ONGOING
PROJECTS

- Support development that alleviates pressure on existing infrastructure (CBJ)
- Complete development of the seawalk (CBJ)
- Take a more active role in ship scheduling (CBJ, CLAA)
- Promote efficient ship scheduling to manage congestion (CBJ, CLAA)
- Support cultural tourism and Native Art in public spaces (CBJ, industry)
- Continue to operate TBMP over the long-term with peer pressure model for compliance (TBMP, industry)
- Maintain and develop trails (Trail Mix, AK State Parks, USFS, CBJ)
- Prioritize dock electrification and continue to work with utility to monitor capacity (AEL&P, CBJ)
- Monitor water, wastewater, air quality (CBJ, AKDNR)
- Develop marketing campaigns to promote local businesses, encourage cruise lines to support (Travel Juneau, industry, CBJ)
- Complete a public survey on visitor impacts annually (CBJ)
- Limit water usage by ships in times of drought (CLAA, CBJ)
- Research and develop efforts to move people on and off the right-of-way including electric ferries, seawalk extension, connections to seawalk and other pedestrian routes (CBJ)

2021

- Establish a City & Borough tourism management office (CBJ)
- Finish and implement Blueprint Downtown (CBJ)
- Limit Parks & Recreation commercial use permits to manage the impacts on parks and trails (CBJ)
- No cruise ships of any size in Auke Bay (CBJ)
- Research how other US communities have identified limitations on visitor numbers (CBJ)
- Focus pedestrian flow to crosswalks and desired destinations (CBJ + TBMP)
- Require all commercial use permittees to be TBMP (and WhaleSENSE if applicable) members in good standing
- Strategically assign ship berths based on ship size
- Release ship schedules and passenger counts 2 years in advance or upon creation
- Cruise lines will review last-minute schedule changes for weather, etc. with CBJ for community impact
- Limit expansion of downtown dock infrastructure to allow for no more than one larger (750+ passengers) ship (CBJ, USCG)
- Stagger ship arrival times by 30 minutes (CLAA)
- Incentivize environmental best management practices through local award programs (Travel Juneau, CBJ/JCOS, Chamber)
- Prohibit ship waste in landfill (CLAA, CLIA, CBJ)
- Recognize businesses participating in "Adventure Green Alaska" program

2022

- Determine community goals and implement an action plan. For example: emissions, shore power, congestion mitigation, and develop (CBJ)
- Research and implement permitting system for whale watching operators (CBJ, NOAA, WhaleSENSE)
- Prohibit larger ships anchoring and/or lightering in the channel if an additional dock is constructed (CBJ, USCG)
- Periodically update commercial use fees (CBJ)
- Assess tour permitting for streets and sidewalks and develop regulations if feasible (CBJ)
- Improve pedestrian access between seawalk and South Franklin (CBJ)
- Implement transportation improvements downtown (TBMP, AKDOT, CBJ)
- Analyze the effects of hot berthing (CBJ)
- Require assignment of shore power configured ships to electrified docks (CBJ, CLAA)
- Negotiate with cruise lines to "get the peak out of the week" so number of visitors is spread more evenly (CLIA, CBJ, TBMP)

2023

- Develop regulations to reduce speed and wakes from whale watching vessels in Auke Bay and impacted areas (CBJ, NOAA)
- Encourage and incentivize electrification of tourism vehicles (CBJ)
- Plan and analyze the impacts tourism activities in areas outside of downtown development and regulate where appropriate (TBMP, CBJ)
- If Norwegian Cruise Lines dock is operational, prohibit hot berthing as a scheduled practice (CLAA, CLIA)
- Negotiate a formal agreement by 2023 to limit port capacity to 5 large ships per day (CBJ, CLIA)
- Incentivize Juneau as a turn port for smaller ships (Travel Juneau, CBJ)
- Consider staging areas outside downtown and deliveries made to downtown businesses outside of port call hours (CBJ, TBMP)

November 28, 2022



Juneau Tourism Survey 2022

PREPARED FOR:

