MEETING NO. 2011-08: 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 4 p.m. by Mayor Bruce Botelho.

I. ROLL CALL

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

Assembly Absent: David Stone.

Staff Present: Rod Swope, City Manager; Laurie Sica, Municipal Clerk; John Hartle, City Attorney; Jim Baldwin, Contract Consultant; Sheila Corey, Contract Consultant Assistant.

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

III. SPECIAL ORDER OF BUSINESS

A. Review of Redistricting Issues

Mayor Botelho said Mr. Baldwin and Ms. Corey have worked diligently over the weekend, along with himself and Deputy Mayor Sanford, to provide the Assembly and community with two plans for Assembly review. They talked with other communities by phone to get their input and met with Southeast legislators individually. In putting this together, the framework was the standards adopted by the Assembly. The Redistricting Board’s guidelines take precedence, and look at the constitutional restrictions: one person – one vote, that districts be nearly equal in size, and that no district is devised to purposely discriminate against any group that has historically been excluded from the electoral/political process. The Voting Rights Act provides direction to avoid any retrogression in terms of the influence that Native voters have within the state and region. At the current time, District 5 is termed a “Native effective district,” and has more than 35% Alaska Natives. The constraint is acknowledging that population only allows four districts in Southeast Alaska. The final considerations were state law considerations – the districts are required to have no more than 10% deviation – either 5% over or 5% under the ideal district population of 17,775. The districts need to be contiguous, compact, and to the extent possible, be socially and economically integrated, respecting local boundaries and geographical connections.

Mayor Botelho said there is no configuration that will make every community in Southeast Alaska satisfied that they are going where they want to go. There is no configuration that exists today that allows any district that exists currently to be the same district that it was. Every district changes. You may hear the term “cannibalization,” but every district is cannibalized in one respect or another. This is the nature of the plan. Both Plan A and Plan B exclude Cordova from Southeast Alaska.

Mr. Sanford said there may be other options circulating which we have not seen. Whether or not they meet the criteria, we do not know. Until everyone is working with the same numbers,
it will be hard to compare various plans. There could be a plan to increase the geographical area and take in towns up the coast to make five districts, but he did not think that would fit within the parameters.

Mr. Baldwin presented information on Plan A – Juneau North and Plan B – Juneau South. He said the population for Juneau was equal to one and three quarters districts based on the ideal population, so to make one Juneau District whole out of only Juneau Borough population, the other Juneau District will need to add about 4000 people outside of the boundaries of the CBJ.

Plan A, captioned “CBJ Native North,” proposes a House District (HD) 2 which has 36.89% Native population, and is considered “Native effective” if the Native population exceeds 35%. The intent is to avoid what the Voting Rights Act (VRA) would consider “retrogression,” or a weakening of a minority population vote in Southeast Alaska. The VRA trumps state redistricting standards. To the extent a plan can comply with compactness, socio-economic integration, that is good, but VRA is the benchmark.

Plan A keeps HD 3 intact by capturing necessary population from existing HD 4. HD 4 would move north to encompass Haines, Skagway, and Gustavus. HD 2 would be bounded by Yakutat in the north through the entire Prince of Wales in the south. In addition, it would include Annette Island (Metlakatla) and Saxman, a municipality within the Ketchikan Gateway Borough.

The Assembly reviewed the possible dividing line between HD 3 and 4, which is slightly different in Plan A from Plan B, and is based on the census population information.

Plan B, captioned “CBJ South Petersburg,” meets the desire to have an alternate plan and keeps HD 4 intact by capturing necessary population in existing HD 3. HD 3 would move south to encompass Petersburg and West to encompass Gustavus. HD 2 is bounded by Yakutat, Haines, Skagway in the North, and Western Prince of Wales on the South. In addition to Wrangell and Ketchikan, HD1 would include Thorne Bay and Coffman Cove.

Mr. Anderson asked in Plan B, could HD 4 be made larger, and HD 3 extend farther. Mayor Botelho said the problem would be that the next community south would be Wrangell, and they did not want to have to split up a community into two districts, if possible.

