

# THE CITY AND BOROUGH OF JUNEAU, ALASKA

September 8, 2008

**MEETING NO. 2008-27:** 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 p.m. by Mayor Bruce Botelho.

**I. FLAG SALUTE** was led by Mayor Bruce Botelho.

## **II. ROLL CALL**

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

Assembly Absent: None.

Staff Present: Rod Swope, City Manager; John Hartle, City Attorney; Beth McEwen, Deputy Municipal Clerk; Dale Pernula, Community Development Director; Rorie Watt, Engineering Director; Mike Branum, Emergency Programs Manager; Marc Matsil, Parks & Recreation Director; Craig Duncan, Finance Director;.

## **III. SPECIAL ORDER OF BUSINESS**

A. Employee Recognition – None.

B. West Douglas Working Group Status Report – Chair Linda Thomas gave an overview of the report. The West Douglas Working Group was originally appointed in 2004 by Mayor Botelho. The Working Group consisted of ten voluntary citizen members with the majority serving on the group since it was established in 2004. Those members present at this meeting were Tom Satre, Peter Metcalfe, Rick Shattuck, and Brian Holst from JEDC. The working group was given a two-fold charge when it was established. The first was to promote the development of the North Douglas crossing and the second charge was to promote access to and development of West Douglas and encourage businesses to locate there. The handout distributed, very briefly recaps the significant milestones in moving the North Douglas crossing forward over the past two years since their last report to the Assembly. They appreciate the fact that the Assembly has moved forward on almost all the working group's recommendations since 2004 and to poise the community to quickly move this project up in priorities with the state. The primary purpose for reporting at this time is to provide recommendations to the Assembly on continuing to move this project forward and also developing the West Douglas area.

The working group's recommendations are located on page 2 of the report (*and in italics below*).

- *CBJ Assembly to assign a focused CBJ Project Advocate and resources to work with governmental agencies to establish a course of action with a goal of legislative appropriation for an Environmental Assessment by this state legislative session. Consider using JEDC to manage this project with appropriate resources.*

Ms. Thomas stated that we have basically been at a standstill for the last six months with conflicting information from two different state agencies. Prior to that, the Assembly had followed through with almost every recommendation of the Department of Transportation, including a recommendation providing a preliminary EIS scoping report. They don't expect this position to be long term, but hope it will be effective and accountable and she has discussed this with Brian Holst of JEDC and he indicated that their organization was poised to spearhead this project and accomplish this goal if appropriate resources were allocated to their organization. She said they felt it important to have this focus to get the project moving forward on behalf of CBJ.

- *CBJ Assembly to request realignment of Dredging Funds to develop North Douglas Road Extension.*

Ms. Thomas said that their second recommendation was for the Assembly to recommend that the state appropriation made by Gov. Murkowski for monies for the Gastineau Channel dredging and the EIS be realigned towards extending the North Douglas highway and that CBJ lobby legislatively for that change. She also stated that they felt that the community should be working on getting West Douglas developed using several different angles and by extending the road, we could encourage businesses and residents to move there and that would hopefully help drive the crossing as well. The original funding allocation was done prior to hurricane Katrina and prior to the “bridge to nowhere” term made funding of any words “bridge” and “Alaska” combined difficult to achieve. So they believe they should use several different angles for achieving the goal of getting development on West Douglas.

- *Continue to retain CBJ funds in reserve of \$1.365 million (\$1.5 million allocated in 2005 less \$135,000 for Sheinberg consulting on Preferred Community Crossing Alternative) for use towards either North Douglas Crossing EIS or West Douglas Development. The Committee of the Whole in May 2005 agreed to find alternative funding sources (rather than temporary 1% sales tax) for the Gastineau Channel Crossing EIS, although the funding sources were not identified at the time.*

Back in May 2005, the Assembly had set aside \$1.365 million. It was discussed in various committees and the working group would like that to be reconsidered.

At this point in time, the working group is resolved to continue to work on behalf of the community to get this done and they would love to see this done in the very near future.

Mayor Botelho thanked Ms. Thomas for reporting and to the committee members for their time and for keeping this issue in front of us.

*MOTION, by Bush, to take up reconsideration of Ordinance 2008-15(M)(b), commonly known as the Whale project. Hearing no objection, Ordinance 2008-15(M)(b) was before the body for reconsideration.*

Mr. Bush stated that he would like to offer an amendment to the ordinance and asked staff to distribute copies of the original and amended ordinances.

Staff distributed copies of Ordinance 2008-15(M)(b): *An Ordinance Appropriating To The Manager The Sum of \$500,000 As Funding For The Sculpture Of A Bronze Whale, Funding Provided By The Sales Tax Budget Reserve.* and Ordinance 2008-15(M)(b)am: *An Ordinance Appropriating To The Manager The Sum of \$500,000 As Funding For The Sculpture Of A Bronze Whale, Funding Provided By That Part Of The Open Space Waterfront Land Acquisition Capital Improvement Project Derived From Marine Passenger Fees.*

Mr. Bush stated that they have all heard a lot about this over the course of the past week and he felt there had been some misinformation floating around but it was very clear at the last meeting that this body voted in favor of this project based upon the fact that it was their understanding that the eventual funding for the sculpture or all expenses that CBJ would have to incur would come out of Marine Passenger Fees (MPF). Although the original ordinance stated that the funding was Sales Tax reserves, it was understood that those sales tax reserves would be repaid and therefore the actual sculpture was to be funded from passenger fees and a significant amount from private contributions. That particular intent was not very clearly done by the Assembly because it certainly was not the way that the public took it. What this amendment to the ordinance is proposing in section 2 is to make it very clear that what they are appropriating tonight are Marine Passenger Fees for purposes of work as appropriate on the sculpture and the sculpture project. There still remains and he is anticipating questions on whether or not passenger fees could be used for the bronze sculpture. It is still Mr. Hartle’s opinion, as he understands it, that they can not be used for the sculpture and that these funds would have to be used

appropriately by the project group in accordance with what is legal but it would still allow them to begin generating matching funds immediately to get the project underway.

Mayor Botelho asked Mr. Bush if he was moving the amended version of the ordinance to set it separately for public hearing at the next meeting. Mayor Botelho asked Mr. Hartle that because this is a title change, it would require a separate public hearing. Mr. Hartle stated that was correct, that since it is a substantial change, under the charter, if the motion is adopted it would have the effect of merely introducing the ordinance with the public hearing to be held at the next meeting.

Mr. Bush stated that would be his motion. Mayor Botelho reiterated that the motion is to bring forward 2008-15(M)(b)am and set for public hearing at the next regular meeting.

Mr. Sanford asked when it would be appropriate to try to find out whether Marine Passenger Fees can be used or not for this. He said he thought they had received information this past week that they could not be used for this.

Mr. Bush said it was his understanding that Marine Passenger Fees could be used for appropriate portions of this project and that it would be up to the project folks as they develop it to make sure that the Marine Passenger Fees are appropriately used.

Mayor Botelho asked Mr. Hartle if this correctly states the law. Mr. Hartle said that it does. Basically, any fee taken from a cruise ship is governed by the Maritime Security Act of 2002 and that severely limits what can be done with it. It cannot be spent other than to service the vessel for safety and efficiency of interstate or foreign commerce. So he has opined on this that, to the extent the project is a part of the seawalk, it is appropriate to use MPF fees on it. If it were located away from the seawalk, he said they couldn't do it as it would probably violate the Maritime Security Act of 2002. He also stated that the artistic part of the project will not qualify: the bronze, the reflecting pool, the pumps, the lights; those, in his view would not qualify for this. To the extent that the project is part of the seawalk, the funds would be appropriate.

Mr. Sanford said he felt they have the cart before the horse. He said, he understands that if they built a seawalk and it circles around this thing, they could use that part but they don't know how much the CBJ responsibility that is the site work in a seawalk area, how much could be used. If it is \$1 million, are they going to be able to use \$300,000 of MPF or \$700,000 or all of it but somewhere they have to get those figures and he doesn't feel they are there yet.

Mr. Anderson said he understood that Mr. Bush is proposing to introduce a new ordinance and Mr. Anderson said he would move to table indefinitely last time's ordinance that is up for reconsideration at this moment 2008-15(M)(b). Mayor Botelho said that the motion currently before the body is that this is in essence a substitute ordinance before them on the floor right now. Mr. Anderson asked then what the status of the Ordinance that was approved last time that it was now being reconsidered. Mayor Botelho explained that the motion for reconsideration was granted which has the effect of erasing any previous action of the Assembly. Mr. Anderson asked for additional clarification on 2008-15(M)(b) and Mayor Botelho explained that the motion before the body is to introduce 2008-15(M)(b)am by form of an amendment and set it for public hearing. If that is adopted, Ordinance 2008-15(M)(b) will no longer be before them and it is as though it had never happened.