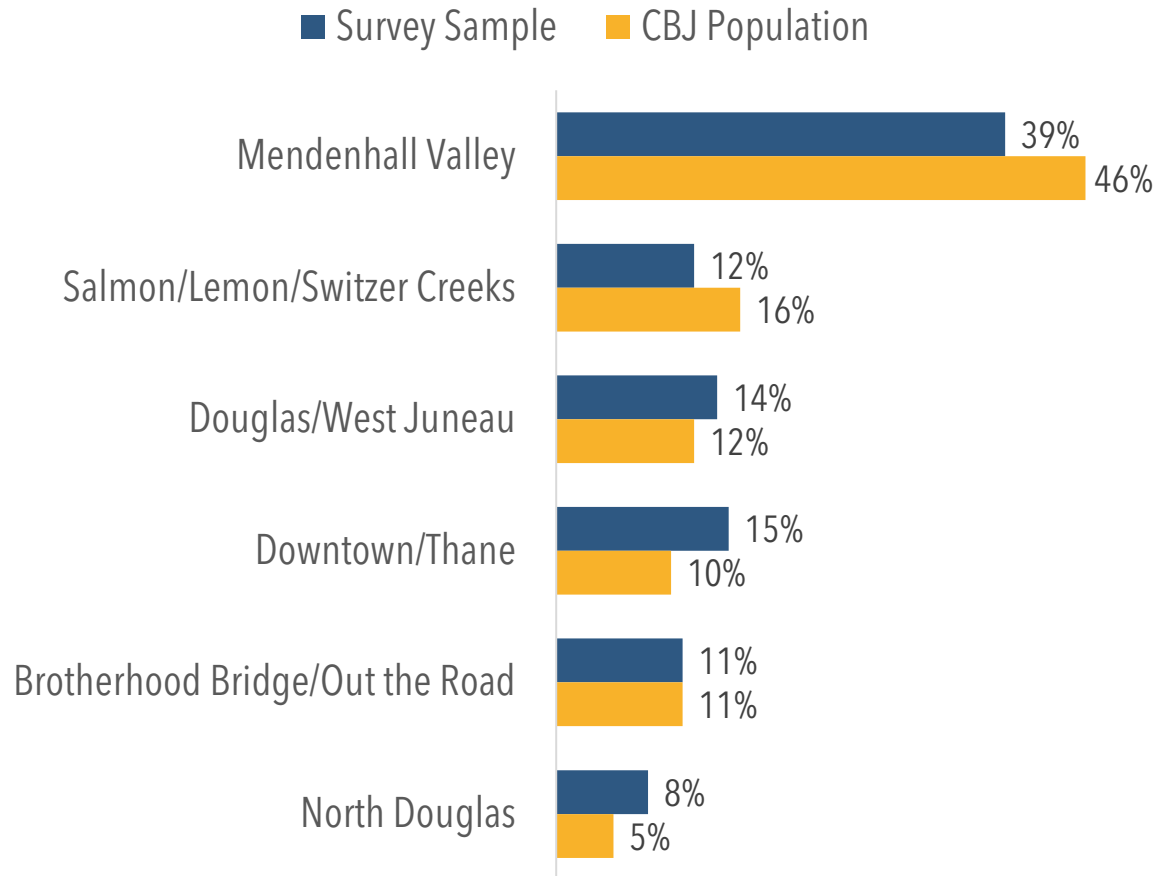
Juneau Assembly

Methodology

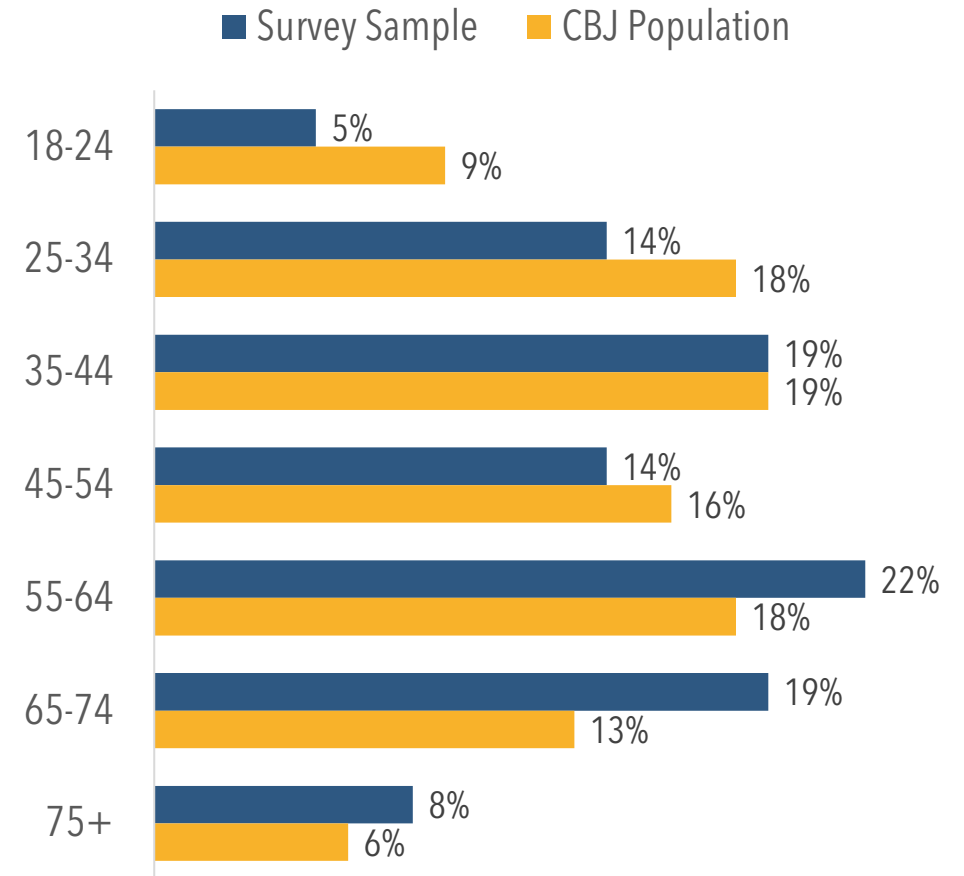
- Telephone survey of 500 randomly selected residents
- Mix of cell and landlines
- Some questions repeated from previous surveys (1995, 1998, 2002, 2006, 2021)
- Screeners: lived in Juneau in summer 2022 & over the age of 18
- Max. margin of error: $\pm 4.3\%$
- Data weighted by age and neighborhood to reflect population
- Results tested for differences between subgroups: neighborhood (live/work), age, gender, tourism employment

Survey Sample vs. Juneau Population

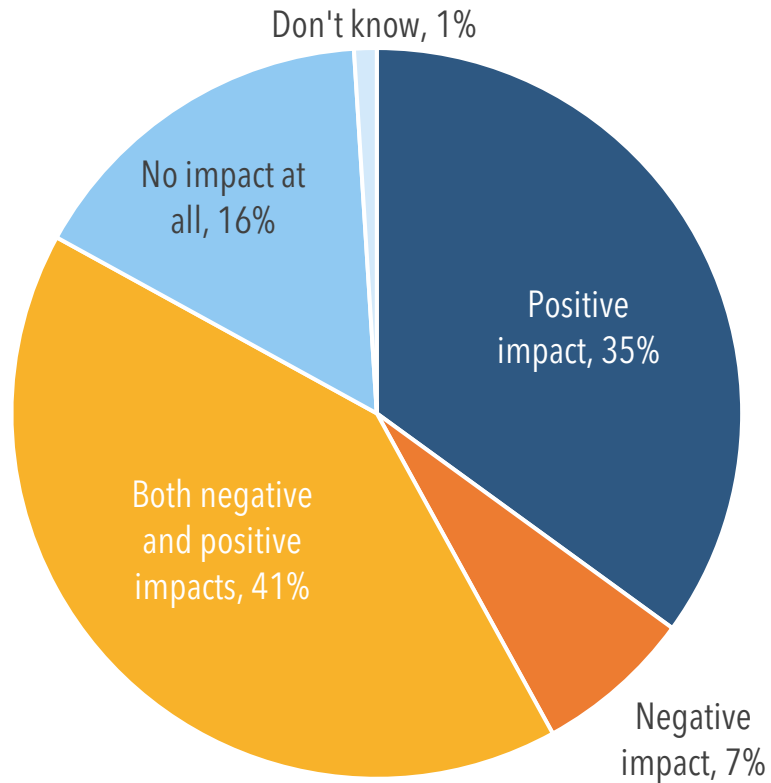
Neighborhood



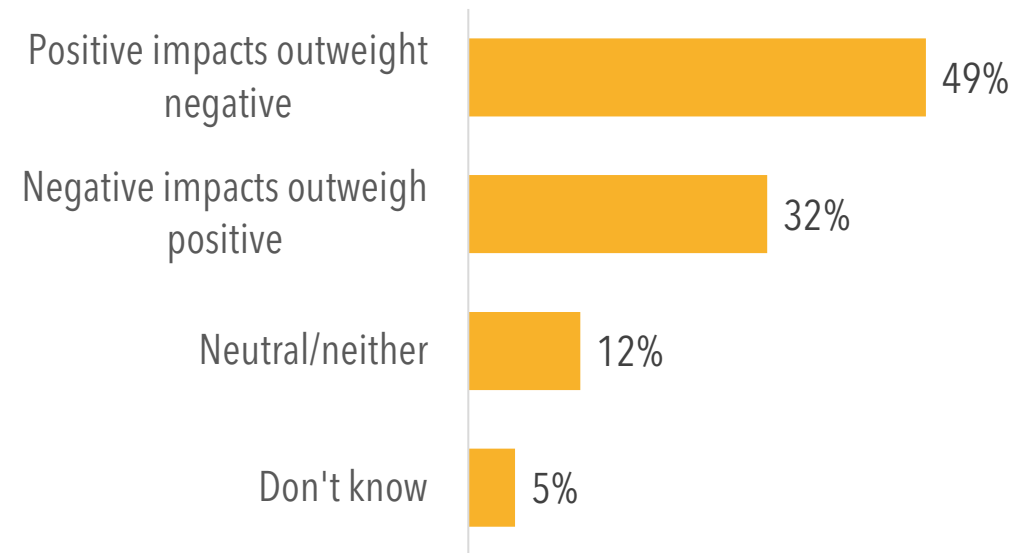
Age



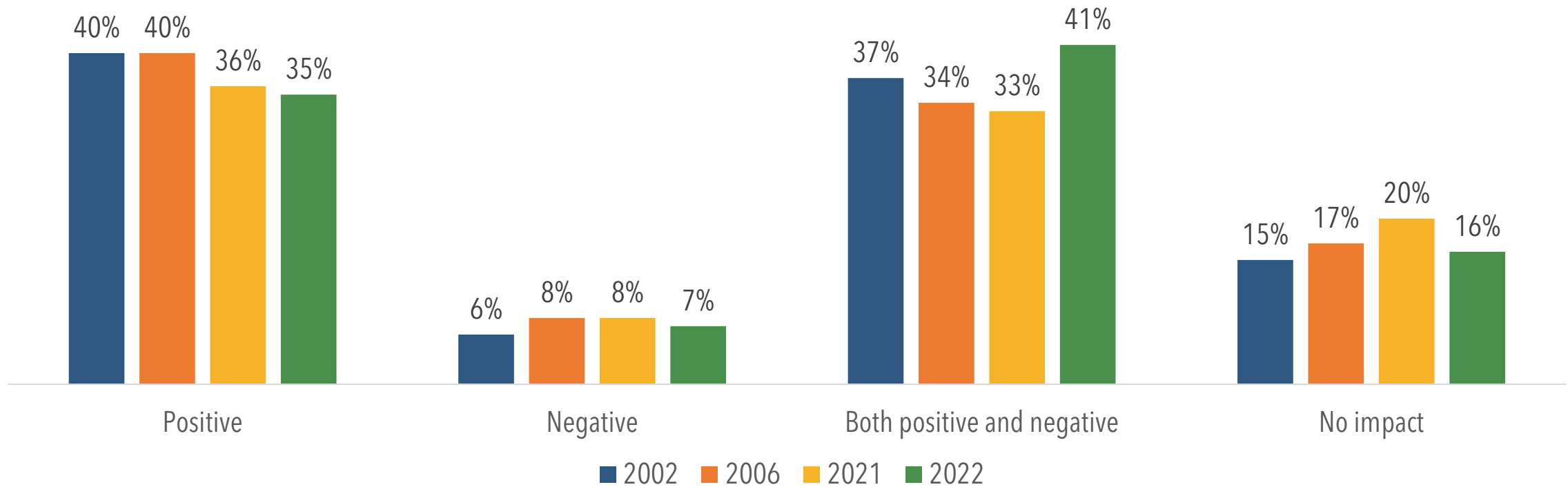
Do you feel the visitor industry has an overall positive impact, negative impact, both negative and positive impacts, or no impact at all on your household?



Among those who responded "both":
Do you feel the positive impacts outweigh the negative impacts or the negative impacts outweigh the positive impacts?

