MEETING NO. 2011-04: 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, Mary Becker, Karen Crane, Ruth Danner, Bob Doll, Johan Dybdahl, Merrill Sanford, and Bruce Botelho.

Assembly Absent: David Stone.

Staff Present: Rod Swope, City Manager; Kim Kiefer, Deputy Manager; Jane Sebens, Deputy City Attorney; Laurie Sica, Municipal Clerk; Beth McEwen, Deputy Clerk; Rorie Watt, Engineering Director; Craig Duncan, Finance Director; Dale Pernula, Community Development Director; Rich Etheridge, Fire Chief; Mila Cosgrove, HRRM Director; Roy Johnston, CCFR and IAFF Local Representative; and several CCFR Fire Fighters.

II. SPECIAL ORDER OF BUSINESS – None.

III. APPROVAL OF MINUTES

A. February 7, 2011 – Special Assembly Meeting 2011-02

Hearing no objection, the minutes of the February 7, 2011 - Special Assembly Meeting 2011-02 were approved.

B. February 7, 2011 – Regular Assembly Meeting 2011-03

Hearing no objection, the minutes of the February 7, 2011 - Regular Assembly Meeting 2011-03 were approved.

IV. MANAGER’S REQUEST FOR AGENDA CHANGES

Mr. Swope requested that the Assembly substitute Ordinance 2011-07(b) in the red folder for Ordinance 2011-07 regarding issuance of GO Bonds for Gastineau School. Mr. Duncan has done some recalculation in version (b). Mr. Swope also requested that the Assembly substitute Ordinance 2011-03(c) for Ordinance 2011-03(b), relating to the Personnel Management Code, as the Personnel Board met earlier in the day and recommended a small change.

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS.

Nicole Ferraro, Americorps Volunteer, said she is working with Association for Education of Young Children (AEYC), and is representing the Community Health MAPP committee, which stands for Mobilizing for Action through Planning and Partnerships. This committee is made of many different community groups and is revisiting the 2009 Health Summit Goals. They
VI. CONSENT AGENDA

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

Mayor Botelho noted there was a public request to remove Resolution 2562 regarding the Alaska Coastal Management Program (ACMP) from the consent agenda for public testimony.

B. Assembly Requests for Consent Agenda Changes

Mr. Anderson requested that Resolution 2564 regarding a CBJ co-application with the Juneau Arts and Humanities Council for a National Endowment of the Arts Grant be removed from the consent agenda.

C. Assembly Action

MOTION, by Anderson, to adopt the consent agenda, as amended with the removal of Resolutions 2562 and 2564. Hearing no objection, it was so ordered.

1. Ordinances for Introduction

a. Ordinance 2011-06

An Ordinance Amending The City And Borough Traffic Code To Allow Operation Of Low-Speed Vehicles On Certain Roads.

Administrative Report: Attached. The manager recommended Ordinance 2011-06 be introduced and set for public hearing at the next regular meeting.

b. Ordinance 2011-07(b)

An Ordinance Providing For The Issuance And Sale Of A General Obligation School Bond In The Aggregate Principal Amount Of Not To Exceed $5,753,000; And Providing The Form And Terms Of The Bond And For Unlimited Tax Levies To Pay The Bond.

Administrative Report: Attached. The manager recommended Ordinance 2011-07(b) be introduced and set for public hearing at the next regular meeting.

c. Ordinance 2011-08

An Ordinance Creating A Special Assessment For Capital Improvements By Agreement, For Benefitted Property Owners Not Included In The Assessment Roll For Local Improvement District No. 130.

Administrative Report: Attached. The manager recommended Ordinance 2011-08 be introduced and set for public hearing at the next regular meeting.

d. Ordinance 2010-11(AI)

An Ordinance Appropriating To The Manager The Sum Of $480,000 As Partial Funding For The North Douglas And West Mendenhall Valley Sewer Expansion Capital
Improvement Projects, Funding Provided By The State Of Alaska Department Of Environmental Conservation.