Mr. Wanamaker asked Mr. Hartle if Ordinance 2008-15(M)(b)am is tabled indefinitely or not approved, what the status of 2008-15(M)(b) would be. Mayor Botelho said he has the capacity to rule on that. If the current motion is defeated, they have before them pending Ordinance 2008-15(M)(b) as the original motion and it would be subject to further motions.

Mr. Wanamaker said in that case, he would speak against the amendment with Ordinance 2008-(M)(b)am. He said it was clear to him that we have a serious problem with trying to use Marine Passenger Fees and the open space fund was to acquire property on the waterfront that would enhance

the waterfront and not particularly art projects. He said he was convinced based on past discussions with city attorneys and having read the opinion that Mr. Corso wrote early on that this would not be an appropriate use of MPF. He said the Assembly ought to be careful of committing ourselves to additional expenses in the form of additional staff work and legal fees that should be used elsewhere and said he speaks against the amendment.

Ms. Chambers expressed her agreement with Mr. Wanamaker. She said she wanted to add to that that while she appreciates the direction Mr. Bush is trying to go in taking this away from sales tax proceeds, it also throws a monkey wrench into the Marine Passenger Fee proceed process that they have come up with a structure and process with the City Manager with the input of various groups including the cruise industry to determine how those fees are used.

Mr. Bush said he wanted to make it clear that as part of this motion that the Marine Passenger Fees are being allocated “as part of the seawalk project” and they have concurrence from the industry already that the seawalk project is an appropriate use of Marine Passenger Fees.

Mr. Doll said he thought this is precisely what they should do. They need to test the application of all of the laws with regards to these funds. They are accumulating continually and we find ourselves in continual discussion about the appropriateness of using them for one thing or another. Defining what is appropriate and what is not is precisely what we ought to do to find out where the limits are.

Mr. Sanford asked if the packet was complete, if there was a letter from the Cruise Ship Industry to the Assembly from their lawyers about the Marine Passenger Fee stuff.

Mr. Swope said there was a letter sent to the Mayor in response to an inquiry he had made. He said they essentially restated the federal law, saying these are requirements of the law and trust you will abide by those requirements. It wasn't definitive one way or another.

Mr. Dybdahl asked Mr. Hartle to address the conjunctive question in the letter if it has to meet all that criteria.

Mr. Hartle said he didn't have a copy of the letter with him but that he had read it. He said that basically the letter stated the same thing that his memo to the Assembly stated. A project has to meet all the requirements of the Maritime Securities Act of 2002; mainly that it be fair and equitable, that is it used to pay for the cost of a service to the vessel or watercraft, and enhance the safety and efficiency of interstate and foreign commerce and that it does not impose more than a small burden on interstate commerce. That is what the law is and is what he has advised the manager. He said he doesn't think the letter is inconsistent with the memo he provided to the Assembly.

Mr. Dybdahl said in follow-up, that his recollection from those speaking in favor of making the proposal in the first place that the amount of money needed was \$100,000 at the time and he was wondering if Mr. Bush would amend the ordinance to reflect the lower amount and therefore more likely to meet the “small burden” question.

Mr. Bush said he wasn't sure what Mr. Dybdahl was speaking to in terms of the amount. \$500,000 was the amount requested and the amount that was in the original ordinance. He said if a portion of the \$1.3 million, which is the number that they have talked about as the eventual amount projected at the moment for the cost to do the site preparation and that would presumably be all or almost all appropriate for Marine Passenger Fee expense.

Mr. Dybdahl said he recalled an amount of \$100,000 needed to get the sculpture process going now and there was still an outside chance that the sculpture could be done in time for the 50<sup>th</sup> statehood celebration.

Mr. Bush said that he now recalls what Mr. Dybdahl is referring to. He said as he recalls that it was something between \$100,000 - \$200,000 for Mr. Wallin to do the original work but there were needs for additional funds to basically get the project rolling but that they would be going through this debate again in a matter of weeks, if not a couple of months.

Mr. Anderson said they are debating the use of Marine Passenger Fees vs. Sales Tax Fees but that it misconstrues the very vehement and widespread opposition to this project in general from the public. He said he wasn't so sure that they have been distinguishing between the source of funds in their minds but that they have been opposing the project in general. He said he thinks this sends a symbolic message that we are not in touch with their feelings and needs. He said, this probably, at a different time, may be a worthy project but given the public outcry against it, it is advisable for the Assembly to go forward with it at this time and he would oppose the motion.

Ms. Chambers asked if Mr. Hartle could speak to the \$1.3 million that members of the assembly expressed intent to allocate if the legal opinion would be that the entire \$1.3 million would meet the legal grounds. The reason for is asking that now is to determine if the body appropriates \$500,000 of Marine Passenger Fees and they aren't able to meeting the larger amount and/or the funds are not able to be privately raised, what happens to the \$500,000 investment.

Mr. Hartle said he doesn't really know the answer to that. He did say he wanted to correct one thing about "getting the project started". He said he has been pretty clear that he does not think money given to Mr. Wallin, the artist, would qualify for Marine Passenger Fee. He said, if this is adopted, he doesn't feel that it would be appropriate for that. He said he doesn't know what would happen if the rest of the money wasn't raised.

Mr. Anderson said he wanted to clarify that they have been throwing around the \$1.3 million figure that the Assembly has supposedly committed. He said the Assembly has never committed to spend \$1.3 million. It had been discussed at a Lands Committee meeting. There had been a memo from Mr. Watt showing the approximate sighting cost for different options and at that particular Lands Committee meeting, two of the four members were present. It has not been approved, agreed that we would allocate, at any point, any amount of money by this body, just so they are clear that has not been expressed as an intent of the Assembly.

Mr. Bush said that Mr. Anderson is correct that this body has not identified a specific amount although they have all talked about \$1.3 million because that was the amount identified as necessary for the Marine Park "Wedding Cake" site by Mr. Watts calculation. What they have done, this body has committed itself to supporting this project. They did that by resolution some time ago. What the project need is a financial commitment from this body, not just a verbal commitment and it needs it in order to be able to raise private funds in order to get the project going. What they are doing here is proposing that they allocate \$500,000 of Marine Passenger Fees, because that is what they all said they wanted to use for the project if they were going to commit to the project and then the project committee would take those funds, use them when and as appropriate, and Mr. Hartle is correct that they shouldn't be used for Mr. Wallin or the bronzing, but that they also can take those funds and walk around with them to large private donors to show a financial commitment from the city to hopefully generate a project which they have said in the past that would support.

Mr. Sanford said in speaking of the \$1.3 million was just a rough number that the Engineering Dept. threw out there for the "Wedding Cake" site and that is a rough number. They don't know if it is really going to be \$700,000 or \$1.7 million, there is nothing firm there. What he was basing his vote on was whether this was legal to do from the Marine Passenger Fee fund and from the comments he has received, it doesn't seem that it is or at least not very much of it is. The walkway around that they might do if it was right on the seawalk would be but the pond itself, the pumps, the colors and lights so if they are talking \$1.3 million and only \$300,000 is coming from the Marine Passenger Fee maybe, they still have to come up with \$1 million from somewhere else and he doesn't see where that is going to come from.

Mr. Stone said he apologized for not being here to hear the debate and the public testimony but in reading the emails and the blogs, all he heard about was the citizens taxes were at issue and they didn't want their tax money to go for a project like this when there were so many other needs. He said he understands that and is totally on board with that. He said these are Marine Passenger Fees and not taxes paid by our citizens. Obviously, we would like our citizens to benefit as well as the tourists when we do infrastructure development when we use these fees but he said that everything he saw was specifically focused on sales tax.

Mayor Botelho asked for a roll call vote.

Mr. Sanford asked for clarification on what was being voted on. Mayor Botelho said the motion was a motion to amend but in fact is a substitute ordinance that would schedule Ordinance 2008-15(M)(b)am for public hearing at the next regular meeting.

Mr. Wanamaker asked if it would need to be introduced before being scheduled for a public hearing. Mayor Botelho said this would take the place as introduction and asked Mr. Hartle for verification. Mr. Hartle concurred.

