MEETING NO. 2010-15: 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, Ruth Danner, Bob Doll, Johan Dybdahl (telephonic), Merrill Sanford, David Stone, and Randy Wanamaker.

Assembly Absent: None.

Staff Present: Rod Swope, City Manager; John Hartle, City Attorney; Laurie Sica, Municipal Clerk; Beth McEwen, Deputy Clerk; Mila Cosgrove, HRRM Director; Rorie Watt, Engineering Director; John Stone, Port Director; Kirk Duncan, Eaglecrest Ski Area Manager; Marc Matsil, Parks and Recreation Director; Sheila Fisher, Recreation Superintendent; Karin Richard-Jacobi, Aquatics Manager; Scott Jeffers, Deputy Public Works Director; Liam Carnahan, Utilities Superintendent; Dan Cheshire, JPD Patrol Officer.

II. SPECIAL ORDER OF BUSINESS

A. Capital City Youth Forum – Grayson Carlisle – n/a

III. APPROVAL OF MINUTES

A. May 19, 2010 – Regular Assembly Meeting 2010-14

Hearing no objection, the minutes of the May 19, 2010 - Regular Assembly Meeting 2010-14 were approved.

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

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS.

Randy Sutak spoke about the rate increase proposed by AEL&P. He distributed a letter and graph to the Assembly, which he submitted to the RCA and which he said documented that the rate increase was based upon poor management decisions by AEL&P. He does not believe that the customers should be required to pay for AEL&P’s mistakes.

Ms. Danner thanked Mr. Sutak for his documentation. She asked where he found the information as AEL&P is a private company. He said all the information was gathered from the filings AEL&P made to RCA and to FERC.

Mr. Anderson asked what Mr. Sutak for his expectation of the Assembly. Mr. Sutak said he was present to provide information to the Assembly and the public.
VI. CONSENT AGENDA

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

A member of the public requested that Resolution 2532, Establishing the Aquatic Facilities Advisory Board, be removed from the consent agenda.

B. Assembly Requests for Consent Agenda Changes – None.

C. Assembly Action

MOTION, by Bush, to adopt the Consent Agenda as amended with the removal of Resolution 2532. Hearing no objection, it was so ordered.

1. Ordinances for Introduction

a. Ordinance 2010-18
An Ordinance Amending The Litter Code And Establishing A Penalty.

Administrative Report: Attached. The manager recommended Ordinance 2010-18 be introduced and set for public hearing at the next regular meeting.

b. Ordinance 2010-19

Administrative Report: Attached. The manager recommended Ordinance 2010-19 be introduced and set for public hearing at the next regular meeting.

c. Ordinance 2009-08(AO)
An Ordinance Appropriating To The Manager The Sum Of $1,940 As Funding For The Juneau Police Department’s “Every 15 Minutes-Mock Car Crash Program,” Grant Funding Provided By The Alaska Department Of Transportation.

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

d. Ordinance 2009-08(AP)
An Ordinance Appropriating To The Manager The Sum Of $82,460 As Funding For The Central Council Of Tlingit And Haida Indian Tribe Of Alaska And City And Borough Of Juneau Joint Roadway Repaving Project, Grant Funding Provided By The Central Council Of The Tlingit And Haida Indian Tribes Of Alaska.

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

a. Resolution 2530
A Resolution Reestablishing The Juneau Affordable Housing Commission For The Purpose Of Adding The Review Of Funding Proposals To Its Charge, And Repealing Resolution 2506.

Administrative Report: Attached. The manager recommended Resolution 2530 be adopted.

3. Transfers

a. Transfer T-916
Transferring $9,535 From The Airport Revolving Capital Reserve Account To The Runway Safety Area Environmental Impact Statement Capital Improvement Project (CIP) ($979) And The Construct Delta-1 Ramp CIP ($8,556).

Administrative Report: Attached. The manager recommended Transfer T-916 be approved.

b. Transfer T-917
Transferring $267,467 Closing Two Capital Improvement Projects (CIP), Riverside Drive Improvement ($213,996) And Valley Boulevard Reconstruction ($53,471) To The Long Run – Safe Route To School CIP.

Administrative Report: Attached. The manager recommended Transfer T-917 be approved.

b. Resolution 2532
A Resolution Establishing The Aquatic Facilities Advisory Board.

Administrative Report: Attached. The manager recommended Resolution 2532 be adopted.

Public Comment:

Dixie Hood said she is a member of the CBJ Parks and Recreation Advisory Committee. The PRAC considered this issue and does not believe that any type of board is necessary at this time for management of the pools. She said they would like the newly hired pool manager to do her job and allow time to sort out any issues and see if additional support is needed. At the PRAC meeting of June 1, there was a presentation, which covered the operational budget for FY 11 and 12. The document thoroughly reviewed revenue generation, cost savings, cost recovery, ideas for programs and services. She asked the Assembly to table the resolution and provide the pool manager, who has impressive experience, to demonstrate her expertise.

