MEETING NO. 2008-30: 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: Jonathan Anderson, Bruce Botelho, Sara Chambers, Bob Doll, Johan Dybdahl, Merrill Sanford, and Randy Wanamaker.

Assembly Absent: Jeff Bush, David Stone.

Staff Present: Rod Swope, City Manager; Kim Kiefer, Deputy City Manager; Barbara Ritchie, Deputy City Attorney; Laurie Sica, Municipal Clerk; Dale Pernula, Community Development Director; Craig Duncan, Finance Director; Marc Matsil, Parks & Recreation Director; Rorie Watt, Engineering Director.

III. SPECIAL ORDER OF BUSINESS

A. Employee Recognition – Joan Roberts

Craig Duncan, Finance Director and Anne Stadnychenko, Purchasing Officer, honored Joan Roberts for 30 years of service to CBJ as Bid Clerk. Her knowledge of current and historical issues of the Purchasing Division is unparalleled. She has contributed greatly to the festivities at CBJ and has many interests that will keep her busy in retirement, including her cake making business and Rainbow Girls. She will be greatly missed by everyone at CBJ, including the staff and the public.

B. Energy Assistance Program Summary

Brenda Hewitt, Rosemary Hagevig and Kevin Ritchie reported to the Assembly regarding the energy assistance program. Ms. Hewitt said a full report was e-mailed to the Assembly. Ms. Hagevig thanked the Assembly for its support. The volunteers were tested in a quick response, and the community was very fortunate to have the event be as short as it was. It was a pleasure to work with all the people who served in this effort. Kevin Ritchie thanked the State Dept. of Health and Social Services, Tlingit Haida Central Council, Tlingit Haida Housing Authority, the school lunch program, the Catholic Community Services Childcare program, and Alaska Housing Finances Corporation for their cooperation. There was pre-screening and information provided to their clients, and he thanked the many professionals, including the head of the Permanent Fund Corporation, who came out of retirement to help. Mr. Swope thanked the three for their leadership, which was unsolicited. They took the program on entirely on their own and did a tremendous job. There was little red tape and the program was well received by the citizens.
Mayor Botelho thanked the group on behalf of the Assembly and the community for their work.

C. Energy Program Audit

Mayor Botelho said that one of the issues regarding the rate structure put into place by AEL&P was the accountability in terms of expenditures and the use of funds. We undertook, with AEL&P’s active support, an audit by Elgee, Rehfeld & Mertz. Julie Olson and Max Mertz were present. Mr. Mertz said they reviewed four issues: 1) how much AEL&P spent on diesel fuel, 2) how many gallons were consumed, 3) the calculation of the “Cost of Power Adjustment” (COPA) to ensure it was a consistent process, and 4) the regulatory filings and the amounts collected to ensure they were only to recover the cost of diesel fuel required and did not include overhead. They began in early September to collect information from AEL&P and validated the information provided. They spoke with the chair of the Regulatory Commission of Alaska (RCA), who said AEL&P complied with all provisions of tariff filings, and was very professional to work with in this process. They reported that AEL&P only recovered the cost of diesel, they determined appropriate rates, the billings were completed fairly, and they have no adverse issues to report.

Ms. Chambers asked if the report was a public document and how it could be accessed. Mr. Mertz said it is public and CBJ staff would make the report available.

Mayor Botelho thanked ERM for their contribution of time to this effort and their public service.

IV. APPROVAL OF MINUTES

A. September 8, 2008 – Regular Meeting 2008-27

Hearing no objection, the minutes of the September 8, 2008 Regular Meeting 2008-27 were approved.

B. September 15, 2008 – Special Meeting 2008-28

Hearing no objection, the minutes of the September 15, 2008 Special Meeting 2008-28 were approved.

C. September 24, 2008 – Special Meeting 2008-29

Hearing no objection, the minutes of the September 24, 2008 Regular Meeting 2008-29 were approved.

V. MANAGER’S REQUEST FOR AGENDA CHANGES

Mr. Swope suggested the Assembly enter into executive session to discuss a land transfer regarding the City and Borough of Juneau later in the meeting.
VI. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS.

Bob Garrison, Downtown Juneau, spoke about pallet fires in fire pits out the road. There are many nails and the trash is very heavy. On Thursday, Sept. 25, there was a fire that left about 40 pounds of nails. Anyone that burns along the highway is littering, and they should be charged for littering, which may be a higher fine than that regarding burning. There were cans of paint in the fire and those blow up, which can cause damage to the people at these parties. One of the fires left large bolts, which can cause tire damage. Please address these issues as littering. Mr. Garrison has used a huge magnet to clean these areas. People should call the police to report these fires as there is always a chance that people will get hurt.