Roll Call:

Ayes: Bush, Doll, Stone, Botelho

Nays: Anderson, Chambers, Dybdahl, Sanford, Wanamaker

Motion failed, 4 ayes, 5 nays.

*MOTION, by Wanamaker, to approve Ordinance 2008-15(M)(b) and he asked for a no vote.*

Mr. Wanamaker said the citizens of the community have expressed their strong views that this project is not appropriate at this time and the various funding sources are not appropriate. We always take into serious consideration what the views of the community are and then act as Assemblymembers with the best information they have available to them and sometimes their decisions are not always what the members of the community would like. In this one, he believes that the members of the community are correct. He believes that use of the Marine Passenger Fees are legally inappropriate and the citizens are concerned that there hasn't been sufficient public process to identify and present a project to them that they endorse and support and that has been competitively priced and that this has just taken place without meaningful input by the public and the Assembly has been moving along in that direction. He feels that to a great degree, they are right. This project is not a good use of public funds, whether Marine Passenger Fees are ultimately legal or not, they have pressing needs for real human safety and traffic and improvements to the waterfront are genuinely needed that those Marine Passenger Fee proceeds should go to and that the sales tax funds should not be used for a project like this. He feels that if they approve this project they would lose the complete confidence of the voters of this community and they would deserve to lose that confidence. He urges the members to vote no on this.

Mayor Botelho asked for any further discussion on this motion. Hearing none, he asked for a roll call vote.

Roll Call:

Nays: Anderson, Chambers, Dybdahl, Sanford, Wanamaker, Bush, Doll, Stone, Botelho

Ayes: none.

Motion failed, 0 ayes, 9 nays.

#### **IV. APPROVAL OF MINUTES**

A. August 25, 2008 – Regular Meeting 2008-25

Hearing no objection, the minutes of the August 25, 2008 Regular Meeting 2008-25 were approved.

B. September 2, 2008 – Special Meeting 2008-26

Hearing no objection, the minutes of the September 2, 2008 Special Meeting 2008-26 were approved.

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

Mr. Swope indicated that there were three agenda changes with the red folder contained the following items to be substituted:

- Ordinance 2008-26(c) regarding motorized use of Auke Lake, there was a correction to the language of one of the GPS coordinates to make it consistent with the map
- Ordinance 2008-29(b) regarding negotiation of a lease for the Downtown Transportation Center, there was a small amendment to the language to substitute reference to the Department of Natural Resources and insert State of Alaska at the state's request
- Ordinance 2008-15(Q)(b) appropriates funding for the Youth Forest and Trails program, there is an amendment which changes the funding amount from \$148,764 to \$118,764.

#### VI. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS.

Lisa Carlson, N. Douglas Hwy. Ms. Carlson said she wanted to bring to the Assembly's attention the need for laws regarding mold illness. She said this issue first came to everyone's attention when the Department of Labor building experienced mold problems. She said that mold is almost everywhere to some extent and there is no way to accurately measure how much is present and how much is an acceptable level as there are different kinds and it affects different people differently. She recommended the CBJ to adopt some laws to protect people and she distributed a handout with laws written in the state of California that address this issue.

Don Habeger, View Drive. Mr. Habeger said he was representing Royal Caribbean and Celebrity Cruises. Mr. Habeger informed the Assembly that they were approached by the State Fire Fighters Association to see if a joint drill to exercise the crew and response teams could be done during the conference being held in Juneau when the Millennium is in port on Sept. 26. He said that the drill will involve members of the crew, CBJ response teams and those firefighters wishing to participate who will be in attendance at the conference. He wanted everyone to be aware that there will most likely be excess noise during the simulated drill that day.

Mr. Sanford thanked the industry for their willingness to cooperate on this type of an exercise as it is good thing for local and state firefighters to have those kinds of opportunities.

Ms. Chambers asked Mr. Habeger if they were working with city staff on preparing a press release to make the community aware of what will be happening. Mr. Habeger said that yes, the Fire Chief is taking care of that part and the industry is making their passengers aware of the drill as well.

Dixie Hood, View Drive. Ms. Hood spoke to the Open Meetings Act as described in the CBJ Committees Informational Pamphlet. Ms. Hood quoted from the section on the pamphlet that referenced the ability of a body to go into executive session for the purposes of discussing matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the government. She said she spoke at an August meeting of the Assembly, she objected to the Assembly going into executive session regarding CBJ land negotiations with the State for Telephone Hill property, negotiations that had been going on for ten months. If it was justified to have the executive session on the basis of a \$6.5 million give away by CBJ that would confirm that such action as proposed by this ordinance and would indeed have an adverse affect upon the finances of CBJ. She said the \$6.5 million on top of the already escalating cost of the Transit Center/Parking Garage project is unacceptable. She began to testify on [Ordinance 2008-29] and encouraged the Assembly to vote no on that ordinance and encouraged the Assembly to relocate the Transit Center to the Willoughby/Whittier

location near Centennial Hall as recommended in the 2004 Transit Center study and recommendation. She urged them to vote down the ordinance tonight and end the negotiations for property that is intended for a future state capitol building.

Mayor Botelho explained to Ms. Hood that she was testifying on Ordinance 2008-29 and he understood from her signing up that she was speaking on a different matter. He stated that since this is the subject of public hearing and not an item that would be taken up under Public Testimony on Non-Agenda Items and since she already spoke on the ordinance, that she would not have a second opportunity to speak on that particular ordinance when it comes up for public hearing.

## VII. CONSENT AGENDA

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

B. Assembly Requests for Consent Agenda Changes – None.

C. Assembly Action

*MOTION*, by Stone, to adopt the consent agenda, and asked for unanimous consent. Hearing no objection, the consent agenda was adopted.

D. Assembly Action

1. Ordinances for Introduction

a. Ordinance 2008-30

**An Ordinance Adopting The 2008 Update To The Comprehensive Plan Of The City And Borough Of Juneau.**

Administrative Report: Attached. The manager recommended Ordinance 2008-30 be introduced and referred to the Committee of the Whole.

b. Ordinance 2008-15(S)

**An Ordinance Appropriating To The Manager The Sum Of \$88,367 As Partial Funding For The Emergency Management Program, Grant Funding Provided By The Department Of Military And Veteran's Affairs.**

Administrative Report: Attached. The manager recommended Ordinance 2008-15(S) be introduced and set for public hearing at the next regular Assembly meeting.

2. Resolutions

a. Resolution 2420(c)

**A Resolution Reestablishing the Sister Cities Committee and Dissolving the International Relations Advisory Committee, and Repealing Resolution 1986.**

Administrative Report: Attached. The manager recommended that Resolution 2420 be adopted.

b. Resolution 2449

**A Resolution Adopting The National Incident Management System (NIMS) As The Basis For All Incident Management In The City And Borough Of Juneau**

Administrative Report: Attached. The manager recommended that Resolution 2449 be adopted.

## VIII. PUBLIC HEARING

A. Ordinance 2008-26(c) – (version c in the red folder substituted the ordinance and map found in the original packet)

### **An Ordinance Amending The Boundaries Limiting Motorized Vessel Use On Auke Lake.**

Administrative Report: Attached. The manager recommended Ordinance 2008-26(c) be adopted.

Public Comment: None.

Assembly Action:

*MOTION, by Anderson, to adopt Ordinance 2008-26(c), and he asked for unanimous consent. Hearing no objection, Ordinance 2008-26(c) was adopted.*

B. Ordinance 2008-28

### **An Ordinance Amending The Woodsmoke Control Program Regarding Solid Fuel-Fired Burning Devices.**

Administrative Report: Attached. The manager recommended Ordinance 2008-28 be adopted.

Public Comment: None.

Assembly Action:

*MOTION, by Bush, to adopt Ordinance 2008-28 and he asked for unanimous consent.*

Mr. Anderson asked Mr. Swope if the EPA just came out with more stringent guidelines on particulate matter and might cause us to reverse our positions on Mendenhall Valley woodburning stoves. He heard about it but didn't know exactly how that fit in with the current policies.

Mr. Swope said that was a good point and asked Lands Director Heather Marlow to come forward to address this.

Ms. Marlow said she wasn't sure which report Mr. Anderson was referring to but she did know of a recent headline in the newspaper over the past week and that was referring to EPA looking at expanding the map boundaries. There is a map attached to the ordinance which has our adopted boundaries and EPA is considering expanding the boundaries to essentially be the borough limits excluding the mine areas. That is something that is out for public comment and review through the Federal Register. Mr. Anderson said what he was recalling was a discussion of particulate matter size and that it was including smaller particulate matter than they had previously understood.