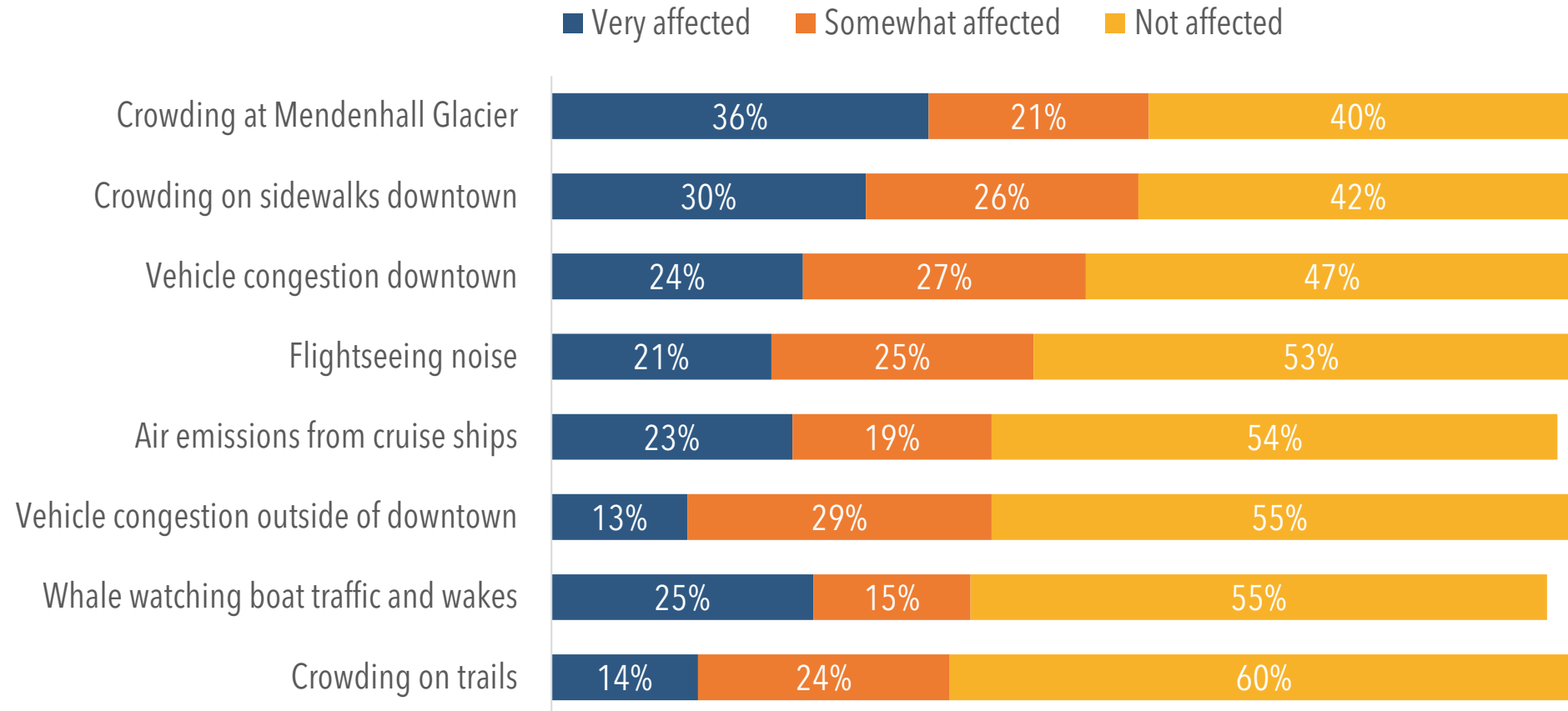


Comparison: Overall Impact of Tourism on Households, 2002, 2006, 2021, 2022



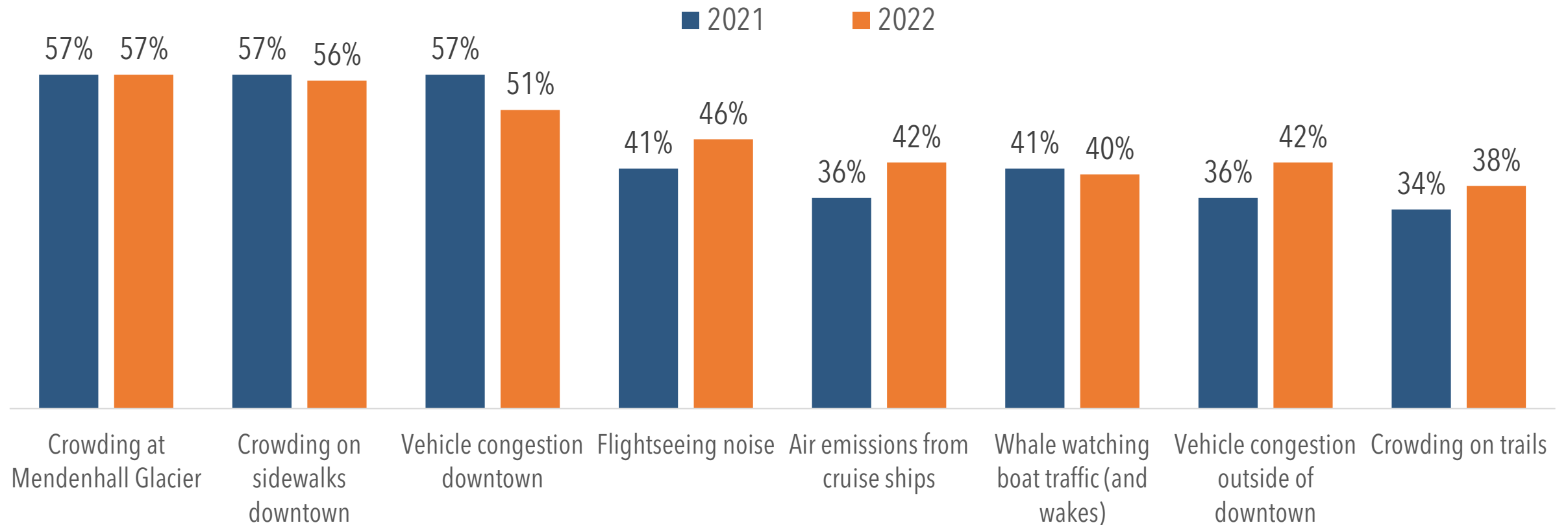
	2002	2006	2019	2022
Cruise passenger volume	741,500	951,400	1,305,700	1,150,000

For each of the following visitor-related impacts, was your household very affected, somewhat affected, or not affected in 2022?

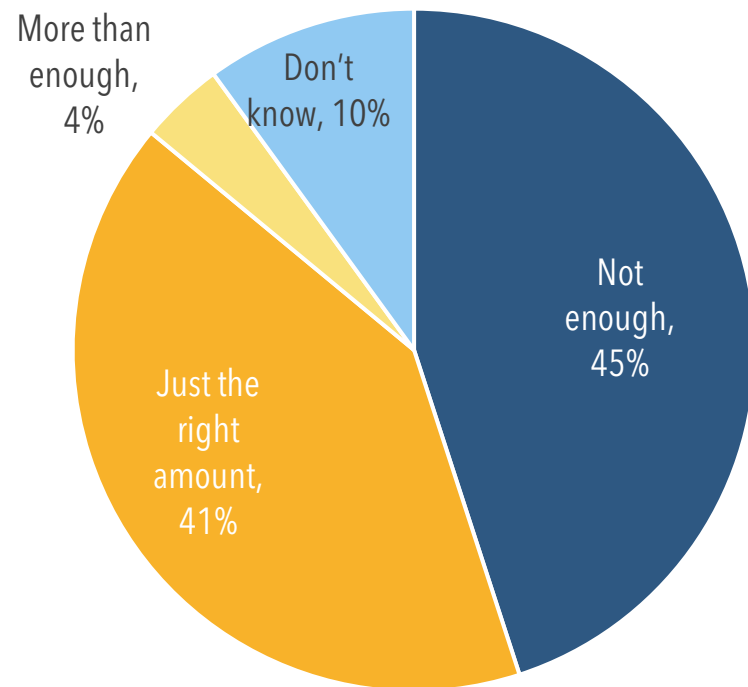


Note: Rows do not add to 100% due to don't know responses.