Administrative Report: Attached. The manager recommended Ordinance 2010-11(AI) be introduced and set for public hearing at the next regular meeting.

e. Ordinance 2010-11(AJ)

An Ordinance Appropriating To The Manager The Sum Of $2,000,000 As Additional Funding For The Bartlett Regional Hospital Roof Replacement Capital Improvement Project, Funding Provided By Bartlett Regional Hospital Fund Balance.

Administrative Report: Attached. The manager recommended Ordinance 2010-11(AJ) be introduced and set for public hearing at the next regular meeting.

2. Resolutions

a. Resolution 2556(b)

A Resolution Authorizing The Acceptance Of A Donation Of The Archie Van Winkle Memorial From Archie Van Winkle Memorial, Inc.

Administrative Report: Attached. The manager recommended Resolution 2556(b) be adopted.

b. Resolution 2561

A Resolution De-Appropriating $19,851 From The Arctic Winter Games Bid, Planning, And Submission Grant.

Administrative Report: Attached. The manager recommended Resolution 2561 be adopted.

c. Resolution 2563

A Resolution Waiving CBJ Personnel Rule 16 PR 050, Nepotism, to Authorize the Employment of Two Related Individuals in the Capital City Fire/Rescue Department.

Administrative Report: Attached. The manager recommended Resolution 2563 be adopted.

3. Transfers

a. T-925

Transferring $50,000 From The Last Chance Basin Hydro-Geo Investigation Capital Improvement Project, To The Juneau-Douglas Bridge Waterline Capital Improvement Project.

Administrative Report: Attached. The manager recommended Transfer T-925 be approved.

4. Bid Awards

a. Bid E11-146

Dixon and Main Streets Reconstruction

Administrative Report: Attached. The manager recommended award of this project to Miller Construction Company, Ltd., in the total amount bid, for an award of $1,023,813.45.
5. Liquor License

a. Liquor License Renewals

Administrative Report: Attached. The manager recommended the Assembly waive its right to protest the following list of Liquor License Renewals:

1. Beverage Dispensary-Tourism License #313: Juneau Hospitality LLC d/b/a Prospector Hotel/TK Maguires, location 375 Whittier Street.

2. Restaurant Eating Place License #4584: Zephyr LLC d/b/a Zephyr, location: 200 Seward Street.

3. Wholesale-Malt Beverage & Wine License #4081: K&L Distributors Inc. d/b/a K&L Distributors, location: 375 Whittier Street.


Removed from the Consent Agenda:

Resolution 2562
A Resolution Expressing Assembly Support For The Extension Of, And Amendments To, The Alaska Coastal Management Program.

Administrative Report: Attached. The manager recommended Resolution 2562 be adopted.

Public Comment:

Kathie Wasserman, Executive Director of the Alaska Municipal League, said the AML resolution (the model for Resolution 2562) was adopted in November 2010 at the AML annual meeting. She has talked with many people across the state about the Alaska Coastal Management Program (ACMP) and she said most municipalities in the state realize a need to partner with industry to make our communities better places to live. She asked the Assembly to pass Resolution 2562. Before 2003, the ACMP regulations were much different than they are now. Under Governor Murkowski, local district policies were required to relate to the uses and practices in the new ACMP regulations outlined at the time, and municipalities and local coastal districts were not allowed to address matters regulated by the Department of Environmental Conservation (DEC), including air, water, or land. That means that even if DEC does not comment on one of those issues on a project within the community, the community still cannot comment on air, land, or water issues as they are under the purview of that specific agency. Coastal zone management districts are not allowed to adopt, duplicate, repeat, restate or incorporate by reference a state standard or other state or federal law, and they must be clear and concise as to the activities to the persons affected by its requirements and use precise, prescriptive, enforceable language. None of the regulations sounds onerous by themselves, but it has been very unclear on what communities can and cannot comment. She
said the changes were brought about because they were thought to be stifling oil and gas production in the state, but this has not proven to be the case, and municipalities have not stopped oil and gas production. Subsistence is a huge issue and it is in the new regulations that subsistence areas must be identified and designation on maps. The North Slope Borough has an issue with this designation, as the caribou herds do not stay in the designated areas, but move. When the state is allowed to make the controlling decision on what happens with coastal zone management, and the control is placed in the hands of one person - the commissioner of the Department of Natural Resources (DNR), then there is a danger of that one person not knowing the issues of the local community affected by the decision. All AML is asking is that municipalities be allowed to have effective participation and a seat at the table before the issues become larger than they need to be.