Ms. Marlow explained that the ordinance that has been in effect since 1985 dealt with PM10 (particulate matter that is 10 micrograins in size) what they are talking about now is the new health standard for PM2.5 which is a smaller particulate matter. What they are doing with this ordinance is amending the definition of particulate matter to include PM 2.5, it already addresses PM10.

Mr. Anderson asked if there have been any revisions since the 2006 EPA decision. Ms. Marlow confirmed that the 2006 decision is the most recent.

Mr. Swope said that for people who haven't lived here longer than 10-12 years that we had gone through this exercise once before. That was responding to particulate matter 10. Part of the problem back then was the wood burning smoke during inversions and cold temperatures in the valley. Another

problem that was contributing to that was that we had a lot of roads at that time that weren't completely paved. They were gravel so we were getting a lot of dust, usually during inversions when there wasn't a lot of snow cover, there would be a lot of dust that was contributing to the problem. At that time, we went through the same exercise where we passed an ordinance that required during inversions to ask people to shut down the use of their wood burning stoves. At the same time they moved forward with completing the paving in the Mendenhall Valley.

Mr. Sanford asked if EPA is basing the change to area wide on scientific evidence that this is an area wide problem. Ms. Marlow said that would be data that would need to be collected and proven and she thinks that will be the basis of the comments that will be seen coming out of DEC and out of the City is that we need proof that the problem is borough wide. What she has heard preliminarily from DEC is that even if the change does happen that we could still keep our same tools in effect because the problem areas are limited to a geographically defined area. We may amend the map boundary to be much larger, but we keep this same ordinance in effect to deal with the problem areas. Mr. Sanford said he would like to see us do everything we possibly can to make sure this doesn't if at all possible because that is ridiculous to make people pay for something extra that may not be needed in some of our areas since our community is so linear.

Hearing no objection, Ordinance 2008-28 was adopted.

C. Ordinance 2008-29(b) [the red folder contained version (b) of the ordinance, a substitute map – Exhibit A, and a memo from City Attorney John Hartle dated Sept. 8, 2008]  
**An Ordinance Authorizing The Manager To Negotiate And Execute A Lease With The State Of Alaska Of A Portion Of The Property Commonly Known As Telephone Hill; To Negotiate And Execute An Amendment To The Cooperative Use Agreement With The State Of Alaska Regarding The Property; And To Undertake The Steps Necessary For The City And Borough To Acquire Fee Simple Title To The Leased Property; All For The Purpose Of Facilitating The Construction And Operation Of A City And Borough Parking Garage And Transit Facility.**

Administrative Report: Attached. The manager recommended Ordinance 2008-29(b) be adopted.

Public Comment:

Rachel Beck, Dixon St. Ms. Beck said she was questioning the use of \$6.4 million, although it isn't money paid out, for a thirty year lease. She drove through the current parking garage today and there were three large cruise ships in port and while going through the garage, she noticed 104 empty spaces. We also need to consider that the current garage is 25 years old so if we are looking 5 years into the future, we are looking at a 30 year lease for the new garage, would that new garage at the end of the 30 year lease become state parking. She also noticed the Franklin shopper's lot just north of the Baranof and that lot sits pretty much empty. If we are looking at bringing more business to downtown, those spaces are available. She encouraged the Assembly to look at the bigger picture.

Bob Sylvester, Dixon St. Mr. Sylvester said we don't need the parking garage, there are better ways to solve parking issues in this town. It would take more effort but would be cheaper than building a parking garage when we already have one that is underused within a 5 minute walk from the one that is being proposed to build. He said he thought we could use the citizens' money effectively if we looked at the whole parking issues, with outside experts which we have never done and if we have done that, we have ignored their advise. He said they need to take a step back, look at all options instead of honing in on this one. He said this project is approximately three times more expensive than when it was voted on 3 years ago. Just like the whale they spoke of earlier, he would suggest they use some of the rhetoric used earlier to this project. It appears this wasn't properly vetted. It appeared and it was bundled with more popular projects and since then it has been more or less a done deal. Another six months isn't going to make a difference, if however, there are cheaper and better alternatives, it is in the best interest of the citizens of this town to discover what those might be. He did a quick review of the internet and parking consultants and feels they could reveal answers that show not all this money needed to be spent.

Maureen Connerton, Dixon St. Ms. Connerton said she was concerned about the cost of the parking garage. She said she was glad she read a letter to editor yesterday as she hadn't realized that the city would be giving the state \$6.4 million for that property as well as the possibly \$14 million plus to construct the project. She feels this is an issue that is not only of concern to fiscal conservatives but those who are concerned about fiscal responsibility. The voters voted for a project that was \$7.7 million and now it is three times that amount. It is sort of like a bus that is rolling that nobody is in control of to put the breaks on. She said she looked at the assessed price for the Subport Lands that the Mental Health Trust has and those are only \$18 million as an assessed value, that is less than this thing here and that has more parking spaces than the slightly under 200 spaces that this project is going to end up with. She encouraged the Assembly to think about voter trust and fiscal responsibility and possibly giving it back to the voters. It is not just a \$150,000 that has tripled in value, it is \$7.7 million that has tripled in value. She also mentioned that she went through the current parking garage this afternoon, there were five cruise ships in and 97 spaces empty.

Liz Dodd West 12<sup>th</sup> Street. Ms. Dodd said she is a lifelong Juneau resident, most of it downtown. She thanked the Assembly for allowing testimony on this tonight as she has been to several meetings on this project over the last 6-8 months and at every one of those meetings, the presiding officers say they are just dealing with the details, they weren't dealing with an up or down on this project because the voters have already voted on this project, with no wholesale discussion on whether this was a wise thing to be doing. The first point is regarding dedicated funds and even if the voters vote for a project, and authorizes the expenditure of sales tax on it, it doesn't bind the city government to build the project. She used the example of a cruise ship dock, what if the voters decided they needed another cruise ship dock and it was approved by voters and then there was a huge downturn in the global market and so there was money allocated but it was very clear there weren't going to be ships docking at that dock. They wouldn't go ahead and build that project, especially if it had tripled in cost. That is why they don't allow for dedicated funds. Circumstances change and circumstances have changed dramatically on the parking garage project. The project has changed significantly. The project has gotten out of control while the need for it is getting smaller and smaller. This isn't a parking problem, it is a commuter management problem. She has never had a problem finding a parking space whenever she needs them. Parking is tightest between 7:30a.m. and 5:30p.m., there is no problem on the weekends or the evenings, and that is because all the people who work in state and city offices are clogging up all the parking downtown. If you could get people on buses, that would solve the problem. If you look at the buses now, it is standing room only at commuter time. Those workers want the Assembly to provide them with a cheap way to get into town and back home every day. They cannot afford to keep paying the kind of money it costs to drive in. The parking garage is going to be a fee based parking garage so you have to pay all this money for gas, twice as much as when this project was voted upon, then you have to pay for parking to park in the structure. People are going to keep parking on the street because they can't afford the additional cost. Individuals and the community can't afford this garage. This is link an addiction that is going to harm your finances. It is another 6.4 million dollars coming out of our pockets, it has gone so far beyond rational planning. It is time to draw a line in the sand and time to cut this project off.

Assembly Action:

MOTION, by Doll, to discuss Ordinance 2008-29(b), for purposes of objection.

Mr. Doll said they have all heard him voice his concerns on this project in the past so he won't repeat his earlier comments on the merits of the project. He said what we are faced with at this point is a very different circumstance. The proposed ordinance represents a response to an ultimatum delivered by the State of Alaska. After months of negotiations and on a surprise basis, we are delivered a demand for a deal in which the state is relieved of a responsibility to repay what it admits that it owes to the city and they admit that in writing. The negotiating tactic, by itself, is offensive but to be presented with a refusal to consider even another course of action, even a reasonable response on CBJ's part raises his objections. He thinks they ought to be thinking of filing suit to recover their money instead of rolling

over and playing dead on a demand by the State because it wants to eliminate all of its financial responsibilities. We just went through a searing experience in response to a use of public funds and what his correspondents have been saying to him is that there are legitimate ways to use public funds and there are less legitimate ways and he would not want to be knocking on a door for the next thirty days and answering questions from voters asking why they let go \$6.4 million dollars that you could have recovered or at least insisted on being repaid. He said he could not support this ordinance and the cost of this project is a consideration but most stringently objects to the losing of the \$6.4 million that we are clearly entitled to.

