THE CITY AND BOROUGH OF JUNEAU, ALASKA

Meeting Minutes – March 16, 2009

MEETING NO. 2009-06: The Regular meeting of the City and Borough of Juneau Assembly, held in the Assembly Chambers of the Municipal Building, was called to order at 7:00 p.m. by Mayor Bruce Botelho.

I. ROLL CALL

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

Assembly Absent: None.

Staff Present: Rod Swope, City Manager; Kim Kiefer, Deputy City Manager; John Hartle, City Attorney; Laurie Sica, Municipal Clerk; Craig Duncan, Finance Director; Marc Matsil, Parks and Recreation Director; Heather Marlow, Lands and Resources Manager; Eric Mohrmann, Fire Chief; Dale Pernula, Community Development Director; Gary Gillette, Port Engineer; Mila Cosgrove, Human Resources; Deb Senn, Law Department;

II. SPECIAL ORDER OF BUSINESS

A. Treadwell Historical Preservation Society Presentation

Paulette Simpson said she is President of this Society, which was incorporated in May, 2008, to preserve the foundations and restore the last standing building in order to provide the public with access, recreation, and enjoyment of the history of the Treadwell area. She introduced Gary Gillette, a member representing the CBJ and Catherine Johnson, a member representing AJT Properties. Ms. Simpson said that there is a collaborative Memorandum of Agreement between the Society and the CBJ, through the Parks and Recreation Department. The Assembly applied for grant funds for a historic survey, which is the first step in their projects. In 1973, when the site was conveyed to CBJ by AJT properties, it was with the understanding that the area would be an historic park. Ms. Simpson detailed some of the history of the area and distributed some literature about Treadwell to the Assembly.

Mayor Botelho thanked Ms. Simpson and the Society for the presentation and for their efforts.

Mr. Stone said, as a mining historian, Treadwell is very special to him. The area has always been intended to be a park. It is now overgrown. The vision is to open the park. Treadwell spawned many businesses that remain today and opened up the area to development. It was an amazing operation. He said that he and Mayor Botelho are original incorporators, but not board members. He asked Ms. Simpson to outline the makeup of the board. Ms. Simpson said the board had members representing the Treadwell neighborhood (herself), the Douglas Fourth of July Committee (Rich Poor), CBJ (Gary Gillette), AJT Mining Properties (Catherine Johnson), Gastineau Channel Historical Society (Jim Geraghty), Juneau Gold Rush Commission (Jerry Harmon) and the Douglas Advisory Board (John Delgado).
B. Southeast Conference Presentation

John Bolling, City Administrator, Craig, Alaska, made a presentation to the Assembly as a past president of Southeast Conference and current chair of the Environment Committee. The committee’s primary focus has been on municipal solid waste for the past several years. Discussions have been on taking a regional approach in Southeast. Many communities ship waste to Eastern Washington. Many communities have common problems regarding waste disposal which they are looking for common solutions. He distributed a draft ordinance, which would establish a regional solid waste authority in Southeast Alaska, and asked the Assembly to review and consider becoming part of the authority.

C. Employee Recognitions

Chief Mohrmann recognized Shawna Libby and Ray Roberts for coordinating a program to install smoke alarms in the community and Louis Tagaban and Houston Laws for their work in teaching fire safety and prevention in the schools.

John Hartle recognized the work of Robyn Carlisle and Jim Douglas, CBJ Prosecutors. Both are complimented frequently by other attorneys in Juneau on how great they are to work with, even in cases in which their clients go to jail.

III. APPROVAL OF MINUTES

A. February 23, 2009 – Regular Meeting 2009-04

Hearing no objection, the minutes of the February 23, 2009, Special Meeting 2009-04, were approved.

IV. MANAGER’S REQUEST FOR AGENDA CHANGES – None.

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS.