Mr. Doll asked how many municipalities are in AML. Ms. Wasserman said all municipalities are included and there are 164.

Joe Geldhof urged the Assembly to enact Resolution 2562. He said this is a measured response. The Coastal Zone program had substantive standards, and people in impacted areas could review projects in a comprehensive way and put in their comments. There were specific timelines in the old program for comments. He said the “minor tragedy” in 2003 was the removal of the Habitat Division from the Department of Fish and Game (ADFG) and into DNR, but the ACMP was taken out of the Governor’s office and put into DNR, which is an important agency, but has a narrow role. This has created an ongoing sense of distrust up north and in the rural areas in which they feel they were cut out of the process. He encouraged the Assembly to adopt the resolution, and to work with the legislature to rewrite reasonable laws. He said the native timber industry initiated the ACMP when they wanted to avoid being piece-mealed by various permits and wanted their projects to be reviewed in a comprehensive way. The resolution is the start – getting the bill through the legislature is the prize.

Mayor Botelho said members asked for a briefing of the status of legislation and Mr. Clark Gruening, CBJ lobbyist, spoke to the Assembly. He said last year SB 4 died in the Rules Committee and it was designed to make some changes to the current regime. He said there is no bill this year that deals with the substantive character of the program; it simply extends the sunset date. HB 106 would have a hearing in a week in the House Resources Committee and he was told by a co-chair that he wanted to get to the content of the issue. The files are filling up with letters requesting changes to the program. No bill was advanced on the House side at the end of session last year. He spoke with the Chair of the Senate Community and Regional Affairs Committee, which will chair any hearing on the Governor’s bill. There is also a Senate Finance bill that only offers a one-year extension. The Senate will likely not move at all until they see some interest in the House.

Ms. Danner asked for clarification on the extension period for the legislation. Mr. Gruening said the Governor has both a House and Senate bill, each with six-year extension dates. The Senate Finance bill is a one-year extension.

Ms. Becker asked for the reason for the Senate Finance one-year extension. Mr. Gruening said he thought it was tactical, as the Senate would like to see some action on the House side. The Senate may not be in agreement, but there is pressure in that some of the Senators would like to see some changes and some would like to see it sunset.

**MOTION, by Doll, to adopt Resolution 2562.**
Mr. Sanford objected. He said the ACMP program should not sunset, as he did not want to see the Federal government step in and take over this type of project review. His concern is the interest in going back to pre-2003 regulations that were cumbersome for developers. At that time, CBJ was trying to enforce 99 local policies. The time that it took developers to go through the process cost them significantly. He would like to know exactly what CBJ is supporting in regards to changes to the program. He can support extending the current program as it is, but he cannot support the present resolution as written.

Mr. Doll supported the resolution and said the ACMP does add time to a project, but it is time needed to allow local communities a voice in important issues in their communities. There was a Coastal Policy Board in the previous program and the program exemplified the Alaska Constitution requirement for maximum local self-government.

Mr. Anderson said he supported this resolution. There is a need to do local community review in a substantive way. To say speed is more important than covering all the issues is not something he could support.

Mr. Dybdahl said there are two issues within the resolution – the extension of the current program or an extension with amendments. If it were an extension with amendments as proposed here, then he would support it. If it were to be construed as an extension of the program with no amendments, then perhaps he would not support it.

Mayor Botelho said Resolution 2562, Section 1, clarifies that if adopted, CBJ would support an extension along with the establishment of a Coastal Policy Board, returning air and water quality issues to the ACMP consistency reviews, and eliminating requirements for subsistence use areas.

Ms. Becker is concerned about extending this for six years as she is not sure how broad “meaningful and enforceable policies” could be.

**MOTION**, by Becker, to amend Resolution 2562 to put a sunset date of three years on Section 1, to read “...that extends the ACMP sunset date beyond July 1, 2011, but in no case beyond July 1, 2014...”