Mr. Anderson asked if the PRAC had an opportunity to review the resolution. Ms. Hood said no.

Ms. Danner asked if the memo from the Pool Manager mentioned cost recovery. Ms. Hood said the staff estimates a 40% cost recovery for Augustus Brown Pool and a 70% for Dimond Park Aquatic Center. Ms. Danner asked about pricing for pool passes. Ms. Hood said the
memo discussed streamlining some of the past issues with pool passes and the memo provided detailed information.

Max Mertz said David Rogers, Mike Barton, and Rosemary Hagevig gave a letter outlining their ideas to the Assembly in February and said they were silent on the issue, that it was up to the Assembly to determine what type of board might be formed. If the Assembly is to form a board, it should be effective. There are some serious issues in this resolution that will affect the functionality of the board. He has worked closely with the new pool facilities manager, with Sheila Fisher and Marc Matsil, and he thought the evaluation that they are giving the pool is great. He is concerned with the long haul and having public input that is meaningful, that will allow the pools to remain viable and serve the pools in the best way.

Mr. Anderson said he did not understand why Mr. Mertz thought the pools would be better managed by a board. He asked if this would go against Mr. Mertz’s concern and add another layer of bureaucracy. He asked if the same logic should apply to the Treadwell Arena facility and asked what made the pool facilities different from all the other Parks and Recreation facilities. Mr. Mertz said he was not prepared to address that as they all the facilities could be examined. The pool is different – the two pools together will have a significant operational cost. The opportunities for efficiency and operational costs are great. There is transparency with a board, with a special revenue fund, and with a board that goes to the manager.

Thea Howard, an employee of Augustus Brown Pool for 15 years, said this was the first time she had seen the resolution. She said it was odd to consider an advisory board at this time. The current pool is operating fine. There is a great new leader on board who can handle the budget and she needs to be given an opportunity to show herself before the Assembly cuts her out and takes her ability to manage the pool away.

Assembly Action:

MOTION, by Bush, to adopt Resolution 2532.

Mr. Bush said he was disappointed with the draft, as he did not think it was consistent with what the COW discussed and sought as a proposal. We have discussed a “super advisory board.” This proposal does not create anything more than a general advisory board. Mr. Mertz’s points about where and how this board would report and some significant influence over budgetary issues was what he was looking for in the board. Mr. Bush prepared a set of proposed amendments to the resolution and was prepared to discuss them tonight or table the issue to a work session. He does not want to take too much time but is willing to work on the resolution.

Mr. Doll said he is not enthusiastic about this resolution. The effort to shift the emphasis of a city recreational activity from service to the public to cost recovery is mistaken. There are some functions which taxpayers pay, and in an effort to distribute the costs equitably, the manager attempts to do so. He did not think it was necessary for the Assembly to send a signal to the manager that it does not have confidence in his management or in the management capability of the person he has chosen to direct this department. He has no interest in having this board report to the Assembly. This is a contradiction with the Charter as well as the Assembly’s Rules of Procedure. He asked the Assembly to table the motion indefinitely.
Mr. Anderson said that the COW did not come up with this type of resolution but only discussed an empowered board, which we voted to table indefinitely. This has not been discussed, it has not gone to the PRAC and he would be happy to table this for further discussion. He agreed with Mr. Mertz that this resolution was a recipe for confusion. A total empowered board might make some management sense, but for an advisory board to be reporting to the Assembly on marketing, budget and CIP’s for pool management – this is not the Assembly’s role.

Mr. Stone supported tabling the resolution for further discussion.

Mr. Sanford asked how long the Assembly had to discuss this based on deadlines for the ballot. Mayor Botelho said this resolution was not a matter for a ballot proposition. If the Assembly was looking at a Charter Amendment, that was different. Mr. Swope said the deadline for the Assembly to adopt a charter amendment was August 6.

Mr. Sanford said he thought Mr. Bush and a few Assemblymembers would meet with the Law Department, Ms. Kiefer and the Pool Advisory group. The resolution seems incomplete. He was willing to send this back to the Law Department to meet with interested groups.