Mr. Anderson asked where the fires are. Mr. Garrison said on the town side of Sunny Cove, where the pullouts are. There was a person out there last spring in a motor home that picked up over 200 pounds of nails.

VII. CONSENT AGENDA

A. Public Requests for Consent Agenda Changes, Other Than Ordinances for Introduction

The public requested removal of Resolution 2451 regarding the Transit Development Plan and Resolution 2453 regarding the 2010 Census.

B. Assembly Requests for Consent Agenda Changes

C. Assembly Action

MOTION, by Chambers, to adopt the consent agenda, as amended by the public, and with the additional removal of Ordinance 2008-25 regarding the Fisherman’s Bend lease issues. Hearing no objection, the consent agenda was adopted as amended.

1. Ordinances for Introduction

Ordinance 2008-32
An Ordinance Amending The Real And Personal Property Tax Code To Increase The Business Personal Property Tax Exemption For Property Not Otherwise Exempt.

Administrative Report: Attached. The manager recommended Ordinance 2008-32 be introduced and set for public hearing at the next regular Assembly meeting.

Ordinance 2008-15(R)
An Ordinance Appropriating To The Manager The Sum Of $1,076,443 As Funding For The Downtown Parking Garage Capital Improvement Project, Grant Funding Provided By The Federal Transit Administration.

Administrative Report: Attached. The manager recommended Ordinance 2008-15(R) be introduced and set for public hearing at the next regular Assembly meeting.
Ordinance 2008-15(T)
An Ordinance Appropriating To The Manager The Sum Of $125,000 As Partial Funding For The Fish Creek Park Capital Improvement Project, Grant Funding Provided By The Alaska Department Of Natural Resources.

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

Ordinance 2008-15(U)
An Ordinance Appropriating To The Manager The Sum Of $55,000 As Partial Funding For An Avalanche Planning Response And Forecasting Program, Funding Provided By The Roaded Service Area Fund Balance.

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

2. Resolutions

Resolution 2450
A Resolution Authorizing The Port Director To Convey An Easement Across A Fraction Of Alaska Tidelands Survey No. 3, To Juneau I, LLC, For Constructing And Maintaining A Storm Drainage Line Serving The Building Occupied By The Alaska Department Of Labor.

Administrative Report: Attached. The manager recommended Resolution 2450 be adopted.

Resolution 2454
A Resolution Authorizing The Manager To Submit To The Alaska Energy Authority An Application For A Grant For Partial Funding For The Design And Construction Of A Ground Source Heat Pump System At The Dimond Park Aquatic Center.

Administrative Report: Attached. The manager recommended Resolution 2454 be adopted.

Resolution 2455

Administrative Report: Attached. The manager recommended Resolution 2455 be adopted.

Removed from the Consent Agenda:

Ordinance 2008-25
An Ordinance Authorizing The Port Director To Negotiate And Execute A Lease Of Alaska Tidelands Survey No. 1324, Commonly Known As Fisherman’s Bend, For The Purpose Of Waterfront Commercial Activities.

Administrative Report: Attached. The manager made no recommendation.

MOTION, by Chambers, to place Ordinance 2008-25 on the table for discussion.
Ms. Chambers said she understood from speaking with representatives of the Andrews family that there is a disagreement with this ordinance and there was no attempt to work together with the two different appraisers, the Andrews family and the city. If this was set for public hearing at the next meeting, we could further delay talks. She preferred to refer this back to committee.

Mr. Swope referred to a memo from the docks and harbors board chair on this. Port Director John Stone said the board reviewed this, and requested that this proceed to the Assembly, but he had no concern if it were to go back to committee.

Mr. Anderson heard this issue at the Lands Committee. He thought the entire body should participate, so it should go to the Committee of the Whole or the public hearing.

Ms. Chambers said a hearing at the Assembly was fine if there was no objection from the Andrews if this would not cause any further delay. Mr. John Stone said he thought the Andrews were under the impression that there would be a public hearing at the next meeting, but he did not think there would be a problem with a delay.

**MOTION**, by Chambers, to amend the motion, to introduce the ordinance and set it for public hearing at the next regular meeting. Hearing no objection, the motion was so amended.

Hearing no objection, Ordinance 2008-25 was introduced and set for public hearing at the next regular meeting.