Mr. Baldwin said that Plan B does not have a Native effective district, and the Native population in the plan was HD 1 would be 25.50%, HD 2 would be 29.16%, HD 3 would be 17.8%, and HD 4 would be 14.84%. Mr. Baldwin said the Redistricting Board said that 35% is the benchmark for a Native effective district (that percentage of the population is more than likely to be able to elect a candidate of its choice), and anything over 25% would be considered “Native influenced.” Mayor Botelho said that the difficulty of adding Native population to this proposed HD 2 would be that it would exceed the deviation allowed of 5% over the ideal population.

Mr. Dybdahl asked if anyone consulted had other plans or views that they put forth. Mayor Botelho said Representative Thomas said that Plan B closely approximates a plan from the Bush Caucus. This afternoon Brad Fluetsch commented about having a plan but he did say Plan B approximated his thinking. Senator Kookesh is trying to figure out how to retain a 5th district and we do not see how this is possible. With respect to the other communities, we have
not seen other plans. We have heard of another organization in the state making a plan, but do not know if it is focused on Southeast.

Public Comment:

*Elton Engstrom*, Juneau, said his main concerns were that the process and planning had lacked consultation with the representatives representing Juneau. He also felt it was outrageous to pay a lawyer $50,000 to do this work, and that the Assembly already has a hired lobbyist and are all free to testify on the matter.

*Robert Venables*, Haines, said he was speaking as a resident of Haines and not on behalf of his employer or any other organization. He was shocked to read in the newspaper that Juneau was “carving up the turkey” and putting forward its will for redistricting. A few years ago during the capital move issue, Juneau said it would not impose its will, but then we read in the paper that Juneau is trying to tell us what our district will look like. The smaller communities do not want to be pulled into the larger urban districts. Redistricting is a lose-lose situation for anyone who tries to make everyone happy. Southeast has lost so much population to the “rail belt” area. What alternatives were not looked at? Perhaps a district could reach towards the area south of Fairbanks, or perhaps move to the west. He suggested an idea to split Sitka, which could allow other communities to stay together and could benefit Sitka, as they would have additional Representatives and Senators looking out for their interests. He did not know if there were any winning scenarios, but asked the Assembly to look at all scenarios before supporting one.

Assembly Action:

*MOTION*, by Sanford, to submit Plan A and B to the Redistricting Board.

Mr. Anderson asked how the legislative delegation has been involved with the planning.

Mayor Botelho said he met with the delegation yesterday and today and the only Southeast legislator they had not been able to speak to is Kyle Johansson. It is fair to say that there is appreciation for both versions, there seems to be a preference for version B, but that is not definitive, just a sense. They appreciate the importance of having both versions. We did not press them to make a choice and we did not recommend a choice between them.

Mr. Sanford agreed with that analysis.

Mr. Doll said giving both plans to the Board without a recommendation is not very definitive.

Mr. Dybdahl said if there are three or four plans they will go into the hopper and the Board will make the decision. Mr. Dybdahl said it looks more like Juneau is a “bully” if we pick one. We will all be subject to the plans that go into the hopper and some other plans may be better.

Mr. Anderson asked what the advantage of submitting plans was.

Mayor Botelho said the city is free to not submit anything and leave it totally to the Board to devise a plan with out input. What this does is provide a framework that signals two variations Juneau could live with, which respect the principles that the board has set forth as their criteria. There will be many permutations, the board will decide. He said it is important that Southeast
comments, and if no others comment, at least Juneau gives input as to how Southeast will be apportioned.

Mr. Anderson was concerned about the impression that Juneau was bullying the region. What is the disadvantage of not submitting a plan? Mayor Botelho said there are worst case scenarios that he did not want to mention. The Southeast Mayors were appreciative that we worked with them and consulted them. Prince of Wales Island is kept in tact as one island not connected to Juneau and on the other hand a plan that respected Haines and Skagway on the North was presented. Many smaller communities do not want to be connected to a larger city but they know that it is likely they will be. Gustavus wants to be associated with Juneau in any configuration and we have taken that into consideration. He does not think the Mayors in Southeast believe Juneau is “the big gorilla.”