Wade Bryson, owner and operator of Subway Restaurant, spoke about his business’ role in providing a healthy, clean environment in downtown Juneau. His landlord, Goldstein Properties, sweeps the sidewalks daily. He encourages his employees to do so as well and to recycle. He suggested establishing smoking areas downtown and the installation of more ashtrays. All businesses downtown are on board to help make a clean environment. He also completely supports the downtown parking garage.

Lorilyn Swanson, representing the Juneau Commission on Aging, encouraged the Assembly to draft a resolution of support for the Alaska Commission on Aging priorities. The Juneau Commission on Aging is planning to conduct its next ten-year survey. They provided CBJ with a copy of the Fairbanks Senior Survey.

Kirby Day, spoke about Tourism Management Best Practices, which includes 60 operators, 1400 employees. There will be a public meeting on Thursday, March 19, at 6 p.m. at the Temsco Helicopters terminal to go through 2008 guidelines, get input, and provide guidelines for 2009.
Dennis Young, President, Long Shore Union, thanked the Assembly for their past support of local longshoremen performing work on local docks, as there have been issues with foreign ships having foreign workers do the work of longshoremen. This issue has moved on to the federal level. This is not just a cruise ship issue, it is also on many foreign ships and these occurrences happen frequently in the fishing industry in all parts of Alaska.

VI. CONSENT AGENDA

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

The public requested that Resolution 2463 be removed from the consent agenda for a public hearing.

B. Assembly Requests for Consent Agenda Changes – None.

C. Assembly Action

MOTION, by Bush, to adopt the consent agenda, with the exception of Resolution 2463. Hearing no objection, it was so ordered.

1. Ordinances for Introduction – None.

2. Bid Award

   a. Bid Award E08-219
   Dzantik’i Heeni Covered Playground

      Administrative Report: Attached. The manager recommended award of this project to McGraw Custom Construction, Inc., in the Base Bid amount, for a total award of $869,675.49.

   b. Bid Award E09-167
   Geothermal Loop Fields

      Administrative Report: Attached. The manager recommended award of this project to Admiralty Construction, Inc., for the Base Bid and Additive Alternates 1 through 3, for a total award of $2,055,524.

Removed from the consent agenda:

Resolution 2463

A Resolution Establishing The Fiscal Year 2010 - 2013 CBJ Transportation Needs List, And Nominating Projects For The State Of Alaska Department Of Transportation And Public Facilities Statewide Transportation Improvement Program.

Administrative Report: Attached. The manager recommended Resolution 2463 be approved.

Public Comment:
Jackie Stewart, commended the Assembly for putting together this great list of projects. She concurred with all except for one - Juneau Access: Glacier Hwy MP 40.5 - 91.1. The court has thrown out the EIS statement, so for CBJ to encourage the building of a road after the court has thrown out this project does not seem appropriate. She spoke about the public vote against this road. There are other alternatives. The idea of a railroad as access north out of Juneau is another interesting idea. She suggested putting a new EIS at the top of the list, which includes all reasonable alternatives, including a railroad.

Assembly Action:

MOTION, by Sanford, to adopt Resolution 2463, and he asked for unanimous consent. Hearing no objection, Resolution 2463 was adopted.

VII. PUBLIC HEARING

A. Ordinance 2009-01

An Ordinance Authorizing The Manager To Execute A Lease Of A Portion Of Lot 1, U.S. Survey 3846 Located On North Douglas To Capital Community Broadcasting, Inc., (KTOO), To Relocate Two 60' Antenna Support Structures And An Equipment Enclosure.

Administrative Report: Attached. The manager recommended that Ordinance 2009-01 be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Wanamaker, to adopt Ordinance 2009-01 and he asked for unanimous consent. Hearing no objection, Ordinance 2009-01 was adopted.

B. Ordinance 2009-04

An Ordinance Amending The Land Use Code Relating To Fees For Land Use Permits.

Administrative Report: Attached. The manager recommended that Ordinance 2009-04 be adopted.