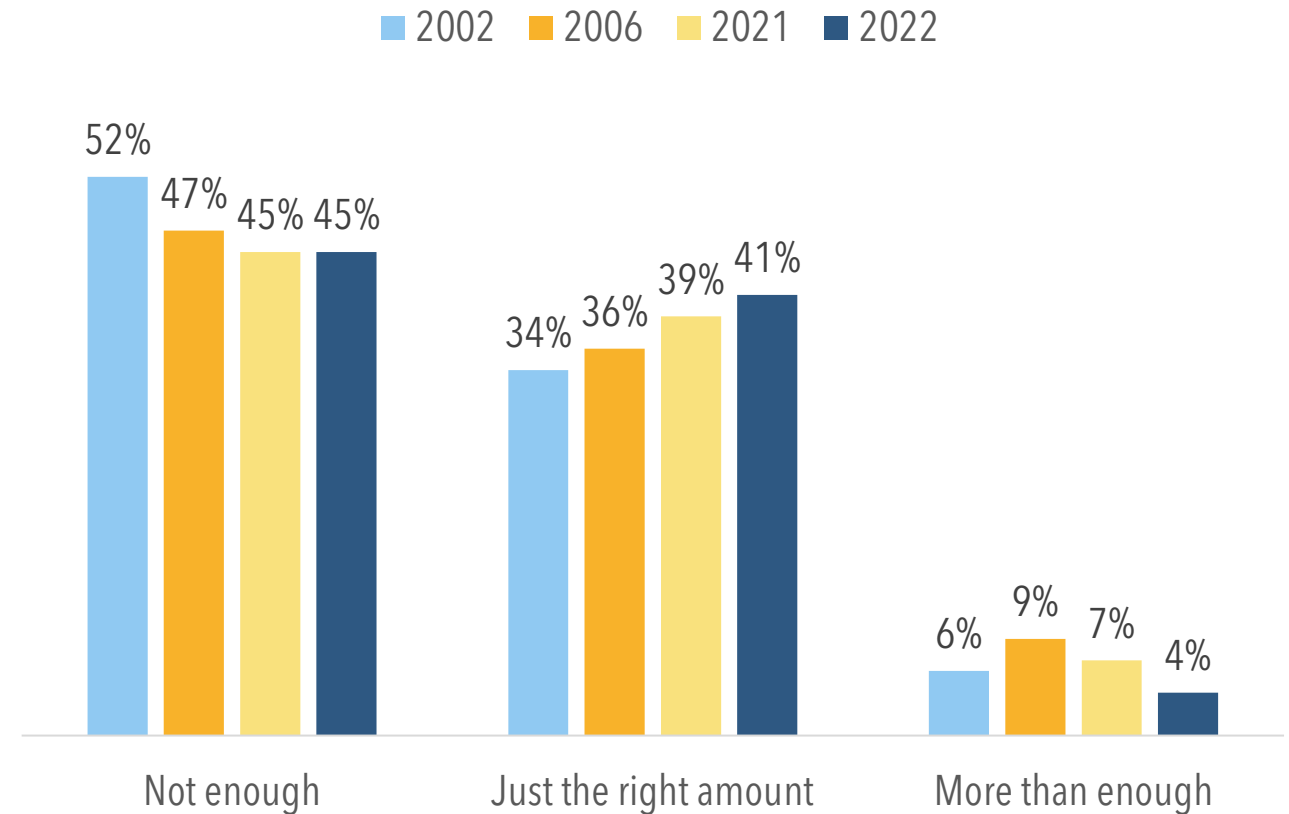
Comparison: Very + Somewhat Affected, by Category, 2021, 2022



Do you think the City and Borough of Juneau is doing more than enough, not enough, or just the right amount to manage the impacts of the visitor industry?



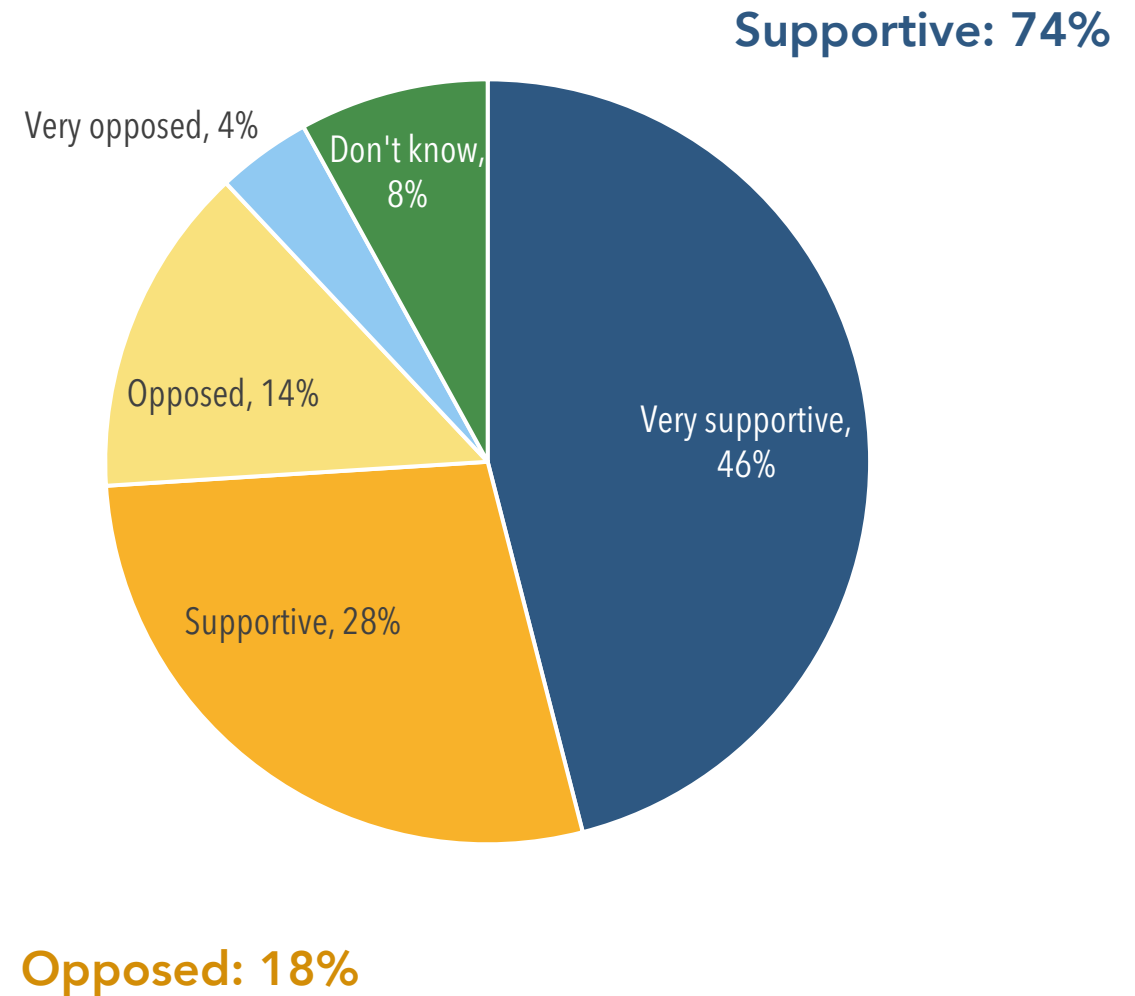
Comparison: 2002, 2006, 2021, 2022



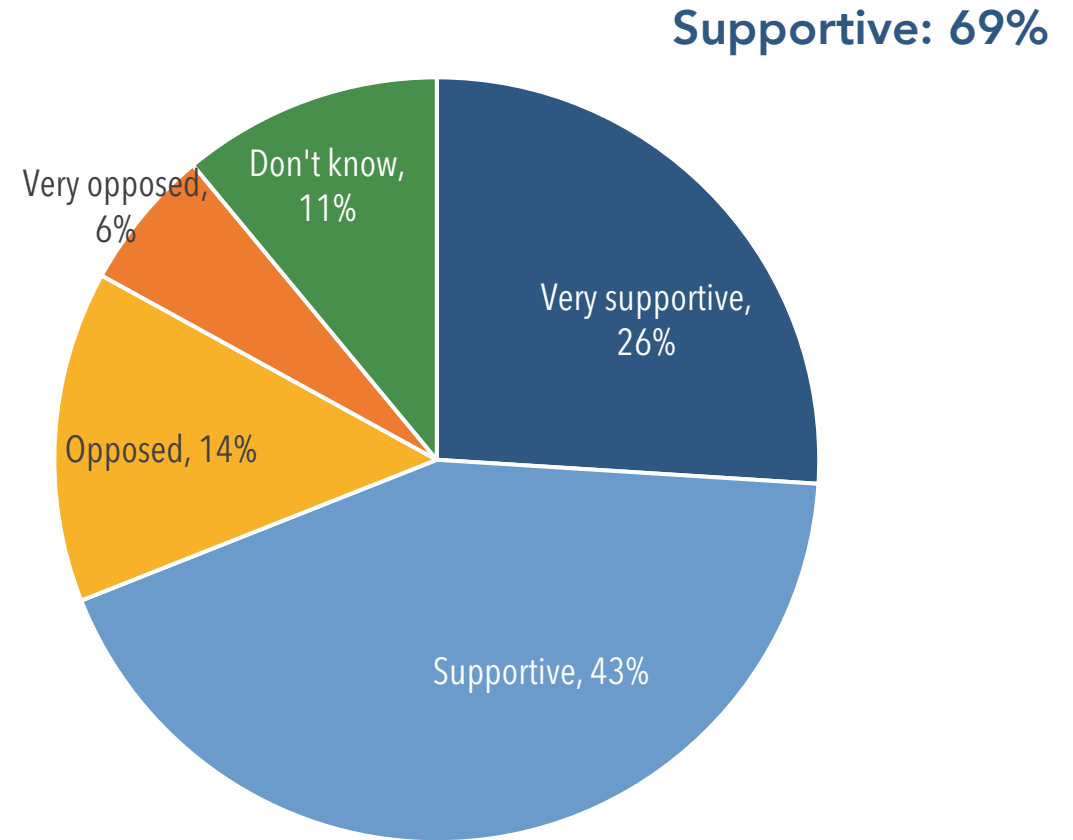
(Read before question)

Currently, the maximum number of large cruise ships that can be accommodated in Juneau's harbor at the same time is five, four docked and one at anchor.