**Resolution 2451**

*A Resolution Approving The 2008 Transit Development Plan, And Coordinated Human Services Plan, To Provide Guidance For The Management Of Capital Transit And Transit Service Improvements For The City And Borough.*

Administrative Report: Attached. The manager recommended Resolution 2451 be adopted.

Public Comment:

*Sarah Lewis*, Chair of CBJ Commission on Sustainability, and spoke in support of the Capital Transit System and the proposed improvements outlined in the Transit Development Plan. She reviewed the five sustainability principles that they look at when making comment on city activities:

1) Support a stable, diverse and equitable economy,
2) Protect the quality of air, water, land and other natural resources,
3) Conserve native vegetation, fish, wildlife habitat and ecosystems,
4) Minimize human impacts on local and worldwide ecosystems, and
5) Minimize energy usage and the impacts of greenhouse gases.

COS believes the service level outlined in the plan called “Optimum” best addresses the city’s sustainability principles. A strong public transportation system solves many problems with one answer. If the Optimal Service Plan is to be implemented incrementally, the first priority should be to undertake those projects that promote and increase ridership. Among these are scheduling to extend service hours and reduce ride time and waiting intervals, moving to a tiered fleet mix to tailor bus size to route, increasing and improving bus stops to provide safe and dry bus stops and transit centers, developing park and ride locations for commuters and creating improved public information systems at bus stops and by phone and computer.
Replacement of the current fleet with alternative fuel vehicles will be important. Thank you for making this plan a priority.

Assembly Action:

**MOTION, by Doll, to adopt Resolution 2451.** Hearing no objection, Resolution 2451 was adopted.

Resolution 2453
**A Resolution Affirming The City And Borough Support Of, And Partnership With, The 2010 Census.**

**Public Comment:**

Chuck Magee, a representative of the US Census Bureau, thanked the Assembly for its consideration and the opportunity to speak. The concern is to get a complete and accurate count in Alaska. In 2000, Alaska had the lowest rate of return. Voluntary compliance is more accurate than interviewed responses. Rural Alaska is not a problem for the census, but the hub communities are the areas of concern due to a low response. This is why it is critical to get public and private support. The Census only hires Alaskans to count Alaskans. The first count is done by the head of the census as a publicity effort, in 2000 a person in Unalakleet was the first counted, and it was a national media event. We don’t know which community will be used as the first count in 2010 yet. There will be a statewide office and they are hiring and training approximately 20 - 25 people in Juneau as the hub for southeast (150 in Anchorage). Address listing will be done in 2009. The Census workers make sure to go door to door to get every address recorded in the census area.

Mr. Dybdahl asked what they attribute the low response to in urban areas of Alaska. Mr. Magee said he did not have an answer, but by getting stakeholder and leadership support in the communities it will persuade others in the community to participate. In some cases it is lack of interest or concern, in others it may be direct opposition to doing something the federal government wants done.

Mr. Doll asked what type of support was needed. Mr. Magee said there is a “Complete Count Committee” which is a local group that can assist in reaching difficult areas, advise the census takers, and help identify leaders, those who work with homeless, and those who can assist with language issues.

Mr. Anderson asked if there was an undercount in 2000 and what that might have been. Mr. Magee said yes, but he did not have the count information handy. However, it was identified through survey work. They are eliminating the long form in this census. There is a ten question form, each person has seven questions, and it only takes minutes, based on the ability to read.

**MOTION, by Anderson, to adopt Resolution 2453, and he asked for unanimous consent.** Hearing no objection, Resolution 2453 was adopted.
VIII. PUBLIC HEARING

A. Ordinance 2008-30
An Ordinance Adopting The 2008 Update To The Comprehensive Plan Of The City And Borough Of Juneau.


Public Comment:

Chris Zimmer, Thane Road, President of Trout Unlimited (TU), said Montana Creek is a unique resource which is a productive fish and wildlife habitat. They distributed a proposal report in the packet. TU worked with many groups and agencies, reviewed the literature on streamside setbacks, did a physical study of the area and made scientifically based recommendations. TU recommends a 500 foot corridor on only the CBJ lands adjacent to Montana Creek. 75% of those lands are in steep slopes, flood plain and wetlands, and consist of only 5% of the watershed, there are no affordable housing areas in the proposed area of protection. TU presented the report to a variety of groups and have endorsements from the Audubon Society, the Juneau Wetlands Partnership, Juneau Youth Services, the CBJ Wetlands Review Board and the CBJ Parks and Recreation Advisory Committee (PRAC). The 500 ft corridor was noted in the Draft Comprehensive Plan from the beginning; PRAC supported this as well as the CBJ Planning Commission. Mr. Zimmer said TU had followed the public process of the Comprehensive Plan review. Their concern now is that this edition of the Draft Comprehensive Plan cuts this recommended 500 foot setback to 200 feet. There is no one size fits all stream setback. Watersheds are all dynamic systems. This is a larger area of protection than other local streams and includes side streams, and took in to consideration the characteristics and functions of the creek. We hope the assembly will approve the original 500 foot recommended corridor. This will not impact development in the area and it will prevent future fights in the area given the certainty of the designation.

