

# THE CITY AND BOROUGH OF JUNEAU, ALASKA

## Meeting Minutes – August 10, 2009

**MEETING NO. 2009-17:** The Regular meeting of the City and Borough of Juneau Assembly, held in the Assembly Chambers of the Municipal Building, was called to order at 7:00 p.m. by Mayor Bruce Botelho.

### I. ROLL CALL

Assembly Present: Jonathan Anderson, Bruce Botelho, Jeff Bush, Sara Chambers, Bob Doll, Johan Dybdahl (Telephonic), Merrill Sanford, , and Randy Wanamaker.

Assembly Absent: David Stone.

Staff Present: Kim Kiefer, City Manager; John Hartle, City Attorney; Laurie Sica, Municipal Clerk; Craig Duncan, Finance Director; Rorie Watt, Engineering Director; Jeannie Johnson, Airport Manager, Cynthia Johnson, Deputy Land Manager; Marc Matsil, Parks and Recreation Director; John Stone, Port Director; Glen Gelbrich, JSD Superintendent; David Means, Director, JSD Admin Services Director.

### II. SPECIAL ORDER OF BUSINESS – None.

### III. APPROVAL OF MINUTES

#### A. July 13, 2009 – Regular Assembly Meeting 2009-15

Hearing no objection, the minutes of the July 13, 2009, Regular Assembly Meeting 2009-15, were approved.

#### B. July 23, 2009 – Special Assembly Meeting 2009-16

Hearing no objection, the minutes of the July 23, 2009, Regular Assembly Meeting 2009-16, were approved.

### IV. MANAGER'S REQUEST FOR AGENDA CHANGES

City Manager Kiefer removed Ordinance 2009-08(F), under public hearing, off the agenda. (An Ordinance Appropriating To The Manager The Sum Of \$3,300,000 As Funding For Auke Bay Seawalk Construction And Cruise Ship Dock Improvements, Grant Funding Provided By Alaska Department Of Commerce, Community And Economic Development)

### V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None.

### VI. CONSENT AGENDA

A. Public Requests for Consent Agenda Changes, Other Than Ordinances for Introduction – None.

B. Assembly Requests for Consent Agenda Changes

Mr. Bush requested that Bid E09-186 - JNU Runway Safety Area Improvements, be removed from the consent agenda.

C. Assembly Action

*MOTION, by Bush, to adopt the consent agenda as amended.* Hearing no objection, the following consent agenda was adopted.

1. Ordinances for Introduction

a. Ordinance 2009-17

**An Ordinance Proposing An Increase In The Excise Tax On Tobacco Products, To Become Effective Only If Approved By The Voters At The Next Regular Election.**

Administrative Report: Attached. The manager recommended Ordinance 2009-17 be introduced, referred to the Committee of the Whole on August 17, 2009, and set for public hearing at the next regular meeting.

b. Ordinance 2009-18

**An Ordinance Amending the Excise Tax on Tobacco Products Code.**

Administrative Report: Attached. The manager recommended Ordinance 2009-18 be introduced and set for public hearing at the next regular meeting.

c. Ordinance 2009-19

**An Ordinance Authorizing The City And Borough To Issue General Obligation Bonds In The Principal Amount Of Not To Exceed \$11,800,000 To Finance Physical And Programmatic Upgrades To Gastineau Elementary School, And Submitting A Proposition To The Voters At The Election To Be Held Therein On October 6, 2009.**

Administrative Report: Attached. The manager recommended Ordinance 2009-19 be introduced and set for public hearing at the next regular meeting.

d. Ordinance 2009-08(I)

**An Ordinance Appropriating To The Manager The Sum Of \$10,291 As Partial Funding For The Development Of An Historic Building And Site Survey Report For The Treadwell Mining Complex, Grant Funding Provided By The State Of Alaska, Department Of Natural Resources.**

Administrative Report: Attached. The manager recommended Ordinance 2009-08(I) be introduced and set for public hearing at the next regular meeting.

e. Ordinance 2009-08(N)

**An Ordinance Appropriating To The Manager The Sum Of \$285,000 As Funding For Eaglecrest To Purchase An Over Snow Vehicle, Funding Provided By Lease Financing.**

Administrative Report: Attached. The manager recommended Ordinance 2009-08(N) be introduced and set for public hearing at the next regular meeting.

2. Resolutions

a. Resolution 2492

**A Resolution Authorizing The Manager To Convey Two Easements In The Vicinity Of Basin Road, One To Allow For An Encroachment By An Existing Building, The Other To Provide Access Across Portions Of Lots 1, 2, And 8, Block 38, U.S. Survey 7, Juneau Alaska Townsite Survey.**

Administrative Report: Attached. The manager recommended Resolution 2492 be adopted.