Mr. Wanamaker said he appreciates the comments that members of the public have given and he has listened to staff and their presentations as negotiations have developed over time. This is a project that has been approved by the community. He said that as time and the negotiations proceeded, the city was able to make its views known and he thinks the city is coming out well in this. We have over the years, received an overwhelming amount of information about the need for parking downtown and the overwhelming public response is that we need additional parking. For a variety of reasons, the other parking garage doesn't work for a large part of the year. The public wants and supports additional parking. There are some people do not want the additional parking that this facility would provide. He also noted that most of the area is also being used for the Transit Facility and it will enhance and improve the public transit system as two thirds of the land will be used for that. He speaks in favor of it. He said this is money that we haven't collected, and if we tried to force it through court system, we may or may not be able to collect it; we were supposed to ask for it a long time ago and we didn't. We have a cooperative working relationship with the state at all that provides us with the opportunity to obtain fee simple title to the land and the manager knows that he is going to move in that direction to obtain fee simple title as soon as possible.

Mr. Anderson said they have not been discussing the fact that Telephone Hill is supposed to be designated for the capitol building. The agreement with the State to purchase the land in 1984 was about making this land available for a state capitol. To the extent that we take back ownership of this land, he said he thinks we are working against the very idea of having a capitol built on Telephone Hill and we are letting the state off the hook saying we don't need a capitol, just give us the land back. Unlike Mr. Doll, he doesn't want the money back, he wants it to accumulate, he wants to keep going and that standing up there that this is a commitment that they have made to build a capitol here and he would like to hold them to it. He doesn't oppose the garage, but he does oppose taking possession of the land. The state should lease it to CBJ for a nominal amount and it will be given back to them when they build the capitol. That is the arrangement he believes we should have so he is opposed to this motion. Ms. Chambers asked staff if on the ordinance in the third "whereas" that speaks to the agreement that we have with the state that allows us to temporarily develop the land for off street parking and other specified uses. Looking at the way it is currently developed and in keeping with that with a few slight structures to accommodate the new bus/transit center that is being used, her question is, how much more, if they were to keep the current agreement with the state, could be built and still fit within the agreement. Could we build something more than what they currently have and eventually get rid of it if they want the use of the property back, is there grey area in between?

Mr. Swope said the existing agreement would be amended to allow us to put in something permanent, not temporary. With their agreement to let us go in and develop that property, it will require some site work to some of the existing property but they would be able to accommodate it through this agreement. He said he didn't know if he really answered her question.

Mr. Stone asked to speak to Mr. Anderson's comments about the capitol site. He said the state is not giving up Telephone Hill, they are retaining ownership for the capitol site so that is important that we don't give folks a misconception on that. The capitol site is still the capitol site. We would be adjusting it, basically shaving off a part of it for site development and he thinks that goes to Ms. Chambers question.

Ms. Chambers said in some respects it does but what she was really trying to determine was if we did not execute this lease, and stay within the current agreement, what options do they have to build some form of a transit center. Mayor Botelho asked if we could build a transit center and parking garage on a footprint that only included the lands we currently control without running afoul of any agreement we have in place

Mr. Swope said the answer is no. In looking at the existing agreement in front of them and the agreement, while we are modifying just a couple of provisions in this, one of which would allow us to construct something permanently rather than temporarily, it states fairly clearly, and this agreement will stay in play, its not going away, "the State and City and Borough of Juneau shall mutually develop land identified for use as the Juneau Government Center". That still remains in effect. "State rights, duties, and responsibilities: they will be responsible for site planning and design of state improvements which must be constructed at the site with consultation by the City and Borough of Juneau" it goes on to say "in the event that portions of the site developed by the City and Borough are required by the State for construction of the Juneau Government Center, the City and Borough shall be reimbursed by the State for market value of the land occupied." This still remains in place. There is property there for the development of the capitol center and doesn't think that what we are proposing to do here in any way lets them off the hook or in any way diminishes any leverage we have with the State. With regard to the money, he thinks we are all well aware that it is \$6.4 million and presumably could press the issue to get the money back but keep in mind as Mr. Wanamaker said, two thirds of the project is for the transit facility, not the parking garage. If we are going to use those figures, it is only fair to state that only about \$2 million of the \$6.4 million is for the parking garage portion. While we could push the issue and get that money, having been in politics and having worked for the state and understanding the realities of the situation, we would probably have that 6.4 taken out of our hide one way or another, even if we got it in money, he would suspect seeing a decline in capital projects that are approved through the administration or the legislature and something we need to be sensitive to.

Mr. Doll said the area described on the chart as Juneau town site in fact \$6.4 million is only for a portion of that, approximately ¼ of that. Mr. Swope said that is correct. Mr. Doll said that the idea that there might be retribution from the state is something we ought not acquiesce to. We fight for everything we get right now and he doesn't see up on capital hill a convivial administration when it comes to Juneau.

Mr. Sanford said this is still the capitol site and it will still be the government site to be built on for years to come, we are not taking anything away, we are just adding a component of a parking garage that will be needed for a capitol site no matter what we build on the site, we are actually advancing putting into place part of some of the promises from long time ago that we would take care of whenever we went through these capitol building complex site building projects. For the past 50 years, every different building that we have contemplated building has had a parking component in it and we are moving that part of it ahead. It is not degrading the government complex site at all, rather improving it and putting our money into where we think it will be advantageous later on down the road and in the meantime it is meeting our need. The Downtown Business Association wants this, we have had nothing but 100% comments from them on this. We have had petitions from them on it, the Chamber of Commerce behind it and including the vote in 2005. Even though they were bunched with other projects, does this mean they will have to go back on all the 5 projects we voted on 3 years ago. He said we aren't going to do away with personal vehicles in our lifetime or our children's lifetimes there is going to be some type of personal move about vehicle and there will still need to be a place to park those private vehicles. We need to move forward on this. It has been approved by the community, and while he respects the small group of vocal people who are against it, but the majority of people have said to move it forward and get it done.

Mr. Anderson asked Mr. Swope if this ordinance authorizes the city manager to take fee simple title and to negotiate an agreement in which the city takes ownership of a substantial portion or of a portion of that footprint of land that the state now owns that is known as Telephone Hill. Mr. Swope said it does for parcel A and parcel B that. Mr. Anderson asked if at the end of this cycle if the debt that the state

owes us, which is currently \$6.4 million and may go up, that debt will go away. Mr. Swope said that is correct. They will give us a thirty year lease, and at the end of those thirty years, we will retire half of that debt. We can renew another thirty year lease for a total of 60 year lease for \$6.4 million or anytime in this process, we can seek ownership of the property. We would relinquish \$6.4 million and the property has been appraised at \$6.7 million.

Mr. Bush said this is an unusual evening as this is the first time in a long while that they have had the opportunity as a group to debate this particular item and are working it from the edges because the lease is a small piece of the whole package. He said, the lease as a lease, is a reasonable document. He shares some of Mr. Doll's concerns but not particularly. Mr. Bush said his concern is real basic, he is not convinced and has never been convinced that parking in downtown Juneau is as serious as some people say it is. He comes to downtown Juneau on a regular basis and drives around the block maybe once, maybe one and a half times to find a space but that is as about as long as it ever takes and that is during peak hours. We have an underutilized parking garage right now. It was poorly planned and is in a very poor position, built on probably the most valuable piece of property in Juneau, which makes no sense. If someone were to come to him and say build a new parking garage and tear down the old one and turn that into some valuable commercial property, he would say that would probably be a good plan but to simply say they are going to build another parking garage, he is not convinced we need it and he thinks we'll end up with two underutilized parking garages rather than one fully utilized one. Part of his difficulty with this proposal is that he strongly supports the transit center and he thinks the site identified is the right site for a transit center. It makes sense as the gateway to Juneau and we should be offloading large numbers of people there. He is not convinced we need a parking garage along with it so he is going to vote against the motion.

Mr. Dybdahl said he supports the ordinance. In all of his 18 years of public service with CBJ so far, they have had parking as an issue downtown and he knows people talk about the current garage being underutilized. His recollection was that they required businesses in their permit process to rent those spaces, whether or not they utilized them, as part of the parking requirements for downtown so there could be many of those so called vacant spaces that are already leased up by businesses as a requirement for their developments downtown. He said he hears from many people in the borough make a decision to not go downtown. He is convinced that they do need the parking and they should go ahead with this project.