Walt Chapman, Glacier Highway, asked that the Assembly recognize that Montana Creek is a healthy, unimpaired watershed. All impaired water bodies have urban run-off. Montana Creek is used by his students as a contrast to other watersheds in the community. A healthy watershed is something we can’t build; we can only protect it for other users.

Nancy Waterman, Planning Commissioner, said she was not representing the Commission specifically, but could answer any questions in her role as Commissioner.

Mr. Anderson asked how the Planning Commission reviewed the buffer and how the 500’ buffer was included in the PC approved language. Ms. Waterman said the specifics went back a long way, from the introduction of the TU plan, and a lot of public testimony in support of it. In preliminary PC meetings, we didn’t officially adopt that, in any way, other than in Sub Area Three, as a Guideline, Number 5. That was reaffirmed at the August 12 meeting by a question of Commissioner Miller, who asked if it was the intent of the Commission to include the 500 foot setback, as proposed by Trout Unlimited. Ben Lyman’s answer to that question was yes.

Michelle Elfers, Mountainside Drive, said she is a CBJ employee but was representing her personal views. She is a landscape architect. It is not uncommon to have a special application for a greenway corridor to satisfy various uses for this high quality natural area. There are many recreational uses. She completed the U.S. Army Corps of Engineers wetland delineation
training and said the training was conducted in the Montana Creek area due to its natural qualities. She worked on the Nancy Street reclamation project, and the Montana Creek area was a valuable source of wetlands plants. The Jordan Creek rehabilitation process will use Montana Creek as a source of native plants. There are high educational values for this area, as well as being a natural resource. This stresses the importance of this corridor.

Mr. Doll asked the difference between 200 and 500 feet. Ms. Elfers said it could not be generalized. However, site specific criteria were important and included the actual value of wetlands in the area and the importance of the side channels, which provided for Coho habitat and rearing. There are issues of steep slopes and the issues of erosion with development. The fine sediment that enters the creek from development creates problems. The plant communities are also important. The creek is accessible and people can easily get into these areas for learning, teaching and gathering.

**Brad Elfers**, Mountainside Drive, a volunteer with TU, spoke about the size of the corridor. TU looked at a number of scientific factors and the corridor size actually defined itself. He displayed a large map which is page 20 in their study. TU looked at the FEMA 100 year flood plain done in 1990. This is where there is valuable habitat and building is not possible. The USGS has a gauge at Back Loop Bridge where they measure the flow of Montana Creek and there is a level called the 15 foot water level which is one level below flood level. 15 foot water levels are hit on a regular basis. It does not have to be a 100 year flood to flood that area. When the 15 foot level is hit, all areas around Back Loop begin to flood. The rifle range and the area where the three little houses are located are under water. According to the National Weather Service, since 1966 that has happened 16 times in that area, and 50% of those have occurred just since 1995. We were sensitive to the issues of housing. The Affordable Housing Commission said this area was not on their list of recommended sites. The second issue was class A wetlands. The valley has built up on the east side, and these wetlands continue to feed Montana creek. TU is looking for side channel habitat where small fish tend to rear. The fish don’t stay in a river channel but snake off. The wetlands keep the creek flowing during low flow weather times. We have found corridors from 100 – 1000 feet and so we wanted to plot these issues on a map to determine what makes sense. In 1962 the creek jumped its channel by 500 feet to the east and now has jumped back again – this is a new, geologically active creek. The steep canyon in part of the creek has slopes of more than 15% and is not a wise area for development, due to erosion and access issues. Urban runoff can be filtered through the wetlands, and this is a wildlife and parks and recreation corridor. There are many of us that have spent countless hours on this proposal. We hope you will consider this sincerely.

