MEETING NO. 2011-07: The Special Meeting of the City and Borough of Juneau Assembly, held in the Assembly Chambers of the Municipal Building, was called to order at Noon by Mayor Bruce Botelho.

I. ROLL CALL

Assembly Present: Jonathan Anderson, Mary Becker (telephonic), Karen Crane, Ruth Danner, Bob Doll, Merrill Sanford, David Stone, and Bruce Botelho.

Assembly Absent: Johan Dybdahl.

Staff Present: Rod Swope, City Manager; Beth McEwen, Deputy Municipal Clerk; John Hartle, City Attorney; Jim Baldwin, Contract Consultant.

II. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None.

III. SPECIAL ORDER OF BUSINESS

A. Review of Redistricting Issues

Mayor Botelho introduced attorney Jim Baldwin who was hired by the Assembly to provide CBJ with information on the State Redistricting. He was the supervising attorney for the Governmental Affairs Section, which oversaw the State of Alaska’s role in reapportionment over the last decade, and was the attorney of record for the State in the most recent reapportionment efforts and litigation in 2000. Mayor Botelho asked Mr. Baldwin to outline the constraints in terms of reapportionment, the process, and some of the issues that CBJ will face as a community affected by redistricting.

Mr. Baldwin said redistricting is a once in ten-year’s event, which decides the apportionment of districts for the Alaska Legislature, House and Senate. It is often an overlooked, but extremely important, process that is to preserve the representation of regions of the state and individual cities, boroughs, and rural areas of the state. It is controlled by State and Federal law. Alaska is a jurisdiction that is covered by the Federal Voting Rights Act, so provisions of that act will control our redistricting effort. The main goal of redistricting is to establish the one person, one vote concept. Based on the U.S. Census, an ideal district size number is determined for the election districts of the state house, 40 members, 40 house districts, and those are paired into senate districts. The state’s population is divided by 40 and this determines an ideal district size of 17,755 people. There is some leeway allowed, but not much. With today’s capabilities for high-powered mapping software and other tools, it is more difficult to justify a deviation from that ideal number. There are prohibitions in federal law against “gerrymandering,” which is redistricting for political purposes. The Voting Rights Act seeks to guarantee the effectiveness of the minority vote. Alaska is covered by Section 5 of the Voting Rights Act, which means that before any plan can go into effect, it must be approved by a court or pre-cleared by the U.S. Justice Department. In every case he is aware of the pre-clearance route has been chosen. They are tasked with seeing that those voting rights are preserved by using a benchmark – what was established in the last plan - the number of
districts that were effective minority districts, and see if the new plan preserves the voting power. If it does not, it is termed “retrogression,” and to have that it must be unavoidable. The redistricting board is appointed by the Governor, the House, the Senate, and the Alaska Supreme Court. It is a commission-form of redistricting, taking it away from the control of one branch of government. The Redistricting Board is meeting tomorrow (Friday, March 25, from Noon – 7 p.m.) and they are under a very tight schedule. They must outline a proposed plan within 30 days of receiving the census data, which they received on March 15. After that first 30-day plan, there is an additional 60 days to finalize the plan. That final plan goes in to effect, but it must be approved by the Department of Justice. They do their preclearance review and in past plans, there have been adjustments made to the board’s final action. This is to get the districts in place for the filing deadline for the next legislature, which is June 2011. History shows that there has been litigation, and that litigation will be on a fast track. The Supreme Court has special rules for this to get this done.

Mr. Baldwin said the Redistricting Board has posted a lot of material on its website. Mr. Baldwin was contracted by CBJ to advise on a possible plan that the CBJ may want to propose to the board for Southeast Alaska. He obtained the Autobound mapping software into which census data is downloaded. The board’s self-imposed cutoff is March 30. They are now on a “road show” going to various communities taking public comment before they submit their preliminary plan April 15. They would like to stop the road show on March 30, with a final statewide teleconference. That would be the last day by which a private, non-board, plan would be brought to them. He understands they will then have two weeks of intense work in Anchorage with daily public meetings to come up with the draft plan.