3. Bid Award

Bid No. 10-017

**Term Contract For Trucking Service For City Streets**

Administrative Report: Attached. The manager recommended award of this contract to Jugs, as the lowest responsive bid price, for a total estimated annual contract award of \$250,000.

Removed from the Consent Agenda:

Bid E09-186

**JNU Runway Safety Area Improvements.**

Administrative Report: Attached. The managers said the bids were opened on Friday, August 7, 2009, and the bid protest period expired at 4:30 p.m. on Monday, August 10, 2009. No protests were filed. The manager recommended award of this contract to Alaska Interstate Construction, LLC in the base bid amount for a total award of \$28,620,791.00.

Public Comment: None.

Assembly Action:

*MOTION, by Sanford, to award Bid E09-186, JNU Runway Safety Area Improvements, to Alaska Interstate Construction LLC, in the base bid amount for a total award of \$28,620,791.00.*

Mr. Sanford asked about the potential for change orders with a bid that was \$5 million under the construction estimate.

Mr. Watt said there is always uncertainty with earthwork and especially dredging, he said it was good there was more project contingency. He said this project is one of significant magnitude, involving acres of earthwork, with lots of details and issues, including moving Duck Creek, moving floatplane tie-ups, and other major work.

Mr. Doll said that the dredging should be fairly simple in the float channel, and this with the earthmoving is about half the cost of the work. Mr. Watt said that was correct.

Mr. Wanamaker said this is a very big project, and he asked if there is a project labor agreement. Mr. Wanamaker also said that \$2 million for project administration and inspection seemed high.

Mr. Watt said there is a project labor agreement, so the low bidder will need to enter into that agreement. Airport staff will be managing this project and those are their budget numbers for administration and inspection. Mr. Wanamaker said he would be watching this budget carefully.

Hearing no objection, the motion passed.

## VII. PUBLIC HEARING

### A. Ordinance 2009-12(b)

#### **An Ordinance Amending The Animal Control Code.**

Administrative Report: Attached. The manager recommended Ordinance 2009-12(b) be adopted.

#### Public Comment:

Chava Lee, Juneau, Executive Director of the Gastineau Humane Society, said GHS has provided animal control services to CBJ for over 25 years. The GHS Board, Dogs on Trails Task Force, the Animal Hearing Board, John Hartle and Kim Kiefer have spent significant time on this review. Animal Control Officers Conrad, Weed and George have spent time as well on this review. She said the goals of the ordinance update was to establish fair, legal and easily understandable laws regarding animal control and she believes that these goals are accomplished with this ordinance.

Mayor Botelho said the code refers to impoundments of dogs and livestock, and should canidae hybrids be included. Ms. Lee said she did not believe so, and to own a canidae hybrid legally, a permit is required from Fish and Game. Mayor Botelho asked about immunization requirements should be applied to canidae hybrids. Ms. Lee said there is not an immunization that has proven to be effective.

Janet Coffin, related a recent incident of a dog fight on her property in which a neighbor's dog breached her fenced property and attacked her daughter's dog. She was told by the animal control officer that he could not address this situation, as he did not see the incident. Mr. Hartle said that he would follow up with the officer, as he did not see an issue regarding enforcement in this case under present or proposed law.

George Utermohle, said he is a dog owner, a member of the Capital Kennel Club of Juneau and is President of the Grateful Dogs of Juneau, a non-profit member organization in Juneau, which promotes responsible dog ownership through education and public service. We are also advocates of the rights of responsible dog owners. Most of the issues in this ordinance have needed to be addressed for a long time and good progress has been made, but there are a few more issues to consider before it is adopted. Competent voice control is a difficult issue to enforce, and he did not think the new description was sufficient. The first element of competent voice control is that the dog has to be under verbal control and within sight at all times. The second element of this new description includes that a dog does not bark. Telling a dog not to bark is like telling a person not to speak. The mere fact of barking does not relate to the ability of a dog to be controlled. Similarly, jumping in and of itself does not relate to the ability of the dog to be controlled, the issue is if the jump is done in a threatening or an

aggressive manner or is uninvited. This issue needs to be addressed. Another element is a dog “advancing on a person.” A dog advancing on a person is too vague to be an element of being under voice control. It should be advancing in a threatening manner. Another issue he had with this description of competent voice control was the word “will” in section 3, and said the concern is the instant of the event, not a future event. He said the time-frame needed to be adjusted to mean at the present time. Another issue he has is the requirement to have tags and a collar on at all times. This ordinance does not have an exception for competitive agility events, where there is a requirement for no collar. Access to ball fields has been supported by the Dog Task Force, and there is a provision against access to artificial turf fields by dogs. He proposed dogs be allowed to use the artificial fields under permit issued by the Parks and Recreation Director for events such as a sanctioned dog event. He noted one remaining reference to the Gastineau Humane Society, and the idea had been to remove direct references in ordinance to the GHS in the impoundment of animals section. In the rabies section of the ordinance the reference to the Compendium of Animal Rabies Prevention and Control of 2000, and the one currently in effect is the one for 2007, and it is prepared by the National Association of State Public Health Veterinarians, not the CDC.