Public Comment:

Dixie Hood, said the whole issue of after-the-fact permits seems so in violation of the law, that paying a penalty seemed a little flakey. Too often projects just move forward, with or without a permit. She did not think this ordinance was an adequate measure.

Assembly Action:

MOTION, by Anderson, to adopt Ordinance 2009-04.

Mr. Anderson agreed that if someone is intentionally breaking the law, the fine seems minimal. He was concerned about the wording on Page 2, Section b, regarding the Director’s ability to waive the extra processing fees just upon a finding that there would be no extra cost to the
department. He did not think that was the intention of the ordinance, which was to apply those fees regardless of what it cost, as a fine on the developer that avoided filing for a permit.

**MOTION**, by Anderson, to amend the ordinance on Page 2, Section b, line 9, to delete all the words after “upon a finding...” and substitute the words “of extenuating circumstances involving a first time applicant.”

Mr. Bush concurred with the intent of the motion, but preferred to see Section b eliminated. Eliminate any discretion regarding these additional fees, unless we can clearly define a first time applicant. Essentially, follow the rules or pay double.

Mr. Dybdahl said he agreed with Mr. Bush and has concerns. We may be putting in the ability for someone to use this as a cost of doing business. It may be worthwhile in a “time is money” situation. This might encourage the wrong behavior if it is not more severe, with larger fees.

Mr. Sanford agreed that Section b should be eliminated. Currently, contractors know that there must be a permit to take action and should be a matter of course.

Mr. Doll agreed.

**MOTION**, by Anderson, to substitute his previous motion for the following motion, to eliminate Section b.

Mr. Pernula asked to comment. His concern about eliminating the Director’s ability to waive the fee was that there were some cases in which discretion could be in order. He referred to a case in which a homeowner purchased a home with an existing accessory apartment and when refinancing their loan was informed that the apartment had not been installed with proper permits and was essentially illegal. The homeowners came in to obtain the appropriate permits. In this type of case, he did not see why this additional fee could not be waived.

Mr. Doll said that homeowner was not the person who installed the apartment without permit. Mr. Pernula said that was correct.

Mr. Wanamaker objected to taking out the staff’s discretion in this matter, and this might result in the matter being appealed to the Assembly.

Mr. Bush had problems with a waiver based solely on the staff time spent on the matter. Virtually anyone who submitted a late application will attempt to request this waiver. The language in Section A is a penalty that is assessed on the work, not on the individual offender.

Mr. Hartle said this was not the enforcement section of the land use code, which provided fines, descriptions of lawsuits and the matters subject to those enforcement measures. The original idea was based on staff time, but this is only a small part of the solution to this problem.

Mr. Sanford said he was looking at this in relation to commercial activities, and residential units may be different. Mr. Sanford asked for examples of commercial activities that had been started without permit. Mr. Pernula referred to the appeal case regarding the development on Lemon Creek.
MOTION, by Wanamaker, to refer the ordinance to the Public Works and Facilities Committee for more work.

Mr. Anderson objected, and asked for a vote on the substitute motion.

Mr. Doll said the issue is clear and the Assembly has put some time in to this already.

Roll call:
Aye: Chambers, Sanford, Wanamaker, Botelho
Motion to refer failed 4 ayes, 5 nays.

Mr. Sanford withdrew his support for eliminating Section B due to the example Mr. Pernula provided regarding the residential accessory apartment situation.

Mr. Bush asked for clarity. Mr. Pernula said he was referring to a situation in which a prior owner converted a garage to a dwelling unit without a use permit or building permit, and this was discovered when the current owner was attempting to refinance the home.

Mr. Doll said he thought the law required that the person who installed the apartment should be subject to the fine, not the current owners. Mr. Pernula said that the current owner had operated the apartment for a number of years, and was obtaining the benefits of the situation, it was an after-the-fact permit, even though it may not have been their fault. He understood Mr. Doll’s interpretation but said he would not interpret the code in that way. Mr. Pernula would apply the double fee in this situation with the new ordinance in place.