Mr. Bush said he agrees that we need to keep the pool open and available to the public as much as possible. We grill members of the Eaglecrest Board about their finances, and know that the cost of using that facility is very high and unavailable to some members of the public. It is a reality, and therefore, it is illogical for us to consider revenue issues when dealing with the pool. The public will be quite upset if they see a huge subsidy for swimming pool activities, just as they have balked at the Eaglecrest subsidy over the years. We at least need to prove we are making a good solid effort and the best effort I can think of to do so is to have a strong advisory group which is focused on how best to raise money. The Parks and Recreation Department is very strong in this city and does an excellent job of managing and running parks and recreation activities. They are not designed, nor are many city or government organizations, designed to think about raising revenue. We need to focus on a strong advisory board for that purpose.

**MOTION**, by Bush, to table Resolution 2532 to the Committee of the Whole for a work session on June 21, for return to the regular Assembly meeting under “Old Business” on June 28.

Mr. Bush encouraged the PRAC to review this resolution before the next meeting.

Mr. Dybdahl asked what the urgency was on this resolution.

Mayor Botelho said if one of the strategies discussed is to consider again some form of a charter amendment, the matter needed early consideration for ballot placement.

**VII. PUBLIC HEARING**

A. Ordinance 2010-06

An Ordinance Amending The Sewer Code Relating To The Multi-Family Dwelling Exception Within The Single-Family Units Definition.
Administrative Report: Attached. The manager recommended Ordinance 2010-06 be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Doll, to adopt Ordinance 2010-06.

Mr. Doll asked if sewage was metered. Mr. Swope said that sewage use is measured on the amount of water used in facilities that are metered.

Hearing no objection, Ordinance 2010-06 was adopted.

B. Ordinance 2009-08(AL)

An Ordinance Appropriating To The Manager The Sum Of $133,180 As Funding For The Development Of The Juneau Nordic Ski Trails, Grant Funding Provided By The Alaska Department Of Natural Resources.

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

Public Comment:

Dixie Hood supported this resolution. Juneau has a phenomenal trail system, there has been a lot of volunteer and non-governmental organization contribution to the system and she provided her enthusiastic support.

Assembly Action:

MOTION, by Anderson, adopt Ordinance 2009-08(AL). Hearing no objection, Ordinance 2009-08(AL) was adopted.

C. Ordinance 2009-08(AM)

An Ordinance Appropriating To The Manager The Sum Of $5,009,000 As Funding For The Bartlett Regional Hospital Medical Surgical East Wing Renovation Capital Improvement Project, Funding Provided By The Bartlett Regional Hospital Operating Budget.

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

Public Comment: None.

Assembly Action:

MOTION, by Stone, adopt Ordinance 2009-08(AM).
Mr. Anderson wanted to ask someone from Bartlett about its organizational issues. He is looking forward to hearing the progress report.

Hearing no objection, Ordinance 2009-08(AM) was adopted.

D. Ordinance 2009-08(AN)
An Ordinance Appropriating To The Manager The Sum Of $150,000 As Partial Funding For The Public Works Department - Fleet Maintenance Division’s Fiscal Year 2010 Operating Budget, Funding Provided By Interdepartmental User Fees.

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

Public Comment: None.

Assembly Action:

MOTION, by Danner, adopt Ordinance 2009-08(AN). Hearing no objection, Ordinance 2009-08(AN) was adopted.

VIII. UNFINISHED BUSINESS

IX. NEW BUSINESS

A. Notice of Appeal
Bachoura vs. CBJ Planning Commission regarding Allowable Use Permit USE2010-00009 at 306 W. 8th St.

Mr. Bush asked to be excused from participation in the appeal, as he is the next-door neighbor to the property subject to the Allowable Use Permit USE 2010-00009.

Mr. Hartle said he spoke with Mr. Bush prior to this meeting, and as an immediate next-door neighbor, Mr. Bush feels the physical changes to the property may affect the value of his house. Therefore, he has an immediate financial interest in the issue and Mr. Hartle said it was appropriate for Mr. Bush to recuse himself.

Hearing no objection, Mayor Botelho excused Mr. Bush from participation. Mr. Bush stepped away from the meeting.

MOTION, by Doll, that the Assembly accept the appeal, hear the appeal itself, and appoint Mayor Botelho as the Presiding Officer.

Ms. Danner asked what would happen if the Assembly did not wish to hear the appeal. Mr. Hartle said the Charter requires an appeal process for every board decision and the appeal code was very narrow in providing for rejection of an appeal. Mr. Hartle said he saw no reason for not accepting the appeal.

Hearing no objection, it was so ordered. Mr. Bush returned to the meeting.
X. STAFF REPORTS

Mr. Swope spoke enthusiastically about the JPD Officer Brian Ervin’s assignment to dedicated foot patrol of the downtown area.