Mayor Botelho asked if regarding his comments on competent voice control, Mr. Utermohle had an opportunity to comment on the development of the language, and was the language in the ordinance the result of a compromise that has rejected his particular approach. He said he had seen these drafts for five years, he has participated, but he had not seen this draft until recently.

Mr. Hartle said the Mr. Utermohle raised a good point and the word aggressively should be referenced throughout the section on Competent Voice Control.

Mayor Botelho asked if Mr. Utermohle would be willing to participate in this type of discussion at a Committee of the Whole meeting. Mr. Utermohle said he would try to be helpful.

Mr. Sanford suggested staff work through the ordinance with these comments before bringing it to a COW meeting.

Karla Hart said she supported the ordinance and is supportive of the section on Competent Voice Control being re-written. She skis and skates and even a friendly dog approaching off-leash can be dangerous. People need to be able to see their dogs, and should be closer to the owner. It is important to remember that not everyone likes dogs or is comfortable with dogs, and people should be free to walk down the street without being approached by dogs. She walked the Back Loop Mendenhall River Trail this spring and it was so bad, she counted 338 piles of dog poop on the pavement within a 5 – 10 minute walk from the trail head on the Back Loop end. This discourages use of the trail. The city should require people to carry the capacity to clean up after their dog anytime they are within ½ mile of a trailhead in Juneau and any time they are on city streets with their dogs. This would make it easier to enforce if people could not demonstrate this capacity, rather than seeing the act. In describing competent voice control, “jump on” does not need the word “aggressively” as a modifier. A dog jumping on an elderly person in a happy manner could cause a fall and broken hip or serious injury and people should not allow dogs to jump on anyone in public.

Stephanie Benson, said she would like to see the competent voice control description be stronger and would like to see all dogs on leashes on public streets. She said she has a small

dog walked on a leash, and other unleashed dogs do jump on her dog and herself. Do not weaken the language and the requirement to keep dogs on leashes.

Assembly Action:

*MOTION, by Anderson, to table Ordinance 2009-12(b) to the next assembly meeting, to allow staff to address some of the issues discussed.*

He agreed with Ms. Hart regarding the adjective aggressively. Jumping up is aggressive in its nature.

Mr. Bush offered the agenda of the Committee of the Whole meeting on August 17 if staff feels it is necessary to have further discussion.

Mr. Doll said he thought an animal control officer might have difficulty in determining how aggressive a dog is in making a determination regarding a dangerous dog. Mr. Hartle said as in any enforcement situation, there was an amount of judgment used by enforcement officers.

Hearing no objection, Ordinance 2009-12(b) was tabled.

B. Ordinance 2009-08(F) – *Removed from the agenda by the City Manager – no action.*

**An Ordinance Appropriating To The Manager The Sum Of \$3,300,000 As Funding For Auke Bay Seawalk Construction And Cruise Ship Dock Improvements, Grant Funding Provided By Alaska Department Of Commerce, Community And Economic Development.**

C. Ordinance 2009-08(G)

**An Ordinance Appropriating To The Manager The Sum Of \$15,641 As Funding For Water Quality Monitoring At Sandy Beach, Grant Funding Provided By The State Of Alaska, Department Of Environmental Conservation.**

Administrative Report: Attached. The manager recommended Ordinance 2009-08(G) be adopted.

Public Comment: None.

Assembly Action:

*MOTION, by Chambers, to adopt Ordinance 2009-08-(G).*

Ms. Chambers said this Ordinance is the evidence of the dollar amount required to address the effects of irresponsible dog owners, and there may be other cases in which we can show this type of cost to the public.

Hearing no objection, it was so ordered.

D. Ordinance 2009-08(H)

**An Ordinance Appropriating To The Manager The Sum Of \$5,245 As Partial Funding For The Juneau Teen Health Center, Grant Funding Provided By The Alaska Department Of Health And Social Services.**

Administrative Report: Attached. The manager recommended Ordinance 2009-08(H) be adopted.

Public Comment: None.

Assembly Action:

*MOTION, by Doll, to adopt Ordinance 2009-08-(H).* Hearing no objection, it was so ordered.

**VIII. UNFINISHED BUSINESS** – None.

**IX. NEW BUSINESS** – None.

**X. STAFF REPORTS** – None.

Mr. Hartle will be out of office from August 15 - 29.