Mr. Swope said this could be discussed on all sides but just to give an example, he had four people that have businesses in town just this week in his office asking what he was going to do about the parking problem because their clients can't find parking when they come to town to do business. He said an issue that really hasn't been discussed at this point is sooner rather than later we will be losing in excess of 300 parking spaces at the Support parking area. While we can argue whether or not there is adequate parking now, very shortly, we will be losing one of the largest parking lots we have in the downtown area without any alternative if we don't get moving on this project. While there may not be a parking problem in some folk's eyes right now, we will have one very shortly.

Mr. Doll said we have all heard over the course of the debate on this anecdotal evidence about parking. But the curious fact is that there is no downtown parking study. There is no objective evidence that there is a parking problem downtown. He is accustomed before spending public money to have that kind of evidence to support that kind of expenditure. He said he is curious to know why we don't have a solidly scientifically based document that says we have a problem, this is the solution to it. We have a transit center study but it is not a downtown parking study, nor is there any examination of alternatives for parking.

Mr. Sanford said if we really want to look at all of the different studies done on this issue. Every capital complex renewal building has had a chapter in it about parking. The Transpo Group was the last big \$100,000 study we had on transportation needs within the borough and within the city had a chapter on downtown parking. It is not accurate to say that there is not any information on the parking needs

within our downtown area. Mr. Watt can fill us in on it too, he has all kinds of information on it, there is studies and information about it, and it just depends on whether you want it or not.

Mr. Anderson said there were a lot of numbers thrown around on this. In 2005, the preliminary estimate in the voter guide was \$10 million and he asked what the current estimate of the number is since there were so many numbers being thrown around.

Mr. Swope said the total is \$14 million for the structure and included the transit center.

Ms. Chambers said this is an issue she feels very uncomfortable with. Her first interaction with an Assembly member was calling someone she voted for a number of years ago and asking what are we going to do about downtown parking. As this project continues, for her timeline, as a voter in 2005 and looking at the packaging of this issue on the ballot and several others the way they were packaged together and feeling frustrated with how to vote because there were items she agreed with and items she didn't. She voted a particular way because it was a lesser of two evils and didn't feel comfortable and she feels she needs to concern and support for supporting downtown business, not only making life easier on the consumer but that it will also support downtown business. She said the more she looks at the lease process and the transit center and parking garage process and the debate and especially the cost of all of it compared to what was approved in 2005, she feels greater concern to go down this path. She very much appreciates the work that staff has done over the years on this and she doesn't want to minimize that. They have the same objective, but she isn't sure this is ultimately what we need right now as the solution for downtown parking. She thinks there may be some other solutions that have been raised in the public and also raised here that would be less expensive and probably better overall for the community. She said she doesn't feel strong and confident about the transit center and parking garage tonight and her conscience is telling her not supporting this tonight.

Roll Call:

Ayes: Wanamaker, Stone, Sanford, Dybdahl, Botelho

Nays: Doll, Chambers, Bush, Anderson

Motion passed, 5 ayes, 4 nays.

*Mayor Botelho called for a 5 minute recess at 8:48 p.m.*

D. Ordinance 2008-15(J)

**An Ordinance Appropriating To The Manager The Sum Of \$11,876 As Partial Funding For Development Of A Juneau Historic Preservation Database, Grant Funding Provided By The State Of Alaska, Department Of Natural Resources.**

Administrative Report: Attached. The manager recommended Ordinance 2008-15(J) be adopted.

Public Comment: None.

Assembly Action:

*MOTION, by Stone, to adopt Ordinance 2008-15(J) and he asked for unanimous consent. Hearing no objection, it was so ordered.*

E. Ordinance 2008-15(N)

**An Ordinance Appropriating To The Manager The Sum Of \$725,000 As Partial Funding For The Bartlett Regional Hospital Orthopedic Unit Capital Improvement Project, Funding Provided By The Bartlett Regional Hospital Operating Budget.**

Administrative Report: Attached. The manager recommended Ordinance 2008-15(N) be adopted.

Public Comment: None.

Assembly Action:

*MOTION*, by Sanford, to adopt Ordinance 2008-15(N) and asked for unanimous consent. Hearing no objection, it was so ordered.

F. Ordinance 2008-15(O) – pulled by City Manager

**An Ordinance Appropriating To The Manager The Sum Of \$1,503,577 As Partial Funding For The Thunder Mountain High School Capital Improvement Project, Funding Provided By 2006 General Obligation Bond Interest Income.**

Administrative Report: Attached. Due to a significant change in the funding amount from the ordinance that was originally introduced, the manager recommended this ordinance be pulled and referred back to the School District Facilities Committee and Project Team for review.

Mr. Sanford asked if we were sure that the School District hasn't looked at this already.

Mr. Swope said that no, the amount of interest had doubled and he had conferred with Peggy Cowan and the school district and given that instead of \$1.5 million, they now have \$2.5 million, they asked that this be referred back to them. They may completely rethink how they might recommend using this now.

Hearing no objection to the recommendation, Ordinance 2008-15(O) was referred to the School District Facilities Committee and Project Team for review.

G. Ordinance 2008-15(P)

**An Ordinance Appropriating To The Manager The Sum Of \$1,719,269 As Funding For The Replacement Of Buses And Vans For Capital Transit And Care-A-Van, Grant Funding Provided By Alaska Department Of Transportation And Public Facilities, And By Fleet Fund Balance.**

Administrative Report: Attached. The manager recommended Ordinance 2008-15(P) be adopted.

Public Comment:

*Dixie Hood*, View Drive. Ms. Hood said she understands this ordinance takes advantage of a window of opportunity for federal and state DOT funding. It is just within this past week that she learned about this agenda item and obtained a copy of the CBJ Transportation Development Plan. She urged the city to replace present diesel buses with vehicles that use alternative fuels. If compressed natural gas or electric powered vehicles are problematic at this time, she would like to ask that propane fuel buses be considered. Propane sources are immediately available and as a fuel, costs less than half as much to use and propane would also reduce toxic particulates discharged into the air. She learned that San Antonio, TX as of July this year, invested in school buses that are propane operated. They have capacity from 47 to 77 passengers. She suggested that it might be considered by Capital Transit for smaller vehicles that are slated for Thane Road or N. Douglas as a way of introducing an alternative fueled vehicle into the fleet.

Assembly Action:

*MOTION*, by Anderson, to adopt Ordinance 2008-15(P) for purposes of discussion.

Mr. Anderson said he had some discussion with Mr. Kern over this issue of alternative energy vehicles and Mr. Kern had prepared a memo regarding this. Mr. Anderson asked Mr. Swope if he could give an overview of the memo and summarize how the city has indeed considered the options here and what they are looking for in the future.

Mr. Swope said there are a number of different alternatives. There are natural gas, propane, diesel, or gas/electric hybrid, electric battery, and the advance diesel which is more of a clean burning, sulfur free diesel. They have been interested for a number of years in trying to test out some of the alternative fuel buses. They sent a request back approximately three years ago for federal monies to acquire buses through John Roots. One of the things they asked about and got put into the legislation was not just money for buses but also allowed us to acquire alternative fuel source type buses so that is available to us when we receive federal funding. He said he isn't an expert in this field but that he thinks this most immediate and easiest way to use an alternative fuel vehicle would be one of the commuter system, such as the one for downtown that would stay within the a smaller area. It would require one of the smaller buses, such as the care-a-van size buses and he thinks they can probably accomplish that and that the transit study does give us some insight into some of the cost and how easy it would be to accomplish. Ms. Chambers mentioned in the Committee of the Whole that all of these alternatives do have some associated costs and planning involved. With everyone of these, you have to be sure the fuel source is readily available and then it will require some retrofitting or make sure you have the vehicles that can use it. In the case of electric for example, it sounds easy but you would have to have a minimum of four of those vehicles because you have to have several being recharged at the same time you are using them. You have to have the recharge facility and the mechanics to make sure you are getting things recharged. They have been looking at it. He also mentioned that something to keep in mind, specifically with regard to transit buses, if we try to ride another community's request, you can get on board with someone else's request to get a bulk volume discount so usually we look nationally for communities who are planning on placing an order for buses, we try to ride their request and get our buses at the lower rate with them. This approach would require us to find someone else looking for this type of bus or we could part from the norm and go full price for the types of alternative buses we are looking for.