Mr. Swope said that thanks to good work by the Law Department, CBJ has agreed to stay the complaint filed in court with the property owners of “the pit” at the corner of Seward/Front and Shattuck Way, regarding the failing sidewalks. The owners have agreed to fill the pit and repair the sections of the sidewalk in need of repair by a July 15 deadline. Sealaska is currently in negotiations about a purchase of the property and if they acquire it, have told Mr. Swope they plan to do some type of landscaping until the property can be developed.

Mr. Hartle followed up on a request by the Assembly to understand if its actions regarding 12th Street reconstruction had violated the open meetings act. Mr. Hartle said he reviewed the minutes of all the meetings, spoke with Rorie Watt and Barbara Ritchie, and determined there was no violation of the open meetings act. The OMA does not require that the assembly take no action other than that which is listed on the agenda – things come up. The assembly could have left the whole issue to the manager, but decided to weigh in on the topic, and in his opinion, did not violate the OMA.

XI. ASSEMBLY REPORTS

A. Committee Reports

*Committee of the Whole:* Chair Wanamaker said the next meeting is Monday, June 21.

*Human Resources Committee:* Chair Doll reported, and hearing no objection, the Assembly agreed to reappoint David Lefebvre and appoint Mike Stanley and Jason Bluhm to full terms ending June 30, 2013, to the Eaglecrest Board of Directors.

*Lands and Resources:* Chair Anderson said the next meeting is Monday, June 14. Hearing no objection, the Assembly directed the Attorney to draft a resolution, requested by AK DOT/PF, stating CBJ’s interest in owning and maintaining the West Douglas Road Extension in order to release DOT funding for the project.

B. Liaison Reports

*Eaglecrest Board:* Liaison Anderson said the Porcupine lift is on schedule, on budget, and is not using any CBJ funds for its construction.

*Airport Board:* Liaison Sanford said the Airport dike trail is open, the new dredge is working, and projects are on-going.

*Hospital Board:* Liaison Stone said the Hospital Board hired Foraker Group to do an assessment survey of employee moral for an independent review and results should be available by the end of June.
Planning Commission: Liaison Doll said the next meeting is Tuesday, June 8, and the major issue is parking, which will be heading to the Assembly for review as well.

Juneau Commission on Sustainability: Liaison Doll said there are three vacancies on the board and any member of the public encouraged to apply.

C. Presiding Officer Reports

1. Appeal Decision - DRAFT

International Union of Operating Engineers Local 302 vs. CBJ Personnel Board

Mayor Botelho noted the written response from the IUOE-Local 302 provided to the Assembly in the Red Folder and recommended that the Assembly discuss the draft decision in executive session.

XII. ASSEMBLY COMMENTS AND QUESTIONS

Mr. Sanford asked about noise ordinance. Mr. Hartle said he would meet Tuesday with Ben Lyman to review this ordinance and the parking ordinance issues.

Mr. Stone said University of Alaska is training people in mining skills and the courses include many people from all around Southeast Alaska. It is a very good career development program for our Southeast neighbors. A recent legislative appropriation will purchase a simulator, which will greatly assist in the training and put Juneau on the map as the underground mine training center in Alaska.

Mr. Doll asked the Assembly to consider bond issuance to fund the dredging of Douglas Harbor, as the Board does not have the funds to do the costlier disposal methods that the regulatory agencies may require. Ms. Danner suggested this was a duty of the Corps of Engineers to accomplish and fund. Mr. Doll said that he did not believe the Corps would spend funds on this type of municipal harbor project.

XIII. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Dixie Hood disagreed the city attorney’s legal opinion and said the law may allow the Assembly to take action on matters not advertised on the agenda, but said that just because the Assembly had the right to do so did not make it right, especially regarding highly controversial matters.

XIV. EXECUTIVE SESSION

MOTION, by Bush, to enter in to executive session to discuss: (1) a quasi-judicial matter, the proposed decision regarding IUOE-Local 302 v CBJ Personnel Board, and (2) Mr. Hartle’s performance evaluation, a matter subject to executive session.

Public Comment: None.

Assembly Action:
Hearing no objection, the Assembly entered into executive session at 8:07 p.m. and returned to regular session at 8:24 p.m. Mr. Sanford recused himself from the portion of the executive session, which addressed the appeal decision.

Mayor Botelho said that in executive session, the Assembly reviewed the beginning of Mr. Hartle’s performance evaluation, it is an on-going process and there will be a draft performance review for Mr. Hartle at a meeting later this summer.

Mayor Botelho said the Assembly considered the objections filed by IUOE – Local 302 regarding the proposed decision in the matter of IUOE- Local 302 v CBJ Division of Human and Resources Risk Management, a decision from the CBJ Personnel Board, and affirmed the proposed decision. Mayor Botelho will sign the order in due course.

XV. ADJOURNMENT – 8:26 p.m.

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