Are you very supportive, supportive, opposed, or very opposed to CBJ working to limit the number of large cruise ships per day in Juneau's harbor to five?



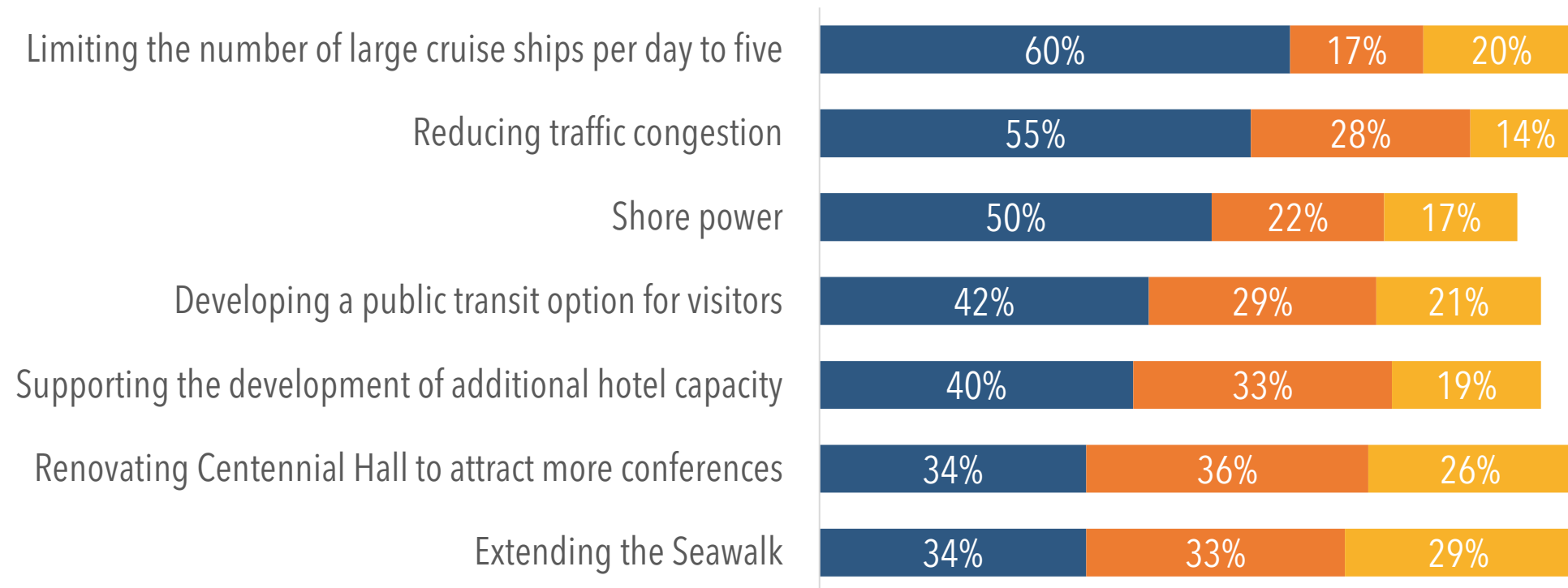
CBJ is considering developing a public transit option for visitors to access downtown and popular attractions. Would you be very supportive, supportive, opposed, or very opposed to CBJ developing this service?



Opposed: 20%

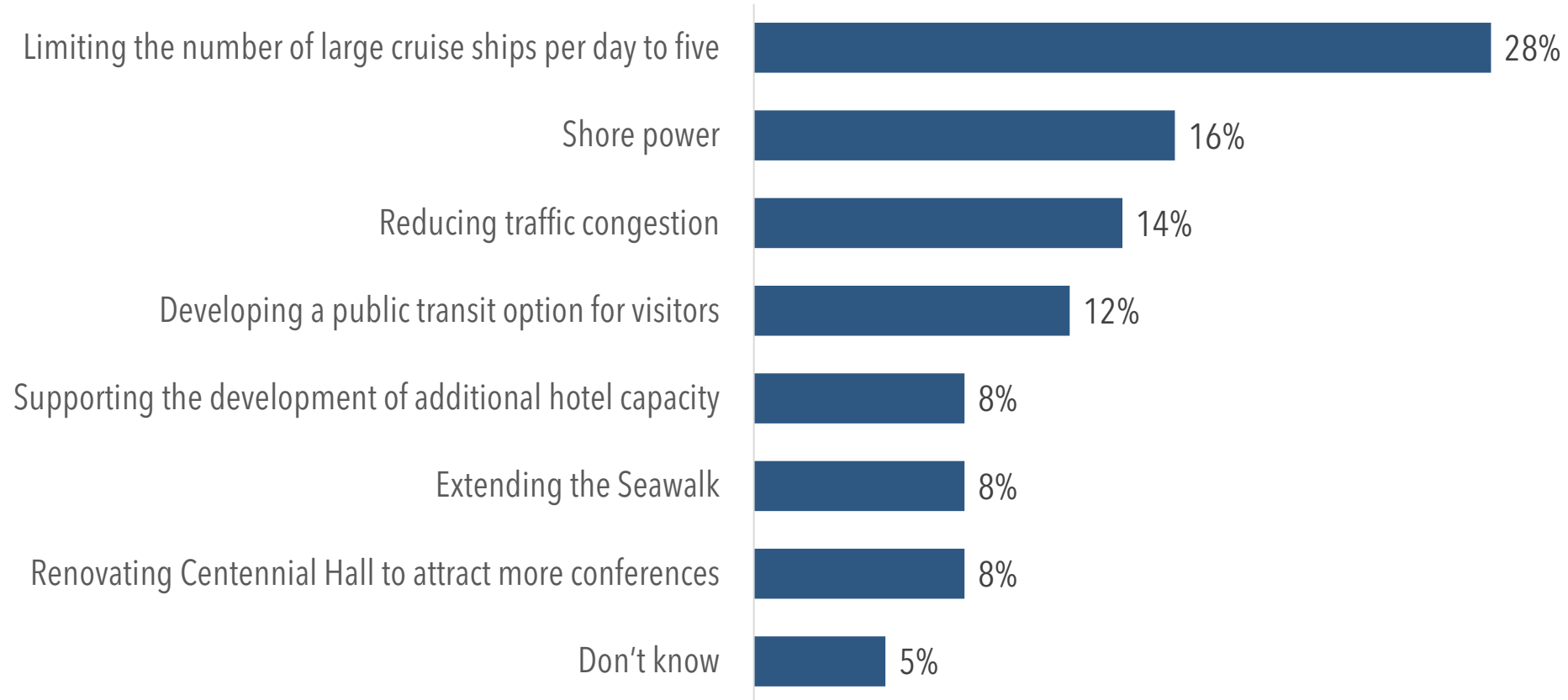
Should the CBJ Tourism Department place a high priority, medium priority, or low priority on each of the following items?

■ High priority ■ Moderate priority ■ Low priority



Note: Rows do not add to 100% due to don't know responses.

Of the priorities I just mentioned, which one do you think is MOST important?



Questions



McKinley Research Group, LLC is a team of respected professionals with 50 years experience providing research, consulting, and advisory services to clients seeking answers to questions and solutions to organizational complexities.

DATE: 10/5/2022
TO: Deputy Mayor Gladziszewski, Assembly Committee of the Whole
FROM: Adam Gottschalk, Assistant Municipal Attorney
SUBJECT: Ord. 2022-21: Board of Equalization Rules

The 2021 Board of Equalization process was frustrating for all involved—property owners, the Board of Equalization members, and the Assessor’s staff. While the bulk of the frustrations likely originate from opinions of property value, there are many changes to CBJ code that can alleviate some procedural frustrations.

Procedural Background

On September 20, 2022, the five remaining members of the Board of Equalization (“Board”) reviewed Ordinance 2022-21. The Board recommended the proposed ordinance with several minor grammatical changes and two substantive changes, which increased appellants’ opportunities to be heard. On September 26, 2022, the Assembly Committee of the Whole discussed the ordinance and requested it stay in committee.

Substantive Background

The proposed changes in Ord. 2022-21 affect *process*. Notably, tax payers’ burdens and the assessor’s discretion derive from state law. *E.g.*, AS 29.45.210(b) (tax payer burden); AS 29.45.110(a) (full and true value). Many of the proposed changes in Ord. 2022-21 have already been tested and are in place through the Board’s adopted rules of procedure, which have been included in the materials distributed prior to every Board hearing. Through codification, every appellant and potential appellant (i.e., property owner), and any other interested person, will have ready access to these rules of procedure. One goal of codifying these rules is to demystify the tax appeal process.