Mr. Sanford said that this can be very emotional, and people may fear that the big population units of Ketchikan, Sitka, and Juneau seem to be sucking up the smaller ones and their identity. However, when people take a good look at the numbers and the reality of the situation and the standards that must be met, they get away from the emotionality and look at it in a rational view to determine what is best for their community.

Mr. Dybdahl asked where the litigation might come from after a plan is adopted by the Board.

Mayor Botelho said virtually every plan has been challenged, the plaintiffs consolidated, and his view is that Southeast Alaska will not be the focal point of a challenge because it does conveniently have the population for four districts, but he could be off. There may be battles regarding Natives moving between districts and how the population is spread among House Districts. There may be issues of how the Senate pairings work out.

Mr. Baldwin said he had only focused closely on Southeast, but was aware that District 6 had the same issues of under population as District 5. Population has reduced in Western Alaska. In the densely populated urban districts, the courts do not allow population deviation. There may be some interested in trying to create an urban Native district, and the powerful mapping software may be able to define one, which could cause issues. In Southeast, with four House Districts, only two Senate Districts may be a retrogression, as one of our senators was paired with House District 6, so we may have a senate district out of compliance. There could be litigation in state court, but also it was possible that litigation could come from the federal level if retrogression becomes an issue.

Mr. Dybdahl asked how the Native numbers were arrived at in the Census data, and if they used the same blood quantum, 1/4, to determine a person’s identity as Native similar to the Alaska Native Claims Settlement Act.

Mayor Botelho said he understood it to be self-reporting, and individuals will identify themselves as being Native. In this last Census, they also had the ability to identify up to three races. In the configuration here we have in the Native category those who identified themselves as Alaska Native or Alaska Native/White.

Mr. Baldwin said that the administrative decision that had been made by the Department of Labor and the Redistricting Board is that you will not get many people reporting beyond one other race. The matrix captures in the high 90 percentiles the population that would be considered Native by the Department of Justice.
Mr. Doll said the Assembly has a responsibility to make a proposal that to the maximum extent possible benefits the community of Juneau, as that is who we represent. We want to take into consideration other people’s concerns, but to sacrifice our character for another community is difficult and may not be well received. He asked why Representative Thomas was supportive of Plan B for District 2. Mayor Botelho said it incorporates Haines and Skagway into a smaller community district with the hub community of Sitka, but the other direct effect is that it does not pit him as an incumbent against another incumbent. The layout in that configuration is that Representative Wilson will have to run against Representative Johansson, but no other House member will have to run against another incumbent. On the Senate side, there is a situation in which there are two incumbents facing each other, one happens to be Alaska Native, and that is Senator Kookesh against Senator Steadman. The reason for the Bush Caucus directive is to protect a seat that is held by an Alaska Native incumbent. That is justifiable grounds under the VRA.

Ms. Danner asked about the significance of Plan A with a Native effective district and Plan B with two Native influence districts as far as the Board is concerned. Mayor Botelho said he did not know the answer. Both have competing important values that are upheld. One in terms of Native incumbency and two Native influence districts, the other provides for an effective Native district above 35%. That number may be revised at some point. As the Board looks at the state as a whole, this will be what is pre-cleared by the Department of Justice (DOJ), it may be defined that two districts at 25% are better than one at 35%.

Mr. Baldwin said Southeast Alaska was self-contained by geography and could stick with four districts, but the Board will be looking at the whole state and the deviations will be adjusted statewide. The Board will be driven in Southeast Alaska by the VRA and they will try to meet the benchmarks, but they will be drawing all the 40 districts and the overall deviation for the state must be met.

Ms. Danner recommended sending a narrative with the plans that would express the intention for each and how they met the efforts to meet standards.