**Mark Vinsel**, North Douglas Highway, a member of TU, spoke on behalf of one constituency, the kids, and said there are many that are growing up without healthy recreation. Many kids can ride their bikes from valley homes to this area. He asked the Assembly to preserve this area for them, for the opportunity to go sport fishing. It is one of the healthiest activities and this activity helped him. Montana Creek is a place they can go on their own, with the trail network. It should be a top priority to maintain this area in Juneau.

**Chuck Collins**, Bartlett Ave., spoke on behalf of the Chamber of Commerce (JCOC), and commended the Planning Commission and the Assembly for its work on the Comprehensive Plan. The JCOC acknowledges that Juneau is steep, wet and wild, but we must make a living here. JCOC recognizes the plan is not perfect, but as currently amended, we support this. The more w stream buffers are taken into consideration, the less property is available for housing
and businesses. Juneau already has an immense amount of property tied up. JCOC asks that the plan be adopted as presented.

Recess: 8:15 p.m. (five minutes)

Assembly Action:

MOTION, by Anderson, to adopt Ordinance 2008-30, the Comprehensive Plan.

MOTION, by Anderson, to amend, in guidelines for Sub Area 3.5, for implementing action 7.31a1, and the associated maps concerning Montana Creek, be amended to change 200 feet to 500 feet.

Mr. Anderson said the research has been done on this issue and over two years of review, many community groups have approved this and Montana Creek is a jewel of the City and Borough of Juneau. There was concern about mining claims and there are none in the area. No private property is affected, and the current standard 50’ setback applies to private property adjacent to Montana Creek. The off road vehicles in this area are in a separate area. This setback only concerns the flood plains, the areas that have been studied and found to be necessary for wetlands functions and has been approved by all public boards.

Mayor Botelho asked Mr. Anderson if he was referring specifically to page 197. Mr. Anderson said yes, page 197, the guidelines as well as the implementing action 731a1 of page 76.

Mr. Wanamaker appreciated the information from everyone and said we need to balance community needs for people now and in the future. He spoke against the motion, as he did not want to bind a future assembly. 200 feet in the current draft was sufficient, and 66 feet has been found to be sufficient in numerous studies. We may have an unanticipated need and this would be difficult to undo. There are numerous agencies at work to protect this area and they will continue to do so – the protections are there and this is an unnecessary burden.

Mr. Sanford said he thought there was agreement to review the watershed proposals at the Committee of the Whole. He saw this report a year ago right after Chapter 8 of the Parks and Recreation Plan was passed. He was under the impression that we would hear this information at the Assembly level and asked why it has not come before the Assembly.

Mayor Botelho said he recalled the action of the COW was to suggest that the matter be brought forward later after having gotten clarification from the Planning Commission with respect to whether it was 200 or 500 feet. This does not preclude any member from bringing this issue forward for action.

Mr. Anderson said the Lands Committee had no recommendation when it came before the committee before and there was proof that current setbacks are not safeguarding watersheds.

Mr. Doll said it was his suggestion at the COW that the finding of the Planning Commission was 500 feet and we have the opinion that the Planning Commission is in favor of the 500 feet. He supported the motion to amend.

Mr. Dybdahl said he recalled that the COW would address this separately sometime down the road after “vetting” this issue more thoroughly. Any part of this Comprehensive Plan can be amended at any time. Very often people look at these policies in the comprehensive plan and
build arguments as if it could never change, and it may seem that way because it takes so long to review amendments to the plan. He supported the amendment, he felt he had enough information, and any future assembly could change this 500 foot setback.

Mayor Botelho said that we do agree that the COW would take this up at a future date but it does not bind the Assembly to any particular action tonight.

Mr. Anderson said he did not have that understanding. He understood this issue would be discussed tonight in order to not further delay the adoption of the plan.

Ms. Chambers said she appreciated the debate and the information and regrets that we are getting a lot of information at tonight’s meeting for further consideration. She understands Mr. Dybdahl’s comments, but prefers to stay with the current reading and review the matter given more time and bring the issue up in the future.

Mr. Anderson said what was proposed in the Comprehensive Plan until last week’s Committee of the Whole meeting was 500 feet. If this doesn’t qualify as the way this plan should be reviewed, it looks like a political vote that ignores the public review process.

Ms. Chambers said this information is excellent, this is the first of it she had seen, she wanted the time to review this material, and she was not diminishing its quality in any way.

Mr. Sanford said he understood the route differently. We were looking at the watersheds – this has never come before the City and Borough Assembly. This has nothing to do with politics. We should be involved in this discussion as Assemblymembers. Until he learned more he would not support the 500 foot Montana Creek buffer.