Beyond providing more notice of and further clarifying the tax appeal process, the proposed changes should also increase the efficiency of the Board. This is accomplished by creating a prehearing structure between appellants and the assessor. This structure will curtail eleventh-hour document submissions—absent good cause—that tend to trigger confusion and delays during hearings and often result in appeals being remanded back to the assessor for more consideration (and then coming back before the Board). This structure will also result in appeals being “hearing ready” sooner and providing a heads up to the Board so that potential conflicts of interest can be spotted and addressed in advance.

Short explanations for changes in Proposed Ordinance 2022-21 vCOW are provided below:

The following proposed amendments were modeled off of authorizing language in state law (*i.e.* A.S. 29.45.200(b)) and off of the Anchorage Board of Equalization rules (*i.e.* AMC 12.05.053).

Section 2, CBJC 15.05.041. This proposed change renders the superior court—rather than the assembly—the proper body to hear appeals from assessor determinations regarding property exemptions.

Section 3, CBJC 15.05.140. This proposed change removes an unexercised board oversight function regarding the assessment process and assessment.

Section 4, CBJC 15.05.150.

(a) This proposed change increases clarity by removing unnecessary language. The categories of error can be found at CBJC 15.05.180, which is not included in Ord. 2022-21.

(b) This proposed change is a relocation of CBJC 15.05.160(a) and reflects the notice of appeal is sent to the assessor rather than to the board.

(c) This proposed change provides a process for taxpayers to advocate before the board regarding late-filed appeals. The code currently does not describe this process, so the board has long operated on a case-by-case basis with guidance from a 2013 memo by former city attorney, John Hartle. In the review process on September 20, 2022, the Board added a five-minute oral argument component for this issue. The proposed changes will provide more guidance and process to late-filing taxpayers than current code and board procedure.

(1) This proposed change provides a definition for “unable to comply,” which is currently found in the same above-mentioned 2013 memo and is consistent with the code and long-standing application (e.g., CBJC 15.05.160(a); CBJC 69.10.020(1)(C)).

Section 5, CBJC 15.05.160.

(a) Under the proposed changes, this section will be relocated to CBJC 15.05.150(b).

(b) Under the proposed changes, this section will be relocated to CBJC 15.05.150(b) and (c) and is partially obviated by these as the notice will solely be sent to the assessor.

Section 6, CBJC 15.05.170. Under the proposed changes, this section will be relocated to CBJC 15.05.190(a).

Section 7, CBJC 15.05.185.

(a)

(1) This proposed change clarifies that quorum for the board shall be five members. Further, the proposed change removes the concept of fixed three-member panels, a concept that is impractical (it is easier to have *any* three members available on a set date than *an exact* three members) and does not work when the board has five, seven, or eight members (rendering one or two members “leftover”).

(3) This proposed change reflects the board does not exercise an oversight function regarding the assessment process and assessment roll as codified in CBJC 15.05.140.

(6) This proposed change seeks to compensate members for their time reviewing records and hearing appeals. Compensation serves to acknowledge current members’ commitment and contribution, and to incentivize potential members to apply for any of the *four* vacant seats. Having a full, nine-member board would promote timely cycle completions.

(b) This proposed change reflects current practice and minimizes the risk of inadvertent *ex parte* communication between the board and the assessor.

(c) This proposed change reflects panels should not be fixed, so each panel will need to elect a presiding officer. Under the board’s current rules of procedure, a presiding officer is appointed for each hearing.

Section 8, CBJC 15.05.190.

(a) This proposed change creates a structured process for appellants and the assessor to submit and exchange evidence and create a record for the board. This structured timeline is similar to the Municipality of Anchorage’s, which is found at AMC 12.05.053(C)(7). Timely submission and exchange facilitates board review and consideration and minimizes eleventh-hour submissions that tend to frustrate the process (e.g., the board having insufficient time to review evidence, the board remanding an appeal back to the assessor for further consideration of late-filed evidence). Notably, under the proposed changes, appellants and the assessor may agree to waive the deadline to supplement the record (*see* Proposed CBJC 15.05.190(c)(8)(ii)) and they may also supplement the record within the ten days preceding their hearings by way of motions showing evidence satisfies the criteria of CBJC 01.50.110(e) (e.g., newly discovered, wrongly withheld).

(b)

(1) This proposed change clarifies that a panel consists of three members and reaffirms that only a simple majority of the panel is necessary for quasi-judicial action.

(2) This proposed change clarifies that the assessor’s original recommended valuation is the default valuation in the absence of a successful appeal or affirmative board vote altering the assessed valuation otherwise. This proposed change also redirects board voting to

Page 4

remove the unconventional vote posture whereby board members commonly move for “no” votes.

(c)

(1) This proposed change reaffirms that, except where specifically provided, the appeal procedures of CBJC 01.50 do not apply to board hearings. This non-application already comes from CBJC 01.50.020(a)(2). The proposed change is sought to provide additional notice of CBJC 01.50’s non-application in order to curb any confusion, similar to the explicit statement of non-application found at CBJC 53.50.425(a).

(2) This proposed change is a relocation of CBJC 15.05.210.

(3) This proposed change expresses the longstanding practice, consistent through code, whereby parties to an appeal, as well as hearing officers and quasi-judicial panels, may be represented by counsel.

(4) This proposed change clarifies the duty to maintain records. The provision regarding hearing appeals in the absence of a properly notified appellant is a relocation of CBJC 15.05.190(b) and echoes state precedent that it is the appellant’s burden to prove error.

(5) This proposed change describes appellants’ burdens under state statute and case law. The consequences for untimely submissions echo that burden.

(6) This proposed change further supports and describes the presiding officer’s duties pursuant to CBJC 15.05.185(c). Beyond clarifying the duties of the presiding officer, this more descriptive provision can assist parties’ preparation and presentations.

(7) This proposed change represents current board practice. This will provide appellants substantially more time than appellants are provided by Anchorage’s corresponding code, AMC 12.05.050-55, which only guarantees appellants five minutes (see AMC 12.05.053(C)(6)). These limitations reflect the relatively narrow scope of the board’s review and the substantial discretion afforded to assessors’ methodologies under state statute and case law. On September 20, 2022, the board further sought to make clear board members’ questioning would not interrupt parties’ presentations or count as parties’ time.

(8)

(i) This proposed change represents current board practice.

(ii) This proposed change provides conditions to waive deadlines and/or belatedly supplement the record when there is good cause.

(iii) This proposed change represents a corresponding duty of the assessor indicating mutual obligations of parties to exchange information.

(iv) This proposed change prevents appellants from making arguments about factual evidence the assessor is unable to investigate, confirm, or rebut.

(v) This proposed change makes clear to appellants they can submit sensitive or confidential business income information to the assessor and have that information

Page 5

be considered while remaining confidential. It is hoped this will incentivize communication between the parties and that more information will increase assessments' accuracy.

(9) This proposed change reaffirms state precedent and the duties of quasi-judicial boards.

(10) This proposed change reflects current board procedure and is a relocation of part of CBJC 15.05.210.

(11) This proposed change clarifies that parties may withdraw an appeal if they come to an agreed upon valuation without the board's intervention.

Section 9, CBJC 15.05.200. This proposed change expresses state statute for board appeals (see AS 29.45.200(c), Alaska R. App. P. 602(a)(2)).

Section 10, CBJC 15.05.210. This proposed change clarifies the duties of the municipal clerk following board hearings.

/AG

Presented by: The Manager
Presented: 11/21/2022
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2022-21

An Ordinance Related to Property Tax Appeals and Codifying the Board of Equalization Rules of Procedure.

WHEREAS, Alaska law articulates standards for property taxation, including appeals to the board of equalization and to the superior court (A.S. 29.45.190-210), which were codified in 1985; and

WHEREAS, A.S. 29.45.200(b) provides the board of equalization is governed in its proceedings by rules adopted by ordinance that are consistent with general rules of administrative procedures; and

WHEREAS, A.S. 29.45.210(d) provides a property owner may appeal a board of equalization determination to the superior court, and that appeal is heard on the record established at the hearing before the board of equalization; and

WHEREAS, many of the property tax appeal provisions in CBJ code predate the 1985 amendments to Alaska law, and this ordinance is intended to make the CBJ provisions consistent with state law and provide clarity for board of equalization proceedings.