Mr. Baldwin understands that CBJ would like to consider drawing plans for the northern portion of Southeast Alaska. The problem with drawing plans for one part of the state is that there is a domino effect that happens. Southeast Alaska is fairly well contained by geography and the actual census numbers, so this may be possible in theory. In his experience, there were winners and losers in the last effort, and the losers have not totally accepted the role and will be back to argue their positions. There are partisan political battles that go on in redistricting, but in his experience, the hardest fought and heart-felt ones are the ones between regions of the state. Hopefully a plan for Southeast can be worked out that everyone is happy with, but there are no guarantees.

Mr. Baldwin distributed a handout titled, “District/Population/Seats.” There are five seats that represent Southeast Alaska, which includes Ketchikan to Cordova. At the bottom of the sheet, he has taken the population for each of the five districts and figured an equivalency of seats to the right, which showed District 1 would be entitled to .807 of a seat, District 2 at .825, District 3 at .879, District 4 at .892 and District 5 at .779. This totals 4.172 seats, meaning that Southeast goes from 5 to 4 seats. A lot can happen due to dealing with the voting rights issue.

Mr. Anderson asked if “no avoidable retrogression” could ever trump the 10% deviation. Mr. Baldwin said the Voting Rights Act can trump the 10% deviation, which is a court-made rule. It is not in the Constitution. The Constitution says as little deviation as possible. The Court has in past plans have approved deviations beyond 10%. Typically, you will find a deviation when you find have a Voting Rights Act issue, or issues of geography.

Mr. Baldwin said the handout showed the 2011 population numbers and shows how a district is built. These were used in 2000. He said he is just a consultant, and can prepare a plan, but is hoping to establish some standard to work with, and to come up with a statement of a bottom
line to say to the Board tomorrow. It will be important for Juneau to make some type of statement. One concept that runs through redistricting is trying to keep areas that are socio-economically integrated together and not spread them out if it can be avoided and to try to follow geographical boundaries. The Constitution requires single-member houses. There are three main population centers in Southeast and several rural areas. Juneau, which was two districts, is now about 1.75 districts.

Mayor Botelho said he met with Mr. Baldwin and Mr. Hartle before this meeting and he distributed a document, “Proposed Standards for Drawing Juneau House Districts.”

Mr. Doll said creating two districts just for Juneau might be a hopeless task. The whole of Southeast must be considered. Mr. Baldwin said that District 3’s population is 2,322 less than the idea district of 17,775 and District 4 is 1,913 less. If each were to look for population in Southeast, there are constraints that are imposed by geography, and possibly by the Voting Rights Act. The numbers require seeking population outside of Juneau.

Mr. Anderson said adding outer Ketchikan and Prince of Wales Island to District 1 seems logical, but that starts the other issues with District 5.

Mr. Baldwin said that people who live here understand the way the area is integrated socio-economically and otherwise, but the U.S. Department of Justice will look at this and ask if it is possible to make three majority-like districts and one minority affected district. That would be their way to prevent retrogression. Unless another similar district can be found in the state, and that may be beyond his scope. There are other areas where there are native districts, which have similar problems. District 6 is paired with District 5 for a senate district, the “horseshoe district,” and has a similar problem in being down by approximately 3000 in population. That district is a majority minority district with over 50% Alaska Native population. District 5 is an effective native district having a population of a little less than 37%.

Mayor Botelho asked if there is a cutoff of native population of 35%. Mr. Baldwin said that was what it was during the last redistricting effort. Mayor Botelho said that 35% is considered “native influence” vs. “native control” in which they can dictate the outcome of an election. Mr. Baldwin said that in District 3, the native percentage is 19.15% in District 4 it is 14.65%.

Mr. Baldwin asked for policymaking direction from the Assembly. He reviewed the standards outlined in the handout.

Mr. Sanford asked when any draft plan outlined by Juneau would become public, put on-line, so that the public can know what direction is being recommended.

Mayor Botelho said he has contacted Shelly Wright, Executive Director of Southeast Conference, to arrange a mayoral teleconference next week. He anticipates a second CBJ Assembly meeting to review any draft Mr. Baldwin can provide, and he would like the Southeast mayors’ feedback prior to that. He is also meeting with Tlingit Haida Central Council to get their feedback before Juneau distributes anything. Mr. Sanford said he had already been contacted by people in Southeast and this is a sensitive issue.