Roll call on the amendment:

Aye: Becker, Sanford
Nay: Anderson, Crane, Danner, Doll, Dybdahl, Botelho

Motion failed, 2 ayes, 6 nays.

Roll call on the main motion:

Aye: Anderson, Crane, Danner, Doll, Dybdahl, Botelho
Nay: Becker, Sanford.

Motion passed, 6 ayes, 2 nays.

Resolution 2564

**A Resolution Authorizing A Co-Application With The Juneau Arts And Humanities Council For A National Endowment For The Arts Grant To Fund Plan Development For A Performing Arts Theatre.**
Administrative Report: Attached. The manager recommended Resolution 2564 be adopted.

Public Comment: None.

Assembly Action:

MOTION, by Anderson, to adopt Resolution 2564.

Mr. Anderson said additional information was presented at the Lands Committee, and the committee recommends adoption, however, he asked staff to explain the grant intent and to clarify the last whereas in the resolution, which says the Assembly is fully aware of the responsibilities incurred if the grant is awarded.

Heather Marlow, Lands and Resources Manager, said staff has worked with the Juneau Arts and Humanities Council (JAHC), to develop a letter of intent for grant submittal that outlines the activities and outcomes of the process. This is a $100,000 project, with potentially a $35,000 match from CBJ and $15,000 of in-kind services from JAHC. Major project activities include public meetings to identify needs of a performing arts center and discussions with user groups and to discuss land use coordination within the existing area. Also included will be development of conceptual options, costs for those options and distributing them in the community and arriving at an agreed upon project that future funding could consider. A financial report will be done at the end of the grant with an outcome of the work product.

Ms. Danner asked if this commits the CBJ in any way. Ms. Marlow said the grant is for planning activities only. The Engineering Department would be a project manager, and there are several projects in the queue that have already been identified with this level of detail.

Ms. Danner asked if such a project would be in harmony with planning for the Willoughby District and if it was in competition with private developers of the Century 21 Theatre. Ms. Marlow said it is in harmony with current planning for the Willoughby District. Regarding competition with other theatre groups – the project is trying to define the size of the project that is not already available in the community. The targeted user group process and public comment will identify the need.

Mr. Sanford said this project will give the Assembly information for a future project and did not commit the Assembly to any construction project. Ms. Marlow said that was correct.

Hearing no objection, Resolution 2564 was adopted.

VII. PUBLIC HEARING

A. Ordinance 2011-03(c)

Administrative Report: Attached. The manager recommended adoption of Ordinance 2011-03(c). Mr. Swope said the change in version (c), recommended by the Personnel Board, clarified the restrictions on persons able to serve as board members.

Public Comment: None.
Assembly Action:

MOTION, by Anderson, to adopt Ordinance 2011-03(c). Hearing no objection, it was so ordered.

B. Ordinance 2011-05
An Ordinance Amending The Penal Code To Prohibit The Manufacture, Assembly, Distribution, Marketing, Sale, Use, Or Possession Of Substances Containing Synthetic Cannabinoids, And Providing For A Penalty.


Public Comment: None.

Assembly Action:

MOTION, by Dybdahl, to adopt Ordinance 2011-05. Hearing no objection, it was so ordered.

C. Ordinance 2010-11(AG)
An Ordinance Transferring $103,810 To The Open Space Waterfront Land Acquisition Capital Improvement Project. The Source Is Unexpended FY10 Marine Passenger Fees Budgeted To The General, Visitor Services, And Roaded Service Area Funds.


Public Comment: None.

Assembly Action:

MOTION, by Becker, to adopt Ordinance 2010-11(AG). Hearing no objection, it was so ordered.

D. Ordinance 2010-11(AH)
An Appropriation Transferring to the Manager the Sum of $14,090 As Funding for the Eaglecrest Fund Raising Operating Account, Funding Provided by the Challenge Grant Capital Improvement Project.


Public Comment: None.

Assembly Action:

MOTION, by Crane, to adopt Ordinance 2010-11(AH). Hearing no objection, it was so ordered.

VIII. UNFINISHED BUSINESS – None.

IX. NEW BUSINESS
A. Liquor License Renewals with Staff Protest Recommendations

Administrative Report: Attached. The manager recommended the Assembly adopt the recommendation of the Human Resources Committee.