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

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

Section 2. Amendment of Section. CBJC 15.05.041 Challenges of tax status, is amended to read:

15.05.041 Challenges of tax status.

The owner of a property placed on the assessment roll may request the assessor remove such property from the roll if the owner believes the property is exempt. The assessor may require the owner to provide affidavits relating to the use of the property and other information relevant to the determination of tax status of the property. The procedure and period for challenging the tax status of a property shall be the same as for challenging the assessed value except that the appeal from the assessor's final decision shall be directly to superior court. ~~shall be to the assembly which shall hear such appeals immediately prior to sitting as a board of equalization.~~

(Serial No. 79-48, § 6, 1979)

State law reference(s)—Corrections, AS 29.45.180; appeal, AS 29.45.200190.

Section 3. Amendment of Section. CBJC 15.05.140 Board of equalization to send additional notices, is repealed and reserved:

15.05.140 Reserved. Board of equalization to send additional notices.

~~If it appears to the board of equalization that there are overcharges or errors or invalidities in the assessment roll, or in any of the proceedings leading up to or after the preparation of the roll, and there is no appeal before the board of equalization, or if the name of a person is ordered by the board of equalization to be entered on the assessment roll, by way of addition or substitution, for the purpose of assessment, the board of equalization shall require the assessor to mail notice of assessment to that person or that person's agent giving him or her at least 30~~

1
2 days from the date of mailing within which to appeal to the board of equalization against the
3 assessment.

4 (CBJ Code 1970, § 15.05.140; Serial No. 70-33, § 3, 1971)
5

6 **Section 4. Amendment of Section.** CBJC 15.05.150 Appeal by person assessed, is
7 repealed and replaced as follows:
8

9 **15.05.150 Appeal to Board of Equalization ~~Appeal by person assessed.~~**

10 (a) *Appellant.* A taxpayer whose name appears on the assessment roll or the agent or assigns
11 of that taxpayer may appeal to the board of equalization for relief from an alleged error in
12 valuation not adjusted by the assessor to the taxpayer's satisfaction. A person who receives
13 notice or whose name appears on the assessment roll, or agent or assigns of that person, may
14 appeal to the board of equalization for relief from any alleged error in the valuation, overcharge,
15 or omission or neglect of the assessor not adjusted to the taxpayer's satisfaction.

16 (b) *30-day appeal period.* The taxpayer shall, within 30 days after the date of mailing of notice
17 of assessment, submit to the assessor a written notice of appeal specifying grounds in the form
18 that the board of equalization requires. Otherwise, the right of appeal ceases unless the board
19 of equalization finds that the taxpayer was unable to comply.

20 (c) *Late-filed appeal.* A taxpayer who seeks to appeal the assessor's valuation after the 30-day
21 appeal period has closed shall file a letter and supporting documents, if any, with the assessor
22 stating the reasons why the taxpayer was unable to comply within the 30-day appeal period. A
23 panel of the board shall consider each letter but shall not consider evidence regarding property
24 valuation. The board shall only consider reasons the taxpayer was unable to comply within the
25 30-day appeal period. The taxpayer shall have five minutes to make an oral presentation solely

1
2 focused on the taxpayer’s inability to comply within the 30-day appeal period. The board’s
3 determination shall be based on the taxpayer’s letter and any supporting documents or oral
4 presentation. If the request is granted, the taxpayer shall have 30 days from the board’s
5 decision to file a valuation appeal and submit all evidence required by this title. The assessor
6 shall send notice of the of the board's decision to the taxpayer.

7
8 (1) Unable to comply. The board shall interpret the term "unable to comply" as
9 meaning that a taxpayer must demonstrate compelling reasons or circumstances
10 that would have prevented a reasonable person under the circumstances from filing
11 an appeal. The term “unable to comply” does not include situations in which the
12 taxpayer forgot about or overlooked the assessment notice, was out of town during
13 the 30-day appeal period for filing an appeal, or similar situations. Rather, it covers
14 situations that are beyond the control of the taxpayer and, as a practical matter,
15 prevent the taxpayer from recognizing what is at stake and dealing with it. Such
16 situations would include a physical or mental disability serious enough to prevent
17 the taxpayer from dealing rationally with the taxpayer’s financial affairs.

18 (CBJ Code 1970, § 15.05.150; Serial No. 70-33, § 3, 1971)

19 State law reference(s)—Appeal, AS 29.45.190.

21 **Section 5. Amendment of Section.** CBJC 15.05.160 Time for appeal and service of
22 notice, is repealed and reserved:

23 **15.05.160 Reserved. Time for appeal and service of notice.**

24 (a) ~~Notice of appeal, in writing, specifying the grounds for the appeal, shall be filed with the~~
25 ~~board of equalization within 30 days after notice of assessment is mailed to the person~~
~~appealing. If notice of appeal is not mailed within 30 days, the right of appeal ceases as to any~~

~~matter within the jurisdiction of the board, unless it is shown to the satisfaction of the board of equalization that the taxpayer was unable to appeal within that time.~~

~~(b) A copy of the notice of appeal shall be sent to the assessor, by the person appealing, and the notice filed shall include a certificate that a copy was mailed or delivered to him or her.~~

(CBJ Code 1970, § 15.05.160; Serial No. 70-33, § 3, 1971)

Section 6. Amendment of Section. CBJC 15.05.170 Appeal record, is repealed and reserved:

15.05.170 Reserved. Appeal record.

~~Upon receipt of a copy of the notice of appeal, the assessor shall make a record of the appeal in such form as the board of equalization may direct. The record shall contain all the information shown on the assessment roll in respect to the subject matter of the appeal, and the assessor shall place the record before the board of equalization prior to the time for hearing the appeal.~~

(CBJ Code 1970, § 15.05.170; Serial No. 70-33, § 3, 1971)

Section 7. Amendment of Section. CBJC 15.05.185 Board of equalization, is amended to read:

15.05.185 Board of equalization.

(a) *Membership; duties; term of office; term limits.*

- (1) *Membership.* The board of equalization shall comprise a pool of no fewer less than five ~~six~~, and up to nine, members, not assembly members, appointed by the assembly. Quorum for the board when conducting non-quasi-judicial matters is five members. ~~There shall be up to three panels established each year. Each panel hearing appeals shall consist of three members. The board chair shall assign~~

~~members to a specific panel and schedule the panels for a calendar of hearing dates.~~
The board shall hear appeals in panels consisting of three members. The assignment of members to panels and the establishment of a hearing calendar shall be done in consultation with the individual members. ~~Additionally, members may be asked to take the place of regular assigned panel members in the event an assigned panel member is unable to attend a scheduled meeting.~~

(2) *Qualifications of members.* Members shall be appointed on the basis of their general business expertise and their knowledge or experience with quasi-judicial proceedings. General business expertise may include, but is not limited to, real and personal property appraisal, the real estate market, the personal property market, and other similar fields.

(3) *Duties.* The board, acting in panels, shall only hear appeals for relief from an alleged error in valuation on properties brought before the board by an appeal filed by a taxpayer. A panel hearing a case must first make a determination that an error in valuation has occurred. Following the determination of an error in valuation, the panel may alter an assessment of property only if there is sufficient evidence of value in the record. Lacking sufficient evidence on the record, the case shall be remanded to the assessor for reconsideration. ~~A hearing by the board may be conducted only pursuant to an appeal filed by the owner of the property as to the particular property.~~

(4) *Term of office.* Terms of office shall be for three years and shall be staggered so that approximately one-third of the terms shall expire each year.

- 1
- 2 (5) *Term limits.* No member of the board of equalization who has served for three
- 3 consecutive terms or nine years shall again be eligible for appointment until one
- 4 full year has intervened, provided, however, that this restriction shall not apply if
- 5 there are no other qualified applicants at the time reappointment is considered by
- 6 the assembly human resources committee.
- 7
- 8 (6) *Compensation of members.* Compensation for members shall be \$100.00 per
- 9 meeting. Board members may decline compensation by providing written notice to
- 10 the municipal clerk.
- 11 (b) *Chair.* The board annually shall elect a member to serve as its chair. The chair shall
- 12 coordinate all board activities with the municipal clerk ~~assessor~~ including assignment of panel
- 13 members, scheduling of meetings, and other such board activities.
- 14 (c) *Presiding officer.* Each panel shall ~~elect~~ appoint its own a presiding officer who shall ~~to~~ act
- 15 as the chair for the panel and who shall exercise such control over meetings as to ensure the
- 16 fair and orderly resolution of appeals. ~~In the absence of the elected presiding officer the panel~~
- 17 ~~shall appoint a temporary presiding officer at the beginning of a regular meeting.~~ The presiding
- 18 officer shall make rulings on the admissibility of evidence and shall conduct the proceedings of
- 19 the panel in conformity with this chapter and with other applicable federal, state and municipal
- 20 law.
- 21
- 22 (d) *Report to the assembly.* The board, through its chair, shall submit an independent report to
- 23 the assembly each year by September 15 identifying, at a minimum, the number of cases
- 24 appealed, the number of cases scheduled to be heard by the board, the number of cases actually
- 25 heard, the percentage of cases where an error of valuation was determined to exist, the number
- of cases remanded to the assessor for reconsideration, the number of cases resulting in the

board altering a property assessment, and the net change to taxable property caused by board action. The report shall also include any comments and recommendations the board wishes to offer concerning changes to property assessment and appeals processes.