Mr. Doll did not agree with Mr. Pernula’s interpretation and suggested that if the title company, lender, or the V.A. did not know about the situation, then we have no choice but to vote to defeat the proposal and do what we just decided not to do, which is refer the matter to committee.

Mr. Dybdahl said he agreed with Mr. Doll. In this situation, it seemed this would be a “first time permit” when they discovered the error. He was in favor of the original amendment in that case which would give some latitude to the director.

Roll call vote on substitute motion:
Aye: Anderson, Bush, Botelho
Nay: Chambers, Doll, Dybdahl, Sanford, Stone, Wanamaker.
Substitute motion failed, 3 ayes, 6 nays.

Mayor Botelho said the original motion was before the body.

MOTION, by Bush, to reconsider the motion to refer the matter to the Public Works and Facilities Committee. Hearing no objection, the motion to refer the matter to PWFC was before the body.

Mr. Anderson asked if Mr. Hartle thought there was an easy fix to this ordinance. Mr. Hartle said this discussion would be better addressed in committee.

Hearing no objection, Ordinance 2009-04 was referred to the PWFC.
C. Ordinance 2009-05
An Ordinance Authorizing The Manager To Execute A Lease With The Juneau Arts And Humanities Council (JAHC) For Use Of The Former Armory Building.

Administrative Report: Attached. The manager recommended that Ordinance 2009-05 be adopted.

Public Comment:

Dennis Harris, supports this lease. Nancy DeCherney and her staff have done a great job in turning an underutilized building into a decent performance space, art gallery, and a building that is well used by the community.

Assembly Action:

MOTION, by Stone, to adopt Ordinance 2009-05 and he asked for unanimous consent. Hearing no objection, Ordinance 2009-05 was adopted.

D. Ordinance 2009-06
An Ordinance Amending The Official Zoning Map To Change The Zoning Of Lot C, Juneau Subport, Currently Zoned Waterfront Commercial WC, To Mixed Use 2, MU2.

Administrative Report: Attached. The manager recommended that Ordinance 2009-06 be adopted.

Public Comment:

Dixie Hood, spoke against this ordinance, in a poem she wrote, titled, “More Park, Not Parking Places.” (Attached)

Dennis Harris, said the last time a building was proposed for the waterfront exceeding 35 feet in height, the assembly received about 3500 letters against the proposal. He asked how a four-story building could be built and maintain the 35-foot height restriction. There is a view plane ordinance, which protects the view from Calhoun Avenue and Telephone Hill. He is sympathetic to having a new building for these agencies. He worked in the Department of Labor building on the first floor and the carpet would get wet due to wave action – these temporary-style buildings are past their life. There is supposed to be water-related, water-dependent uses on the waterfront from the bridge south. He does not want to see a wall in front of the waterfront. Make this building fit the waterfront and have sensitivity to the site.

Assembly Action:

MOTION, by Dybdahl, to adopt Ordinance 2009-06 and he asked for unanimous consent.

Mr. Anderson said that this ordinance is a zoning change. The 35-foot height restriction applies, and to exceed this, the applicant would need to obtain a variance, which provides for a public hearing and a vote of the Planning Commission, so he supported this ordinance.

Mr. Doll said there was a nationwide affliction to take waterfront land away from water-dependent or water-related uses. To argue that only a portion of this lot is lapped by the water
is beside the point. There are many good reasons for wanting this building, for capital enhancement, for providing good office space. This is an unfortunate choice to make.

Hearing no objection, Ordinance 2009-06 was adopted.

E. Ordinance 2008-15(AX)
An Ordinance Appropriating To The Manager The Sum Of $500,000 As Partial Funding For The Dimond Park Swimming Pool Capital Improvement Project, Funding Provided By A Rasmuson Grant.


Public Comment: None.

Assembly Action:

MOTION, by Anderson, to adopt Ordinance 2008-15(AX) and he asked for unanimous consent. Hearing no objection, Ordinance 2008-15(AX) was adopted.