Mr. Wanamaker said he recalled the same information as Mr. Sanford. This plan is not ready for review and approval. Staff was supposed to bring this information before us and we need this briefing. Another Committee of the Whole meeting is in order. The plan should be tabled until we have this discussion.

Mr. Doll said all the review by the Planning Commission and the Wetland Review Board has been done, we have this scientific report, and upon reading he would not come up with a different conclusion. We have ample information to act.

Roll call on the amendment:
Aye: Anderson, Doll, Dybdahl, Botelho
Nay: Chambers, Sanford, Wanamaker
Motion failed, 4 ayes, 3 nays.

MOTION, by Sanford, to amend the Comprehensive Plan on page 125, following 8.4 SOP -1, he proposed a new 8.4.SOP-2, as follows:

Access through a Lynn Canal Highway is important to provide improved transportation to the Capital City for Alaska's citizens, Alaska's legislators and for the economic well being of Juneau and the Southeast Region. This will also allow for the redeployment of the Marine Highway System to better serve other communities and to help keep the Capital in Juneau.
MOTION, by Doll, to refer matter to the COW, and to include a similar recommendation for the AMHS.

Mr. Doll said the best access to Juneau was to provide alternate ways. The prospects for a road are not very great and it would be best to provide encouragement for the ferry system.

Roll call on the motion to refer:
Aye: Anderson, Chambers, Doll
Nay: Dybdahl, Sanford, Wanamaker, Botelho
Motion failed: 3 ayes, 4 nays.

MOTION, by Sanford, to table the motion, and the discussion of Ordinance 2008-30 to the next meeting so that all members of the Assembly would be present to participate.

Mr. Anderson asked if he could provide notice to reconsider the issue on the matter of the 500 foot buffer on Montana creek at the meeting scheduled for October 20. Mayor Botelho referred with Ms. Ritchie on this matter during an at-ease.

Mayor Botelho said a Committee of the Whole meeting was scheduled for October 13, and may provide an opportunity for further briefing on the Trout Unlimited report.

Mayor Botelho said there is a proposed amendment to the comprehensive plan offered by Mr. Sanford, which was to add a new 8.4.SOP-2. Mr. Doll moved that the matter be referred to committee to consider secondary language to consider the Marine Highway System. That matter was brought to a vote and the motion was defeated, which brought the Assembly back to Mr. Sanford’s motion. Mr. Sanford has asked that the matter be tabled so that it can be taken up at the next regular meeting. Mayor Botelho treats this, with consent, to treat this as a motion to table further discussion on Ordinance 2008-30, until the next regular meeting. Mayor Botelho said it was appropriate for Mr. Anderson to give notice on the issue of Montana Creek stream setbacks.

Mr. Wanamaker said he understood that the issue is to table the whole report. He disagreed that we can give notice of reconsideration on an amendment to the larger body of action. He would like to have this researched, as Mr. Corso issued a previous opinion that this was not a correct action.

Mr. Doll asked if this would this preclude introducing the 500 foot stream setback fresh once more.

Mayor Botelho said the anomaly is dealing with a large document we are trying to mark up as we go. We can research this matter of procedure. We are also in the position to suspend rules and to try to do this without too much reliance on parliamentary procedures blocking us from actions we wish to take.

Hearing no objection, the motion to table was adopted.

B. Ordinance 2008-15(S)(b)
An Ordinance Appropriating To The Manager The Sum Of $79,986 As Partial Funding For The Emergency Management Program And Avalanche Forecasting, Grant Funding Provided By The Department Of Military And Veteran’s Affairs.

Public Comment: None.

Assembly Action:

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

IX. UNFINISHED BUSINESS

X. NEW BUSINESS

A. Regulations - Docks and Harbors Lease Administration

Administrative Report: Attached. The manager recommended that unless the Assembly directs otherwise, the Docks and Harbors Department will issue the regulations with an effective date seven days after filing with the City Clerk.

Public Comment: None.

Assembly Action:

MOTION, by Dybdahl, for orders of the day.

Ms. Chambers asked to speak to Mr. John Stone about the regulations. Ms. Chambers asked regarding subsection B of 50.040 regarding the terms “approve appraised annual rental,” and asked how the appraisal was performed, who secured the appraiser, and what room was there for negotiation on the appraisal. She said she was aware of the dispute resolution paragraph, but asked what came before a dispute resolution regarding coming to an agreement regarding the appraised value.