Mr. Doll asked Mr. Swope what types and numbers of vehicles are being considered for purchase here with this ordinance. He asked if they are Care-a-vans or buses. Mr. Swope said they are both. He believes it is 2 or 3 Care-A-Vans and possibly 1 or 2 buses. Right now the buses are running around \$350,000 each and he isn't sure how much the Care-A-Vans are running.

Mr. Doll asked if Mr. Swope could send an email to the Assembly with that information.

Mr. Anderson asked if Mr. Swope could recall what Mr. Kern said about the next iteration of ordering buses, would that be in approximately 3-5 years.

Mr. Swope said yes, that is correct, but that we also do keep the request on the list every year for additional federal funds for buses. We have been successful in getting funds and now we are using those funds we got to get the buses we have but the next cycle will most likely be another 2-3 years before we get any more.

Hearing no objection, Ordinance 2008-15(P) was adopted.

H. Ordinance 2008-15(Q) (version b)

**An Ordinance Appropriating To The Manager The Sum Of \$118,764 As Funding For Youth Forest And Trails Training Program, Grant Funding Provided By The Federal Secure Rural Schools And Self Determination Act Of 2000 Title III Funds.**

Administrative Report: Attached. The manager had no recommendation, as this was a policy decision of the Assembly.

Public Comment: None.

Assembly Action:

*MOTION, by Sanford, to adopt Ordinance 2008-15(Q)(b) and asked for unanimous consent. Hearing no objection, it was so ordered.*

**IX. UNFINISHED BUSINESS** – None.

**X. NEW BUSINESS** – None.

**XI. STAFF REPORTS** – None.

**XII. ASSEMBLY REPORTS**

A. Committee Reports

Committee of the Whole (COW): Chair Wanamaker reported that the COW met last week to review elements of Comprehensive Plan and they will continue that work this coming Thursday (Sept. 11) at 5pm.

Finance Committee: Chair Stone reported that the Finance Committee will meet at 5pm on Wednesday, September 10 and packets were delivered to members just prior to this meeting.

Lands Committee: Chair Bush reported that the Lands Committee met last Tuesday, September 2. They had several agenda items which were mostly information items. One of the most interesting items was a report on the NEA construction staging which is going on at the corner of 2<sup>nd</sup> & Main and it will be taking over a fairly significant portion of that intersection for the next couple of months so people should be aware of that impact. Ideally the project will be completed by first snowfall. They also heard a report on some ATV riding area options. They are studying that problem and trying to find a reasonable location in the city open to ATV riding. They also received an update on the Atwater Estates acquisition which is the small piece of property on Douglas Island on the waterfront that maybe a mitigation working with the SEAL Trust as potential mitigation for airport construction. Lastly they had a report on the Auke Lake launch ramp which is still awaiting some further DOT permitting and is having trouble moving ahead on that project.

Public Works and Facilities Committee (PWFC): Chair Doll said the PWFC met on September 2 and heard only informational items at that time. The most significant of those has to do with the Jordan Creek bridges at Jordan Ave. and at Trout Street. The Jordan Ave. bridge is closed and Trout street is suspect and is supposed to be given further evaluation if it can continue to be used. If those bridges are totally impassable, then there are alternatives to construct access to that business park behind the Jordan Creek Office Center, which would essentially involve going out to a different street. No doubt that since September 2, this issue has moved along but it is one that the Engineering Department is staying close to and so is the bridge inspection team at DOT. The committee raised some questions with regards to that bridge inspection process which may have to be fleshed out at some future meetings. Mr. Anderson added that they are also looking at getting a temporary bridge from Ketchikan and asked Mr. Swope if that was anything we learned additional information about.

Mr. Swope said that in speaking with John Bohan, we were in pretty good shape as they have several bridges that could easily span that length and they were willing to sell them to us. They were going to do some work on it, refurbish them and we would be able to get them up here fairly quickly and hopefully solve the problem for at least the time being.

B. Liaison Reports

Bartlett Regional Hospital (BRH): Liaison Sanford said that the BRH board has been meeting diligently and working on finishing up some of their expansion plans and also on remodeling some of their areas for the orthopedic site.

Sustainability Commission: Liaison Doll reported that the Sustainability Commission's Farmers Market was quite a success. There were approximately 1000 people who attended over the course of the day. There were 29 tables of exhibits, 9 vendors, 8 non-profit presentations, and 10 "how to make something" or "how to grow something". It was successful enough that the Commission would like to repeat it next year and would like some financial assistance in doing so. Also, the Commission has forwarded to staff, a draft of an ordinance dealing with a concept of 5% for sustainability which he hopes the Attorney has and is working on.

Eaglecrest Board: Liaison Chambers said they after a summer break, the Eaglecrest Board is back at work and anticipating snow this winter. They took up a whole lot of items which were all very important but the main items to bring to the Assembly's attention is that progress is being made on the chair lift building projects and also at this time, the staff and board do not see the being financially feasible to take electricity all the way up to the top of the hill. It will cost too much money to bury the line so what they are doing is getting it up to the base and making sure that everything is able to continue to be powered from the base and that there are some back ups/redundancy for the FAA tower being put into place. There is a balance that would be left from the Rasmuson funds and they are working with Rasmuson to reallocate them to some other Eaglecrest public works types of projects.

Docks and Harbors: Liaison Dybdahl reported that the Docks & Harbors Board met on Thursday, August 28, 2008.

Juneau Economic Development Council (JEDC): Liaison Wanamaker reported that JEDC and the Juneau Chamber of Commerce met together about 8 days ago to review the draft Juneau Economic Indicators Report. That report will be published in Juneau Empire in the very near future. There was a lot of good discussion between the two groups.

Mr. Wanamaker also said when he reported about the Committee of the Whole (COW), he forgot to mention that the C.O.W. met earlier tonight and reviewed the Transit Plan and is recommending to the Assembly that it be approved as a conceptual document to meet our transportation planning requirements for the federal government and that later in the future, staff will develop specific proposals and funding concepts to be brought back to the Assembly for specific approval.

### **XIII. ASSEMBLY COMMENTS AND QUESTIONS**

Mr. Sanford said in speaking about the smoke hazard area map earlier tonight, he would like the assembly to direct staff to give our input of this thing from changing from specific areas of our borough that are scientifically proven to have inversions in that. He is fine if it is proven but that we are a linear community and we are stretched out and areas where these rules are not applicable and he would like to make sure if they are trying to put the whole City and Borough into a great big single map and a concern area, that they do it for scientific reasons, and not just because.

Mr. Sanford also stated that we signed on with Southeast Conference a couple of months back through Mr. Hartle to join the appeal of the Tongass Land Management Plan with the Forest Service. The courts have come back and upheld the Forest Service in the Tongass Land Management Plan and now Southeast Conference has voted to go on record and file a civil action against the USFS a complaint for declaratory and injunctive relief saying that the Forest Service has violated the National Environmental Policy Act, the Tongass Timber Reform Act, and the ANILCA, and the National Forest Management Act and they were requesting that we stay on board with them and the other communities of Ketchikan Gateway Borough, City of Ketchikan, City of Craig, City of Wrangell, Southeast Conference, and Kake and Angoon who had signed onto this. He said he didn't know if the Assembly needs more information but he felt we should be supportive of our fellow Southeast communities. This town was a logging town in the old days, it wasn't as strong as what Ketchikan or Wrangell were as far as logging goes but this does affect us, we should be supporting our southeast communities that this affects and he recommends that we sign on with this lawsuit.

Mayor Botelho asked if there had been any proposed assessment for paying for the attorneys.

Mr. Sanford said the initial thought was that it was going to cost to file, anywhere from \$5-10,000, and of course this is just an estimate. Overall, the thought was that this would be a fairly simple case in the end and be approximately only \$30,000 total. He said he was surprised that it was such a low number but that was the estimate he has at this time. He said he didn't know if Mr. Stone or Mr. Wanamaker as Southeast Conference Board of Director people wished to comment on it or not. Mr. Stone said that Mr. Sanford summarized it well and he thinks the estimates are correct as far as he knows as those are the same numbers he heard.

Mayor Botelho said his hesitation is knowing federal litigation, that \$30,000 seems like a fairly well estimated cost and he would be a little hesitant without knowing what portion or share we are going to pay, that we would do something in this order that we put a cap on how much we would be willing to put into this.