Mr. Doll asked if Southeast Alaska could agree on a plan, would that provide more weight to the Redistricting Board. Mr. Baldwin said that was possible, and it would be better to comment as a region, but the problem is that may not be able to be done in 30 days, but
perhaps it can be done in 90 days. The Board will take a lot of flack on their proposed plan, so that is why it is good to get something in during the first go-round.

Mr. Baldwin said that Juneau has the capitol complex and infrastructure, and it would be desirable to form a district around that as much as possible. District 3 could be made whole from District 4, which would require District 4 to look for 4000 population. The population should be obtained from Northern Southeast. Whole precincts should be taken in, to the extent possible. There is an issue before the board regarding the prison population. Currently they are counted by the census where the prison is located, so that population is now counted in District 3. It has been suggested to the Board that the prison population should be identified by the residence of the prisoner immediately before they entered the prison system. The Board does not seem to be inclined to do that, but it is under consideration. It would present problems, because allocating that population would happen late in the process, and it would be complicated. Other regions of the state will discuss this. There is also an issue of out-of-state prison population, which is approximately 1,000. The Board is skeptical about the practicality of defining this information in a timely manner.

Ms. Danner said that this issue would need to be resolved nationally, so as not to count prison population twice.

Mr. Anderson asked why stop at Cordova, why not try to resolve a native majority district by reaching further. Mr. Baldwin said that Southeast Alaska is a region of the state with a present population that now comprises 4 districts. It has geographic limitations as an archipelago and a border with Canada. These are defining issues. The Redistricting Board wants to avoid retrogression. They may not be able to do it, but I propose that our standards say that 4 districts in Southeast is desirable and those districts should not extend beyond Southeast (based on numbers). The issue of pairing house districts with the Senate districts becomes easier. District 5 really encompasses the Gulf of Alaska. District 5 has a native population of 36.63%. Mr. Baldwin said that District 6 has a deviation of 3,500 under the norm, and there is population around that in Fairbanks, but it is Caucasian.

Mr. Doll said one issue is that Natives are moving into urban areas. The court, using the 35% rule, may need to make it 25% because this is more of a reality. They are still a minority in the community. Mr. Baldwin said that standard is developed by a Voting Rights Act expert engaged by the board. They consider voting history over the decennial period and arrives at an opinion that concludes what percentage of Native population it takes to reliably vote and get a candidate of their choice into office. Since that was what was applied and accepted during the last effort, we have proceeded this way. We may be dealing with a moving target. It could be that this is changed to 25% based on a new determination, but the 35% helped in 2000 to get Department of Justice approval. 2000 will be the benchmark. With Southeast Alaska being constrained by population and geography, the numbers say 4 districts.

Mr. Baldwin said there should be outreach to other communities of the region to the extent possible. Cordova and Craig have asked for public hearings in their communities, and those two communities were not happy with inclusion in District 5 in the past. Mayor Botelho said that there are two different windows – one as the board puts its preliminary plan together, and after that plan is drawn. Mayor Botelho clarified that he is asking the Assembly to approve standards to direct Mr. Baldwin to prepare mapping for Assembly review next week, prior to submission. It will be hard not to put together a whole picture so alternatives can be reviewed. Mr. Baldwin said the Board benefits from hearing
what the districts want, to the extent we provide something plausible, it is helpful to the process.

Mayor Botelho said he hoped the Assembly would be guided by comments from the Southeast Mayors. He intends to speak with them as much as possible prior to a next meeting with the Assembly and distribute the information that was before the Assembly.

Hearing no objection, Mayor Botelho said he planned to speak to the Redistricting Board at the next day’s public hearing. He planned to speak to the “Proposed Standards” guidelines and let the Board know that Juneau would be preparing a draft proposal.

Hearing no objection, the Assembly agreed to hold a Special Meeting on Tuesday, March 29, at 4 p.m. to review a proposed plan.

IV. ASSEMBLY COMMENTS AND QUESTIONS – None.

V. ADJOURNMENT – 1:04 p.m.

Signed: ____________________________  Signed: ____________________________
Laurie Sica, Municipal Clerk           Bruce Botelho, Mayor