Mr. John Stone said the language in paragraph B, the “minimum acceptable annual rental” is straight from the CBJ lease ordinance and is not new language. The law department felt it was important to be comprehensive and to include this in the regulation. In appraisals, it depends on the situation, but the Board normally tries to use a percentage of the assessment as the rent amount for the lease, as that is the least expensive, and generally people can agree that the CBJ assessment is the full and true value of the land based on current sales. Based on historical CBJ practice, a percentage of that full and true assessed value is taken, which becomes the annual rental, harbors uses 8% of that value. This has been a policy that has been affirmed by the Assembly on many occasions in lease ordinances. In cases that applicants feel it is too high, they are allowed to hire their own appraisal. It is an expense that could be more than the additional rent they think they should pay, their information will be presented to the Docks and Harbors Board for review. He relied on the Assessor to assist, or might hire a professional appraiser.

Ms. Chambers referred to subsection G of the same section, which said that if there was no agreement with the lessee the board shall pay for an additional appraisal. She thought it seemed
incumbent on the board to go the next step, not incumbent on the lessee. Mr. John Stone said if there was going to be an additional appraisal the board would pay for that, but with regards to the initial appraisal, that was the applicant’s responsibility. The board does not pay for that, nor any surveying costs to plat the land, the application review, etc.

There was no objection heard to orders of the day and the regulations were allowed to become effective.

B. Request to Alaska Department of Transportation - West Douglas Highway Extension

Mr. Wanamaker declared a conflict of interest as a Board Member of Goldbelt, whose lands were involved with this issue. Mayor Botelho agreed and Mr. Wanamaker stepped away from the meeting.

Administrative Report: Attached. The manager recommended that upon approval of the Assembly by motion, a draft letter will be sent to ADOT/PF to initialize this request to re-route state funds to the West Douglas Highway extension project.

Public Comment: None.

MOTION, by Anderson, to approve sending the draft letter enclosed in the Assembly packet. Hearing no objection, the motion was adopted.

Mr. Wanamaker returned to the dias.

C. Van Dort v Planning Commission

Administrative Report: Attached. As this is a matter on appeal, the manager made no recommendation. Ms. Ritchie said that the standards for accepting an appeal are in the CBJ code and the Assembly is directed to look liberally at the Notice of Appeal in order to preserve the rights of the appellant.

Mayor Botelho said he would recommend this matter be turned over to a hearing officer due to the involvement of several matters of law.

MOTION, by Wanamaker, to accept the appeal, and to refer the matter to a hearing officer. Hearing no objection, it was so ordered.

XI. STAFF REPORTS – None.

XII. ASSEMBLY REPORTS

A. Committee Reports

Committee of the Whole: Chair Wanamaker said the COW met to review the comprehensive plan. More meetings will be scheduled. Mr. Anderson asked if there would be a COW on October 13. Mr. Wanamaker said he would confer with staff to determine if this would be sufficient time to gather information.
Human Resources Committee: Chair Chambers said the HRC met to review and recommend the following committee appointments:

Americans With Disabilities Act Committee – Alan Hula and Sharon Zuboff, for terms expiring August 31, 2011.


Social Services Advisory Board – Joanne Schmidt and Lawrence Lee Oldacker for terms expiring September 30, 2011.

Hearing no objection, all the HRC recommendations for appointments were approved.

The newly reformed Sister Cities Committee is being advertised and Ms. Chambers asked for assistance in finding members.

Public Works and Facilities Committee: Chair Doll said the committee met on September 22nd, heard information and made recommendations for the introduction of Ordinance 2008-15(R), Resolution 2454 and Res 2451. They also heard a recommendation from the engineering department regarding an Assembly resolution supporting an ADEC Loan for the Twin Lakes Mountainside pump station improvements and the West Mendenhall Valley sewer extension project which we will see legislations on later.

B. Liaison Reports

Bartlett Regional Hospital Board: Liaison Sanford said the BRH Board meets regularly and is looking at another remodel in the near future.

Commission on Sustainability: Liaison Doll said the COW met on September 17th and prepared for tonight’s presentation by Ms. Lewis. They also discussed a proposal about a solid state ammonia synthesis project which is conceptually a method of generating and storing alternative power.

Docks and Harbors Board: Liaison Dybdahl said the Board met September 25th and discussed snow removal issues. The perception was that at some time in the past, perhaps 1999 or shortly thereafter, there was a committee appointed to make recommendations on snow removal issues. He asked if this was done. No one present was aware of such a committee or study. Mr. Doll said the PWFC had received a report on the subject at a recent meeting, so there is information available.