(Serial No. 2005-51(c)(am), § 4, 1-30-2006)

State law reference(s)—Appeal, AS 29.45.200.

Section 8. Amendment of Section. CBJC 15.05.190 Hearing of appeal, is repealed and replaced as follows:

15.05.190 Board of Equalization hearing ~~Hearing of appeal.~~

(a) Preparation of appeal packet.

The appellant must submit to the assessor's office all documentary evidence and briefing in their possession that the appellant believes is relevant and wishes the board to consider within 15 days following the close of the 30-day appeal period. Upon receipt of the notice of appeal and the appellant's documentary evidence, the assessor shall make a record of the appeal for presentation to the board of equalization. The record shall contain the notice of appeal, the appellant's timely filed documentary evidence and briefing, all the information shown on the assessment roll in respect to the subject matter of the appeal, and the assessor's briefing. The parties may supplement the record by a witness list and additional documents in accordance with subsection (c)(8) of this section up to ten days prior to the appeal hearing. The assessor shall place the complete record before the board of equalization at least seven days prior to the appeal hearing.

(b) Quorum and voting.

(1) Quorum. A quorum for hearing appeals shall consist of three board members.

1
2 (2) Voting. To alter an assessment or to grant an appeal in part or in whole for the
3 appellant, at least two members of the board must vote in the affirmative to either
4 (i) reverse and remand to the assessor for further consideration or (ii) alter the
5 assessment. Any appeal or part thereof that is not granted by the board shall be
6 deemed denied, and the assessor's original assessment giving rise to the appeal
7 remains the final valuation determination. Any alteration to the assessment made
8 by the assessor during a hearing shall require an affirmative vote by at least two
9 members in order to become a final valuation determination.

10
11 (c) Conduct of hearings; decisions. Except as otherwise provided in this chapter, hearings
12 shall be conducted by each panel of the board of equalization in accordance with the following
13 rules:

14 (1) Application of CBJC 01.50. The appeal procedures of chapter 01.50 do not apply to
15 hearings conducted under this chapter except as specifically provided.

16 (2) Record. The municipal clerk of the assembly is ex officio clerk of the board of
17 equalization. The municipal clerk shall keep electronic recordings of the board's
18 proceedings. The municipal clerk shall record in the minutes of each meeting or
19 record of appeals all proceedings before the board of equalization, the names of
20 persons protesting assessments, and all changes, revisions, corrections, and orders
21 relating to claims or adjustments.

22 (3) Counsel. All parties may be represented by counsel during hearings before the
23 board.

24 (4) Commencement of hearing. Every appeal shall be assigned an appeal case number,
25 which should be read into the record along with the name of the appellant and the

1
2 tax identification number at the commencement of the hearing. If an appellant fails
3 to appear, the board of equalization may proceed with the hearing in the appellant's
4 absence.

5 (5) Burden of proof. The appellant bears the burden of proof. The only grounds for
6 adjustment of an assessment are proof of unequal, excessive, improper, or under
7 valuation based on facts that are stated in a valid written appeal or proven at the
8 appeal hearing. If the valuation is found to be too low, the board may raise the
9 assessment. The board should sustain the original assessed value if the relevant
10 documentary evidence or briefing is not timely submitted to the assessor's office
11 within 15 days from the close of the 30-day appeal period absent a good faith
12 attempt at compliance.

13
14 (6) Rules of evidence. Evidence shall only be presented by the appellant and the
15 assessor or their authorized representatives. The board shall not be restricted by
16 the formal rules of evidence; however, the presiding officer may exclude evidence
17 irrelevant to the issue(s) appealed. Relevant evidence includes but is not limited to
18 purchase and closing documents, appraisal reports, broker opinions of value,
19 engineer reports, estimates to repair, rent rolls, leases, and income and expense
20 information. Hearsay evidence may be considered provided there are adequate
21 guarantees of its trustworthiness and it is more probative on the point for which it
22 is offered than any other evidence that the proponent can procure by reasonable
23 efforts.

24
25 (7) Order of presentation. Each party shall be allowed a total of fifteen minutes to
present evidence including personal presentations and direct or cross-examinations.

1
2 The appellant shall present evidence and argument first. Following the appellant,
3 the assessor shall present evidence and argument. The appellant may reserve up to
4 ten minutes for rebuttal directed solely to issues raised by the assessor. At the
5 conclusion of the parties’ presentations, board members may ask questions, through
6 the presiding officer, of either the appellant or the assessor. The presiding officer
7 may end the questioning and call for a motion from the other board members.

8
9 (8) Witnesses, exhibits and other evidence.

10 (i) The appellant and the assessor may offer oral testimony of witnesses and
11 documentary evidence during the hearing.

12 (ii) The appellant and assessor may agree to waive deadlines to supplement the
13 record more than ten days prior to the appeal hearing. However, only the
14 chair can authorize requests to supplement the record—upon motion to the
15 municipal clerk by a party if the evidence being offered satisfies the criteria
16 in CBJC 01.50.110(e)—filed within ten days preceding the appeal hearing.

17 (iii) The assessor shall make available to the appellant all reasonably relevant
18 assessor records requested within 15 days following the close of the 30-day
19 appeal period.

20 (iv) If an appellant has refused or failed to provide the assessor or assessor's
21 agent full access to property or records, the appellant shall be precluded
22 from offering evidence on the issue or issues affected by that access and
23 those issues shall be decided in favor of the assessor.

24 (v) At the request of the appellant, evidence submitted pursuant to subsection
25 (c)(6) or (c)(8) of this section relating to the assessed valuation of property

used in an income-producing commercial enterprise shall be confidential.

The assessor and the appellant may stipulate to facts to be presented to the board provided the assessor has received credible and reliable evidence to establish the facts.

(9) Decisions. At the conclusion of the hearing the board shall determine, based solely on the evidence submitted, whether the assessment is unequal, excessive, improper, or an under valuation. The board should issue findings of fact and conclusions of law clearly stating the grounds upon which the board relied to reach its decision and advising all parties of their right to appeal the decision to superior court.

(10) Certification. The presiding officer shall review and give final board certification to all appeal decisions.

(11) Termination of appeal upon agreement between appellant and assessor. After an appeal to the board of equalization has been filed, any value which has been agreed to by the assessor and the appellant shall constitute a withdrawal and termination of the appeal by the appellant and the agreed upon valuation shall become the assessed value.

~~(a) At the hearing of the appeal, the board of equalization shall hear the appellant, the assessor, other parties to the appeal, and witnesses, and consider the testimony and evidence, and shall determine the matters in question on the merits.~~

~~(b) If a party to whom notice was mailed as provided in this title fails to appear, the board of equalization may proceed with the hearing in the party's absence.~~

~~(c) The burden of proof in all cases is upon the party appealing.~~

~~(d) The board of equalization shall maintain a record of appeals brought before it, enter its decisions therein and certify to them. The minutes of the board of equalization shall be the record of appeals unless the board of equalization shall provide for a separate record.~~
(CBJ Code 1970, § 15.05.190; Serial No. 70-33, § 3, 1971)
State law reference(s)— Board of Equalization, AS 29.45.210; Hearing, AS 29.45.210.

Section 9. Amendment of Section. CBJC 15.05.200 Judicial review, is amended to read as follows:

15.05.200 Judicial review.

An appellant or the assessor may appeal a determination of the board of equalization to the superior court within 30 days as provided by rules of court applicable to appeals from the decisions of administrative agencies. Appeals are heard on the record established at the hearing before the board of equalization.

~~A person aggrieved by an order of the board of equalization may appeal to the superior court for review de novo after exhausting administrative remedy under this title.~~
(CBJ Code 1970, § 15.05.200; Serial No. 70-33, § 3, 1971)
State law reference(s)—Appeal to superior court, AS 29.45.210(d).

Section 10. Amendment of Section. CBJC 15.05.210 Municipal clerk record keeping certification of changes, is amended to read as follows:

15.05.210 Municipal clerk record keeping certification of changes.

~~The municipal clerk of the assembly is ex officio clerk of the board of equalization. The municipal clerk shall record in the minutes of each meeting or record of appeals all proceedings~~

~~before the board of equalization, the names of persons protesting assessments, and all changes, revisions, corrections, and order relating to claims or adjustments.~~ Within three days following the final hearings of the board of equalization the municipal clerk shall certify to the assessor corrections, revisions, and changes authorized and approved by the board of equalization.

Section 11. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2022.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk

DATE: 11/18/2022
TO: Mayor Beth Weldon & Assembly
FROM: Adam Gottschalk, Asst. Mun. Atty.
SUBJECT: Ord. 2022-21: BOE Timeline

Section E, Item 3.