F. Ordinance 2008-15(AY)
An Ordinance Appropriating To The Manager The Sum Of $400,000 As Partial Funding For The Dimond Park Swimming Pool Capital Improvement Project, Funding Provided By Temporary Sales Tax.


Public Comment: None.

Assembly Action:

MOTION, by Chambers, to adopt Ordinance 2008-15(AY).

Ms. Chambers asked why this funding is needed. Ms. Kiefer said the Rasmussen Grant was not received in the full amount, and this money matches the $.5 million of the grant funds.

Ms. Chambers asked if the grant required a match. Ms. Kiefer said no.

Ms. Chambers asked if these funds were in addition to the additional funds for the ground source heat pump. Ms. Kiefer said yes.

Roll call:
Aye: Anderson, Bush, Doll, Dybdahl, Sanford, Stone, Wanamaker, Botelho
Nay: Chambers

The motion passed 8 ayes, 1 nay, and Ordinance 2008-15(AY) was adopted.
G. Ordinance 2008-15(AZ)
An Ordinance Appropriating To The Manager The Sum Of $2,197,100 As Partial Funding For The Downtown Transportation Center Capital Improvement Project, Funding Provided By Federal Transportation Administration Grants.


Public Comment: None.

Assembly Action:

MOTION, by Doll, to adopt Ordinance 2008-15(AZ) and he asked for unanimous consent. Hearing no objection, Ordinance 2008-15(AZ) was adopted.

H. Ordinance 2008-15(BA)
An Ordinance Appropriating To The Manager The Sum Of $365,985 As Funding For The Capital City Fire/Rescue Staffing Adequate Fire and Emergency Response Recruitment Program, Grant Funding Provided By the United States Department of Homeland Security.


Public Comment: None.

Assembly Action:

MOTION, by Sanford, to adopt Ordinance 2008-15(BA) and he asked for unanimous consent. Hearing no objection, Ordinance 2008-15(BA) was adopted.

I. Ordinance 2008-15(BB)
An Ordinance Appropriating To The Manager The Sum Of $93,000 As Partial Funding For The Taku Harbor Transient Moorage Facility, Grant Funding Provided By The Alaska Department Of Fish And Game.


Public Comment: None.

Assembly Action:

MOTION, by Dybdahl, to adopt Ordinance 2008-15(BB) and he asked for unanimous consent. Hearing no objection, Ordinance 2008-15(BB) was adopted.

VIII. UNFINISHED BUSINESS – None.

IX. NEW BUSINESS – None.
X. STAFF REPORTS

Mr. Swope said that the streets are visible; many are in bad shape with potholes. The street department has requested $10,000 to purchase additional cold mix to get us through to spring. In the spring, more permanent patches will be made. Main Street is particularly bad and will be provided with a temporary fix now, with a more permanent fix to follow.

XI. ASSEMBLY REPORTS

A. Committee Reports

Committee of the Whole: Chair Bush said the COW met Wednesday, February 25, discussed snow removal, downtown smoking issues, and the Alaska Committee report to the assembly, and the next meeting will be March 23 at 6 p.m. in the Chambers.

Finance Committee: Chair Stone said the Finance Committee met Wednesday, March 11, and discussed increased funding for Care-A-Van for dialysis patients, increased transit service, heard a report from the Juneau Convention and Visitors Bureau on the tourism season outlook and the Manager presented a five-year financial outlook. The next meeting will be Wednesday, March 25, at 5 p.m. in the Chambers.

Lands and Resources Committee: Chair Anderson said the next meeting will be Monday, March 23, at 5 p.m. in the Chambers.

Public Works and Facilities Committee: Chair Sanford said the West Valley sewer project will begin construction this summer and LID information is going out to property owners now. The next meeting will be March 23, at Noon in the Chambers.

Human Resources Committee: Chair Chambers said the HRC met prior to this meeting.