Planning Commission: Liaison Anderson said the PC met and recently approved several permits for the Diamond Park Pool.

XIII. ASSEMBLY COMMENTS AND QUESTIONS

Mr. Anderson said he had reviewed the issue of cultural gateway back over the past few years. Mr. Swope and Mr. Watt said that this project had stalled for no particular reason. Mayor Smith was to appoint a committee, this was not done. He asked that the mayor appoint a committee to review the cultural gateway ideas, as there has been $100,000 in budget for the
past five years. Mr. Anderson said this would be a public committee, which had identified leaders from cultural groups.

Mr. Sanford suggested looking at all of the different organizations that are interested in a cultural gateway, Filipinos, Native Americans, Norwegians, fisherman, so we can have a “well-rounded gateway,” or perhaps several gateways. Mr. Wanamaker said this was to be a cultural advisory committee to be culturally appropriate for the entire town.

Hearing no objection, Mayor Botelho asked Mr. Anderson to fashion a charge for the committee to make sure we have a clear mission statement. Mr. Sanford said that there is some information in the waterfront plan on this issue.

Ms. Chambers referred to the information from the Performing Arts Commission, indicating they have completed their charge, and would like to leave the remaining information in other hands, and asked how to proceed. Mayor Botelho asked the Human Resources Commission to review the matter and Ms. Chambers agreed.

Ms. Chambers asked about a staff report with information on food sales tax, and when can that be expected to be provided. Mr. Duncan said that some research has been done, it was left with Mr. Stone to meet with staff, he is away, but will set the Finance Committee meeting date.

**MOTION, by Sanford, that the City Manager, on behalf of the Assembly, write a letter to the U.S. Forest Service and the U.S. EPA requesting a copy of the Draft Environmental Assessment for the Kensington Mine.**

Mr. Sanford said this project is very important and vital to Juneau and the Southeast Region for many reasons. The public and the Assembly need to know what the comments in the Assessment are that brought us to this current situation. The mine project has been going on for 18 years, we could have 220 people working on the mine, over 100 people supporting the mine, and we could have the tax dollars coming into the community at this time if we had not had all the delays and lawsuits. We need this information.

Hearing no objection, it was so ordered.

Mayor Botelho said he had received a letter from Dennis Young, who is the president of the International Longshore and Warehouse Union, Local 16 in Juneau, asking for Assembly support in their complaint to the U.S. Customs and Border Patrol regarding the use of cruise ship crews to perform longshore work both in tying up and casting off lighter boats in the Juneau Harbor, an activity which is committed to Longshore and Stevedores by U.S. laws. They request we express support for their position, and he was asking Assembly approval for this request.

Mr. Doll encouraged Mayor Botelho to do so. This is an issue of jobs in Juneau.

Mr. Dybdahl asked for clarification, and if this was something new. Mayor Botelho was unsure, he read a portion of the letter stating that “…the ILWU had attempted to resolve the matter through their employer, Southeast Stevedoring, but the cruise ship companies are refusing to hire longshoreman to perform this work and choosing to ignore U.S. laws...”
Ms. Chambers asked if CBJ Assembly support for such a letter in any way bound the Assembly to a position in either way regarding interactions and discussions. Ms. Ritchie said she saw no problem to express concern for crew to be used for stevedoring.

Mr. Wanamaker supported such a letter.

Hearing no objection, it was so ordered.

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

XV. EXECUTIVE SESSION

Mayor Botelho reminded the Assembly of the manager’s request to hold an executive session for discussion of a potential land acquisition by the Assembly, the immediate knowledge of which might have detrimental effect to the finances of the city.

Public Comment: None.

Assembly Action:

Hearing no objection, the Assembly entered into executive session at 9:30 p.m. and returned at 9:40 p.m.

Mayor Botelho said the Assembly discussed a matter of land acquisition, and chose to decline such a potential land acquisition.

Ms. Ritchie said that the Assembly was not directing the manager any further with that particular land acquisition.

Mr. Anderson gave notice of reconsideration regarding the motion of the 500’ buffer on Montana creek.

Mr. Anderson said he was finding it frustrating to work with the Department of Transportation and Public Facilities on the project to construct a pedestrian walkway over Glacier Highway to the UAS Anderson Building undergoing current remodel. Similar to the Auke Lake Wayside project, DOT could not guarantee the project would not be torn down or removed in the future.

XVI. ADJOURNMENT – 9:45 p.m.

Signed: ____________________________  Signed: ____________________________

Laurie Sica, Municipal Clerk  Bruce Botelho, Mayor