*MOTION by Sanford to put a \$10,000 cap on funding from Juneau for its share in the cost this litigation. Hearing no objection the motion was approved.*

Mr. Doll said he has been taking part in the telephonic meetings of the Southeast Conference Environmental Committee which is in turn dealing with the solid waste issue, which is principally of interest to the communities to the south of us but also includes Skagway and Haines. They expect that at Southeast Conference, they will have a draft document ready for the conference's adoption. He can't remember if the legislature has to approve it first of the municipalities but we may see that draft document soon. He also mentioned that we have contributed \$5,000 to this particular project. He warned them that the selection of a site and energy source for whatever they ultimately decide to do will probably exclude some communities. If they decide to put it in Kake, then Haines and Skagway are going to buy out and probably Juneau too. So they know that while we are supportive of the effort, our support is finite and that he doesn't expect us to stay involved with it beyond a certain point. He also wanted to compliment the manager on the Transit Plan and pushing it to completion. He thinks it is one of the most important documents they have done in a long time and he thinks it will have significance and will be a topic of discussion for a long time in the future and he is glad to see it in print and the Assembly to have a chance to consider it.

Ms. Chambers requested to the Deputy Mayor to put on next COW agenda the recommendations of the West Douglas Development Working Group.

*MOTION by Anderson, that the Assembly ask JEDC to come up with a scope of work and suggested cost for that scope of work that they be the project advocate for the North Douglas Crossing and that they could bring that back to the Assembly.*

Mr. Sanford suggested that they maybe need to go through CBJ staff first. He doesn't mind addressing that through JEDC but he would rather go through Mr. Swope to JEDC and then the three recommendations that are on there, have our own staff's recommendations. Get it to our staff also. Mayor Botelho said perhaps the initial suggestion for it to be scheduled for a Committee of the Whole and in anticipation of a discussion, ask JEDC to provide us one alternative but that we channel it through the committee.

Mr. Anderson concurred and withdrew his motion.

*MOTION, by Chambers, to form an Assembly task force to work with staff to study the removal of CBJ sales tax on food and report its findings to the Assembly Finance Committee.*

**Purpose:**

- The purpose of this motion is to encourage Assembly evaluation of assessment of sales tax and use of sales tax revenues given the current economic climate in Juneau and its impact on local residents.

Costs of necessary items like produce, meat, and dairy have risen over the past year due to higher costs of fuel and shifts in farm production methods. Juneau residents – especially those at or below the median family income – have suffered for the last several years with high rent or high mortgages. Home heating oil costs have tripled, and we are entering the winter months.

Despite the generous Band-Aid of state PFD and energy relief checks, now is the time for the CBJ Assembly to review its need for a sales tax on food and its principles for doing so. Many states and municipalities do no tax food, seeing it as a last resort for municipal fundraising. The Assembly should evaluate whether it truly needs to raise money from its residents by increasing the already-high cost of basic groceries – or if we can openly admit that we truly can't afford to run city government without taxing food.

**Key Considerations:**

- The task force would ideally report to Finance Committee at or around the same time as the current task force studying fuel tax (Sanford, Wanamaker) so both can be considered in tandem as part of a comprehensive Assembly evaluation of sales tax assessments on necessary items.
- The task force would work with CBJ Finance Department to consider the following:
  - Definition of “food” as it pertains to CBJ sales tax (consumables, WIC, or Food Stamp qualified items, restaurant items, deli items, pre-packaged items, etc...)
  - Impact of the removal of sales tax from these various definitions of “food”
  - Strategies for absorbing the loss of revenue if one or more definitions were removed from the sales tax rolls
- The task force would ideally be comprised of three Assemblymembers
- The task force would set a goal date for reporting to Finance Committee so it can be held accountable for its work within a reasonable period of time.

Mr. Bush said he was head of a task force 3-4 years ago that looked at all the sales taxes that we have. This was one of the issues that came up. He is supportive of looking at the sales tax on food and if a solution can be found that removes that tax, and he believes it would need a substitute revenue found for it. His caution is that it not be done by a task force of three. Their task force of three members came back with recommendations to the Finance Committee that essentially it started over again with the full Assembly because the issues are so important to the public that it is very difficult for three members of this body to come back with a recommendation that would fly. He thinks it would be more effective for the full Assembly Finance Committee look at this.

Mr. Sanford said again, we just did this a few years ago and we have a whole book full of information and he said he doesn't want to go down this road just looking at one item, if we are going down this road, he would want us to look at all the 29 exemptions and figure out what does and doesn't need to be exempt so they can find a balance of the loss by taking the exemptions off. It is a bigger issue than just looking at one part of it.

Mr. Stone said it might be helpful for those interested in this to look at the work recently done. They did a lot of work, looking at the fiscal impacts. They talked to grocery stores and put a lot of work, and it was a long and painful process.

Mayor Botelho asked if Ms. Chambers would be comfortable in referring the motion itself to the Finance Committee for further discussion at this meeting on Wednesday about how to go forward or would she simply prefer to act one way or another on this as a body.

Ms. Chambers said if the members of the body have concerns about the best way to move forward, then referring it to Finance would be fine with her.

*MOTION, by Chambers, to refer the matter to the Finance Committee.*

Mr. Dybdahl asked if they are referring the issue or referring the motion which leaves it on the table.

Mayor Botelho said that by referring the motion, it is a chance for the Finance Committee to choose to give a recommendation back on how they would like to dispose of this. It may well decide that it wants to take up the issue itself but leaves this as a topic of the Assembly to at some point pick it up again.

Mr. Dybdahl asked if they would vote on the motion in the Finance Committee. Mr. Botelho said the Finance Committee would have the opportunity to discuss the motion and the concept of a task force, whether it is one appointed by the Assembly, the Finance Committee or if the Finance Committee would have another approach. The main point is to make sure it gets calendared. Mr. Dybdahl asked if the last task force, headed up by Mr. Bush, was appointed by the Finance Committee or appointed by the Mayor. Mayor Botelho said his recollection was that it was a Finance Committee subcommittee.

Hearing no objection to the referral, the motion was referred to the Finance Committee.

Mr. Dybdahl thanked the Assembly members for putting up with his absence from the meetings and being able to participate telephonically.

Mr. Anderson thanked the West Douglas Working Group for the work they have done and appreciates their sticking it out to for the long haul.

#### **XIV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS**

*Dixie Hood*, said she had been reading through the Transit Development Plan. It referred to 16 bus shelters that had been recommended or approved and only 8 of them had been put in place. It spoke of well designed and utilitarian shelters and it was being marketed to choice ridership. It didn't mention those who really need it for a source of transportation. It mentioned the possibility of using advertising in shelters and on the buses as a source of revenue.

The other topic she wanted to make mention of was the topic of general public input and Assembly accountability. The discussion tonight on various topics tonight addressed aspects of this and one was when Liz Dodd talked about attending many meetings but that this was the first time the Assembly had a regular meeting at which she was allowed to speak on the Transit Center/Parking Garage project. She stated that Randy Wanamaker commented on the number of emails that opposed the whale sculpture and Jonathan Anderson stated a similar thing. She said David Stone's comments on it said the objections were coming from concerns about the funding sources. She said she had very strong feelings about the whale sculpture herself and that the Parks & Recreation Advisory Committee that she sits on passed a resolution in support of the project asking that it be considered and asset to the waterfront and that funding should be sought. She feels very disappointed that because she didn't add to the emails, write a letter to the editor or telephone any of them that it went down the tubes so that was another aspect of this public input. Sara Chambers referred to the strategy of bundled ballot topics which constrict choices of funding for different things. There was a member of the Planning Commission that told her that they voted against the whole works because there was something they didn't want to support. Having bundled ballot measures is a strategy that may work for some efforts but it doesn't serve the public and is hard to sort out what the input is in that. The Long Range Waterfront Plan process was a long process and had 16,000 mailed surveys' mailed out with response of 2,500 and the

Assembly thought that wasn't scientific so they hired McDowell Group to do a survey that came back with the same results. This led to her failed ballot initiative in which she was calling for the Assembly to have special meetings, not just regular meetings with a controlled process that exists or a Planning Commission meeting but that there be a public meeting where questions could be asked of staff or assembly members and a dialogue could exist and public input could be had, especially when there was oppositional vote. Her concern is with the whole issue of how public input is sought or respected and how the Assembly is accountable to us all.

**XV. ADJOURNMENT** - Mayor Botelho adjourned the meeting at 9:41 p.m.

Signed: \_\_\_\_\_ Signed: \_\_\_\_\_  
Elizabeth McEwen, Municipal Clerk Bruce Botelho, Mayor