Public Comment: None.

Assembly Action:

MOTION, by Danner, to accept the recommendation of the HRC and protest Restaurant Eating Place License #1915: Virginia Ann Jefferson d/b/a Thane Ore House, location: 4400 Thane Road, based on unfiled and/or delinquent sales tax returns. Hearing no objection, it was so ordered.

X. STAFF REPORTS

A. Update on Pool Issues – Kim Kiefer

Mr. Swope said as issues have risen with regard to the operation of the pools, he asked Ms. Kiefer to step in and use her experience to address them, and he appreciated her work.

Ms. Kiefer said staff has addressed all the issues that were brought forward in a “My Turn” letter in the Juneau Empire regarding pool operation, including water quality. Water testing has been done and the water is safe. There is a new procedure for monitoring the number of people in the pools at the Augustus Brown Pool (ABP). The lines of communication with staff are open again. There is a new pool manager at ABP. The Aquatics Manager position is open and there is hope to have the position filled by mid-March. Staff will be meeting with the Aquatics Board to train the board on all aspects of pool operation and management at a meeting on March 9. Glacier Swim Club negotiations are ongoing and should be wrapped up within the next ten days. If everything stays on schedule, the new Dimond Park facility will open by May 21, with a grand opening event.

Ms. Danner asked if the new ABP manager is from Juneau, and Ms. Kiefer said the person is new to the community.

The Assemblymembers thanked the managers, specifically Ms. Kiefer, for her efforts.

XI. ASSEMBLY REPORTS

A. Committee Reports

Committee of the Whole: Chair Sanford said the COW met Monday, February 14 and heard and update from Greens Creek Mine, Sealaska Heritage Institute, and the Rainforest Recovery Center. The next meeting is scheduled for Monday, March 14.

MOTION, by Sanford, to adopt the Assembly Goals for 2011, as amended at the last Finance Committee meeting. Hearing no objection, it was so ordered.

Public Works and Facilities Committee: Chair Doll said the committee met today, reviewed a draft of the CIP list in detail, and forwarded the list to the Finance Committee for
consideration. There are 13 unfunded items on the list. The committee also asked for some information from Bartlett on its projects.

Finance Committee: Mayor Botelho noted the next meeting is set for Wednesday, March 2, at 5:30 p.m. in the Assembly Chambers.

Lands and Resources Committee: Chair Anderson said the committee met and would like to know how to proceed with making a recommendation to amend the CIP list to break the Pederson Hill access project into two projects, a subproject being a feasibility study for Mountain Avenue. Mayor Botelho referred this discussion to the Finance Committee.

Mr. Anderson said the committee approved a letter to the Alaska Housing Finance Corporation (AHFC) to fund an Affordable Housing Coordinator and this issue would also appear before the CBJ Finance Committee. The committee discussed a possible land acquisition and recommended the Assembly appropriate $85,000 to acquire the “Becky Bear” property near Montana Creek. There was no objection to having the law department draft such an ordinance for introduction.

Human Resources Committee:

MOTION, by Danner, that the Assembly accept the recommendation of the Human Resources Committee and appoint the following members to board positions. Hearing no objection, the Assembly appointed the following people to Boards and Commissions:


Wetlands Review Board: Lisa Hoferkamp, Mike Mauseth, and Andrew Campbell for terms expiring December 31, 2013.


Ms. Danner said the Sister Cities Committee provided the HRC with its annual report and outlined the committee’s recent efforts to engage the community with its Sister Cities.

B. Liaison Reports

School Board: Liaison Becker said the School Board met and gave a favorable evaluation to the Superintendent. The Board heard testimony on the budget and will discuss and adopt the budget and calendar at the next board meeting. The “Music Man” musical was fantastic.
Alaska Committee: Liaison Becker said the Alaska Committee elected new officers: Wayne Jensen, President; Rosemary Hagevig, Vice President; Joe Nelson, Secretary; and Max Mertz, Treasurer.

Chamber of Commerce: Liaison Anderson noted that Mr. Swope talked to the Chamber membership about the ongoing pool issues.