Hearing no objection, the Assembly approved the following board appointment recommendations from the HRC:

Jensen – Olson Arboretum Advisory Board:
Pat Harris to the SEAL Trust Representative seat for a term expiring January 31, 2012
Ed Buyarski to a term expiring January 31, 2012
Robert L. Daniels to a term expiring January 31, 2012

Juneau Local Emergency Planning Committee:
Seat #4: General Public: Move Dan Logan from the General Public Alternate Seat to the General Public Seat for a term exp. 12/1/2012.
Seat #4a: General Public Alternate – Craig Wilson (Term exp. 12/1/2011)
Seat #5: Bartlett Regional Hospital – Miguel Lopez (Term exp. 12/1/2011)
Seat #6a: Media Alternate – Joel Curtis (National Weather Service) (Term 12/1/2009)
Seat #7: American Red Cross – Reid Bowman (Term exp. 12/1/2010)
Seat#7a: American Red Cross Alternate – Ernst Mueller  (Term exp. 12/1/210)
Seat#8a: Facility subject to SARA Title III Alternate – Peter Serano  (Term exp. 12/1/2010)
Seat#9: Community Group – Chava Lee (Gastineau Humane Society) (Term exp. 12/1/2012)
Seat#9a: Community Group Alternate – Ed Williams (Term exp. 12/1/2012)
The HRC also discussed the 2010 Census Complete Count Committee information. The HRC said that an accurate counting of our population would affect a number of project funding sources over the next decade. There was discussion of partnering with the League of Women Voters and other community groups to get the word out and funding needed to conduct the work. Ms. Chambers would bring a recommendation forward at the Finance Committee for the Assembly to review.

Deputy Clerk McEwen provided a report on the protested liquor licenses from last year that were acted upon at the State’s February Alcoholic Beverage Control Board meeting. The only CBJ protest upheld was that of the Peterson Pacific Holdings d/b/a Louie’s Douglas Inn, in which they have been sent notice that they either have to satisfy the delinquent taxes, interest and penalties owing, or appeal the decision within 15 days of receipt of the ABC Board decision or the license will no longer exist. The ABC Board approved the continued existence of the licenses issued to Patricia McGivney d/b/a Mad Greek (formerly Pizza Verona), provided she satisfies the outstanding delinquent taxes. The board also approved the renewal of the SeaDawgs d/b/a DocWaters license and retransfer of that license to BCM Inc. d/b/a Marlintini’s and the subsequent retransfer of that license to Catapult Inc. d/b/a Flight Deck upon satisfaction of the delinquent taxes, penalties and interest owning on the original license.

B. Liaison Reports

*Parks and Recreation Advisory Committee*: Liaison Wanamaker said the PRAC held a strategic planning meeting Saturday, March 7, and chose five goals: Under Thunder trail development, Treadwell Ditch Trail, Waterfront Plan Seawalk - Marine Park, Off-Highway Vehicle riding area and Youth Activities. There will be a vacancy on the PRAC in June.

*Planning Commission*: Liaison Anderson said the PC met and approved a new paint scheme for the Petro Marine Fuel Tanks near the Douglas Bridge and also approved renaming a portion of Whittier Street as "Warrior Street."

*Airport Board*: Liaison Sanford said the bid has been let for the terminal building so there will be a lot of work going on at the airport over the summer. Dave Palmer submitted his resignation as airport manager.

**XII. ASSEMBLY COMMENTS AND QUESTIONS**

Mr. Bush said the request of the Juneau Commission on Aging is important and without objection, scheduled the issue for a Special Assembly meeting to follow the Finance Committee meeting on March 25 to review a draft resolution from the Assembly.

Mr. Bush asked if there was follow-up on the e-mail sent from the running group trying to coordinate a cruise/run event. Mr. Swope said JCVB and Southeast Roadrunners were contacted.

Mr. Anderson asked Mr. Wanamaker to communicate to the PRAC that their goals are a bit different from the STIP resolution submitted by CBJ.