Mr. Doll said he thought there were more associations between Juneau, Haines and Skagway than with Juneau and Petersburg.

Mayor Botelho said the Board asked that plans be submitted in person in Anchorage on Thursday. In terms of a narrative, he said he would start with the memo to the Assembly included in the packet.

Mr. Anderson asked about Mayor Botelho’s sense of the testimony in Juneau. Mayor Botelho said he did not know because there was significant time between speakers and he did not hear others speak. He did hear that Byron Mallott and Brad Fluetsch testified. There might have been others and the political parties.

Mr. Dybdahl said regarding Mr. Kookesh’s proposal, if it could work, we would give up nothing. Would the Assembly support that proposal if five districts could be created?

Mayor Botelho asked Mr. Baldwin if there was any way to configure five districts in Southeast. Mr. Baldwin said if the four districts were taken down to the minus 5% deviation and Cordova was re-included, which is 12% of the district, there is still a shortage of 7000 in population to
make up the fifth district. District 6 is 4000 short in population. Senator Kookesh wants a District 6 to pair with and as the area is extended, it runs into a district that is not heavily populated by Alaska Natives, District 7. Perhaps the district could go around the gulf to Kodiak, but that causes a domino effect, as the district near Dillingham is looking for population as well. It is a nightmare and almost impossible.

Mayor Botelho said he thought Juneau should support a fifth district if it was at all possible.

Mr. Dybdahl said the loss of population is affecting many areas in the state and the Bush Caucus tried to get more representation by increasing the size of the legislature, but that did not work out. There is a community of interest for those smaller places.

Mr. Doll said he hoped that distances between communities and geography trumps other factors, as it is getting very difficult to provide effective representation for the large districts.

Ms. Crane asked about other opportunities for the Assembly to comment. Mayor Botelho said the next opportunity for public comment will be on the draft plan or plans. The Board must have at least one plan issued by April 15. There will be formal public testimony on the plan. Ms. Crane asked if there is another plan submitted for Southeast, would the Assembly have an opportunity to review and comment. If this is it, it is probably best to go ahead and submit these plans as the best scenario at this point. Mayor Botelho said that the deadline for all outside plans is Thursday, March 31. The Board will devise a plan, but that will not preclude anyone from suggesting an alternative.

Mr. Baldwin said from his experience, the Board appreciates getting plans delivered to them, especially with the degree of sophistication that has been provided here. The board often lacks local knowledge – Juneau has one resident on the board, but the rest of the members may not be familiar with the community or Southeast Alaska.

Ms. Danner asked the Mayor when he presents on Thursday, if there is a plan presented to preserve District 5 and 6; she hopes that the Mayor would be supportive. Mayor Botelho said the Mayors are holding a teleconference on April 20 to look at the Board’s plans for public comment and the Assembly should look at this opportunity as well.

Mayor Botelho said he would go to Anchorage to present the plans if the Assembly supports doing so.

Mr. Anderson said he was frustrated that the Assembly does not know what other plans may be out there, but given that these were Juneau North and Juneau South plans, he was supportive.

Mr. Dybdahl said if he could support a motion to forward both Plan A and Plan B to the board.

Ms. Becker supported the motion.

Hearing no objection, it was so ordered.

IV. ASSEMBLY COMMENTS AND QUESTIONS

Mr. Sanford said many on the Assembly are truly interested in what happens to our neighbors and we are trying to put a good plan forward and eventually we will move beyond this issue.
Mayor Botelho thanked Mr. Baldwin, Ms. Corey, and Deputy Mayor Sanford for their time under pressure to work out a recommendation.

Mayor Botelho said that CBJ will need to reapportion for Assembly Districts and this will be the first time that the outlines of the House Districts run outside the CBJ, therefore the House District boundaries can no longer serve as the Assembly Districts. Mr. Hartle said it is best to wait until the state process is complete, so we are aware of the precincts prior to preclearance.

V. ADJOURNMENT – 5:35 p.m.

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