Eaglecrest Board: Liaison Anderson spoke about the Board’s continued efforts towards long-range planning.

Planning Commission: Liaison Doll said the Commission met on February 22 and will dig into the noise ordinance at its next meeting.

Airport Board: Liaison Sanford said the Board has met several times in the last month. He spoke about local and national improvements in technology, which are allowing greater navigation abilities for airports, including GPS satellites, the Capstone project, and now a new project called “AVS&V,” which has set up instruments in a 25-mile radius around Juneau. These instruments will give pilots and air traffic controller’s better information about the approach to the runway for safer landings. This new adaptation will be great, and Juneau and the Gulf of Mexico are the first locations in the nation to get this technology.

XII. ASSEMBLY COMMENTS AND QUESTIONS

Ms. Becker thanked CBJ staff who have been courteous and met with her to provide her information, including Rorie Watt, Jeannie Johnson, and Catherine Fritz.

MOTION, by Danner, for immediate reconsideration of Ordinance 2011-03(c).

Roll call vote:
Aye: Becker, Danner, Doll.
Nay: Anderson, Crane, Dybdahl, Sanford, Botelho.
Motion failed.

Ms. Danner said that the unexpended Marine Passenger fees transferred to the Open Space Waterfront Land Acquisition CIP could have been better spent on hiring people to work. She encouraged the manager to find opportunities to spend these funds wisely. Mayor Botelho said as a note for future reference to Assembly members, the comments were out of order as it was debate on an issue already decided by the body.

Ms. Danner said she has been contacted by the public about strong odors emanating in the valley, particularly near Skaters Cabin. Staff has been helpful in their efforts to examine whether odors come from the sewer system and it has been determined that they do not. There is a speculation that it is from a freeze / thaw situation, but she does not believe that is the case. She said it is from the water flowing from the gravel pit into a salmon rearing area and asked if there is a permit for this pit to release water into the stream.

Mr. Swope said he has investigated the situation and has not smelled the odor. DEC has taken samples and has not found a problem with raw sewage or the lift station.
Mr. Sanford said the gravel pit is permitted through CDD and there may be some conditions to investigate. Mr. Anderson said that odors have been noticed in other locations, including Bayview Subdivision.

Ms. Marlow spoke with Mr. Sidney, who said he had been contacted about odors from his property near Skaters Cabin where he is providing a stump dump service for disposal of logs, woody debris, peat, and mud. He said this is natural decomposition and feels he is performing a community service to allow a place for dumping, rather than burning these materials. He brings fresh water into the site to flush out the area. The moving water through the site may be part of the smell. His discharge point is at Skaters Cabin and this may be an issue.

Ms. Danner asked about this activity in proximity of a salmon stream and could it be moved to another location. Ms. Marlow said this is a community issue of not having many suitable locations for this type of activity. The point source discharge is handled by DEC and potentially by EPA regarding any clean water violations. She said Mr. Sidney might be making some changes to the operation. Ms. Danner said her concern was that DEC was checking only for sewage issues and may not have looked at the impacts on fish habitat.

Mayor Botelho said he had discussed with Ms. Kiefer the idea of removing Library Services from the Manager’s Office and setting it up as a department and asked Mr. Swope if he supported such an investigation. The change would require code amendment by ordinance. Mr. Swope said yes. Mayor Botelho said the Library is a line function to the public different from other functions within the Manager’s Office. The Library has significant staff in three different locations and functions as a department, but is not treated that way.

Mr. Anderson asked how things would change, and Mayor Botelho said the Library Director would have Director status, along with recognition as a department head.

Ms. Kiefer said she would like to look at the whole department section of the code. Hearing no objection, the city attorney was asked to review that code section.

Mr. Sanford reminded Assemblymembers and the public that the Southeast Conference Mid Session Summit would be taking place March 8, 9, and 10, and to register for the event if not already registered. He asked about a sponsorship and Ms. Sica noted that it was a budgeted item in the FY11 budget and $500 was forwarded to SEC for a sponsorship.

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

XIV. EXECUTIVE SESSION – None.

XV. ADJOURNMENT – 8:30 p.m.

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