Mr. Anderson asked the Assembly and staff to be prudent with public funds due to the recent occurrence of projects coming in under bid, and the tendency to include additive alternatives to
bring the project costs up to the budgeted amount. Saving money for future needs should be a goal.

Mr. Sanford presented a draft letter to the governor requesting support for the Kensington Mine, Lynn Canal Highway, and Southeast Electric Intertie. Following discussion and a roll call vote, the letter will be sent.

Mr. Sanford reported on the work done by Southeast Conference on the "Timber Lawsuit" which the Assembly had voted to authorize up to $10,000 in funds to support from Better Capital. Mayor Botelho asked for some record of the work performed.

Ms. Chambers welcomed Southeast Conference to town and the members in attendance that were present in the room.

Ms. Chambers moved to send a resolution of opposition to Congressional House Resolution 1310. It had come to her attention that this bill has the specific intent to shut down the Kensington mine if it passes the Supreme Court. Hearing no objection, Ms. Chambers and Mr. Wanamaker agreed to work together to draft language for the Assembly to review.

Mr. Doll said the Green House Gas Report would be presented to the Assembly at the March 23 Assembly Committee of the Whole meeting at 6 p.m.

Mayor Botelho said he received requests to provide hosting assistance for this week’s Southeast Conference meetings and for assisting the Alaska Siberia Research Foundation to host the Russian Ambassador to Juneau on June 19 - 20. Hearing no objection, the Assembly agreed to host each group in an amount up to $1000.

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

XIV. EXECUTIVE SESSION

MOTION, by Bush, to enter into executive session to discuss a personnel matter, regarding a matter which is confidential by law and also a matter, the immediate knowledge of which may have a detrimental effect on the finances of the city.

Public Comment: None.

Mr. Hartle asked that a second topic be added to the executive session, namely to give direction to the City Attorney regarding a litigation in progress against the city, namely the Comolli litigation. He has a request to the Assembly.

MOTION, by Bush, to discuss a matter under litigation in executive session.

Public Comment: None.

Assembly Action:

Hearing no objection to the proposed topics for discussion, the Assembly entered into executive session in City Hall Conference Room 224 at 8:55 p.m. and returned to regular session at 9:45 p.m.
MOTION, by Bush, to authorize the law department to represent all defendants and enter into an agreement for a legal defense and indemnification of the defendants in the Comolli v. CBJ et.al. litigation. Hearing no objection, it was so ordered.

Mayor Botelho announced that the Assembly approached City Manager Rod Swope to consider a return to CBJ service as City Manager and the arrangement reached is that Mr. Swope will sever his service with CBJ as of May 1, but will return after six months for at least a two-year period. A general outline of specific terms have been reached.

MOTION, by Bush, to authorize Mayor Botelho to negotiate the final terms and conditions of an agreement with Mr. Swope as City Manager as discussed. Hearing no objection, it was so ordered.

Mayor Botelho said the Assembly had reached an understanding with Ms. Kiefer to serve as interim City Manager for the period of May 1 - October 31, 2009.

MOTION, by Bush, to authorize Mayor Botelho to negotiate the final terms and conditions of an agreement with Ms. Kiefer as Interim City Manager as discussed. Hearing no objection, it was so ordered.

Mr. Wanamaker said there was a recommendation to the Assembly, and the Assembly tabled the summary criteria for a revised City Manager search.

MOTION, by Wanamaker, to take this recommendation off the table. Hearing no objection, the matter was before the Assembly.

MOTION, by Wanamaker, that the Assembly approve, then table, the revised City Manager Search recommendations, so that there is an approved template to start from again in the event that our current city manager plan does not work out for some reason that we wish to avoid. Hearing no objection, it was so ordered.

XV. ADJOURNMENT - 9:50 p.m.

Signed:___________________________ Signed:_______________________________
Laurie Sica, Municipal Clerk     Bruce Botelho, Mayor