Ms. Kiefer said she and Rorie Watt met with Peter Anderegg regarding his concern about the driveway placement on Radcliffe Road, which he expressed to the Assembly at the last meeting. We will revise how we move forward with notice for public meetings for projects prior to construction and how we can best address safety issues. Mr. Anderegg does not necessarily agree with staff's decisions on the project but understood the reasons.

**XI. ASSEMBLY REPORTS**

A. Committee Reports

Committee of the Whole: Chair Bush said the COW met on July 20 to hear information on the Douglas Harbor dredging, changes to Title 49 and the Southeast Alaska Transportation plan. The next meeting in Monday, August 17 - topic is tobacco tax issues.

Lands and Resources Committee: Chair Anderson said the committee met on July 27, and heard information on Auke Lake water quality testing and the activities of Seal Trust and their uses of airport mitigation funds to purchase Hilda Creek for CBJ conservation land and conservation easements from private property owners surrounding the Mendenhall Wetlands Game Refuge. The committee also discussed ongoing planning work on development of Pederson Hill, including surveying of access points. An appraiser will be hired to evaluate the possibilities for disposal of the remaining 11 acre site at the Lemon Creek gravel pit. The committee authorized staff to pursue acquisition of land needed for a right-of-way for a second access to Lemon Creek industrial lands.

Human Resources Committee:

Hearing no objection, the Assembly made the following appointments to CBJ Boards and Commissions, based upon recommendations made by the Human Resources Committee:

**1% for Art Selection Panel – Dimond Park Swimming Pool:**

Cristine Crooks JAHC appointee  
Pua Mauna JAHC appointee  
Gordon Harrison JAHC recommendation  
Jane Stokes JAHC recommendation  
Sheila Fisher Department representative

**1% for Art Selection Panel – Zach Gordon Covered Play Area:**

James Voelker JAHC appointee  
Sarah Newsham interested artist  
Cristine Crooks JAHC appointee  
Pua Mauna JAHC appointee  
Jane Lindsey Department representative

**Affordable Housing Commission:**

Robert Banghart for a term expiring January 31, 2010

**Juneau Commission on Aging:**

Lee Ann See and Anne Grisham Schultz to the Juneau Commission on Aging for terms expiring June 30, 2012

**Local Emergency Planning Committee – Nominations:**

To nominate to the State of Alaska for appointment: Nathan Young to the alternate Firefighter seat #3a for a term expiring December 1, 2010 and Teresa Ann “Terri” Allen to the Bartlett Regional Hospital Board seat #5a for a term expiring December 1, 2011.

**B. Liaison Reports**

Planning Commission: Liaison Doll said the PC met July 14, to review explosive ordinance storage in Hidden Valley, and met on July 28 to address Main Street improvements, Sanitary Sewer for North Douglas and the Taku Smokeries Seawalk.

Sustainability Commission: Liaison Doll said the SC was one of the sponsors of the Farmers Market on August 29. All vendor/demonstration spaces are sold out. He encouraged people to attend this event at the Juneau Arts and Culture Center.

Airport Board: Liaison Sanford said the next board meeting is August 12. There has been a 15-year planning process for the airport runway project and this is a big step forward to get this project to bid and will be a good thing for Juneau to have a safe, top-notch airport. Mr. Sanford also acknowledged the opening of the Zach Gordon covered play area, a project that was discussed in the late 90’s and it is finally open. He thanked staff for their continued efforts to push projects forward.

Chamber of Commerce: Liaison Anderson notified the public that Governor Parnell will hold a public picnic at Sandy Beach on Friday, August 21, from 4 - 7 p.m.



C. Presiding Officer Reports

Van Dort vs. Planning Commission Withdrawal - Mayor Botelho noted that the appeal taken by Jan Van Dort with respect to the Hilda Point land issue was resolved, dismissed and the final action has been taken.

Hearing no objection, the Regular Assembly meeting scheduled for September 28 was rescheduled to Monday, September 21, at 7 p.m.

**XII. ASSEMBLY COMMENTS AND QUESTIONS**

Mr. Anderson asked for an update on the 4F report status. Mr. Hartle said he would follow up with this project still in progress.

Mr. Anderson referred to memo from the Planning Commission requesting Assembly funding support for the 1% for art projects at the downtown transit center. Mr. Anderson supported the interest in doing as much as we can to make this facility visually pleasing.

**XIII. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None.**

**XIV. EXECUTIVE SESSION – None.**

**XV. ADJOURNMENT – 8:00 p.m.**

Signed: \_\_\_\_\_  
Laurie Sica, Municipal Clerk

Signed: \_\_\_\_\_  
Bruce Botelho, Mayor