MEETING NO. 2011-10: 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 5:30 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 City Manager; John Hartle, City Attorney; Bonnie Chaney, Budget Analyst; Craig Duncan, Finance Director; Rorie Watt, Engineering Director.

II. MANAGER’S REQUEST FOR AGENDA CHANGES

Mr. Swope said there were substitute resolutions for both Resolutions 2571 and 2579 in the Red Folder for the Assembly’s consideration. The amendments in Resolution 2571 – CBJ CIP FY12 – 17, reflected adjustments from a previous meeting. Resolution 2579 has updated information from Bond Counsel. He asked the Assembly to make the substitutions. Hearing no objection, Mayor Botelho said the Assembly would work from the amended versions.

III. CONSENT AGENDA

A. Public Requests for Consent Agenda Changes, Other Than Ordinances for Introduction – None.

B. Assembly Requests for Consent Agenda Changes

Hearing no objection, Mayor Botelho removed Resolution 2571(b) from the Consent Agenda and asked that it be the trailing item on the agenda.

C. Assembly Action

1. Resolutions

a. Resolution 2579

A Resolution Accepting Interest Rates For The Gastineau Elementary School Bond Being Issued Through The Alaska Municipal Bond Bank.


Public Comment: None.

Assembly Action:
MOTION, by Doll, to adopt Resolution 2579.

Mr. Doll asked Mr. Duncan for clarification of the changes presented in the version in the red folder compared to the version distributed in the packet. Mr. Duncan said the bonds were sold with a premium, so the size of the bond issue was reduced, and the premium was applied to the project.

Hearing no objection, Resolution 2579 was adopted.

IV. PUBLIC HEARING

A. Ordinance 2011-10

An Ordinance Appropriating Funds From The Treasury For FY12 School District Operations.

Administrative Report: Attached. The manager recommended the Assembly, by motion, provide the School District with $26,221,000 in local funding for FY12 Operations and refer Ordinance 2011-10 to the Finance Committee for further review.

Public Comment:

David Means, Director of Administrative Services for the Juneau School District (JSD), updated the Assembly with action taken by the School Board at its meeting of April 26, 2011. He distributed documents to the Assembly. The Legislature did not fund the school district with an increased Base Student Allocation (BSA) of $100, so the Foundation Funding is reduced by $887,331. The CBJ appropriation is subsequently reduced by $204,100 as well, for a total revenue reduction of $1,091,431. The Legislature did pass SB 84, which provides money for career and technical education in the amount of $427,306, and the CBJ can appropriate $98,300 as this program is in the Foundation Funding. Also, a new revenue item is “Aid to School Districts,” HB 108, for energy relief. This legislation has not been adopted. Mr. Means explained changes in expenditures adopted by the Board, including increased expenditures for Fuel Oil and Career Technical Education to align with the legislative funding support, and decreased expenditures in activities, supplies, one classified position and a decrease to the Charter School. In summary, the CBJ appropriation requested by JSD is decreased by $105,800 to be $25,451,000. He thanked the Assembly for its continued support for public education.

Assembly Action:

MOTION, by Becker, to notify the Juneau School District of $26,221,000 of local funding for FY12 Operations, and to refer Ordinance 2011-10 to the Finance Committee for further review. Hearing no objection, it was so ordered.

B. Ordinance 2011-11

An Ordinance Appropriating Funds From The Treasury For FY12 City And Borough Operations.

Administrative Report: Attached. The manager recommended the Assembly refer Ordinance 2011-11 to the Finance Committee for further review.
Public Comment: None.

Assembly Action:

**MOTION**, by Sanford, to refer Ordinance 2011-11 to the Finance Committee for further review. Hearing no objection, it was so ordered.

C. Ordinance 2011-12

**An Ordinance Establishing The Rate Of Levy For Property Taxes For Calendar Year 2011 For The Budget For Fiscal Year 2012.**

Administrative Report: Attached. The manager recommended the Assembly refer Ordinance 2011-12 to the Finance Committee for further review.

Public Comment: None.

Assembly Action:

**MOTION**, by Crane, to refer Ordinance 2011-12 to the Finance Committee for further review. Hearing no objection, it was so ordered.

Removed from the consent agenda:

Resolution 2571(b)

**A Resolution Adopting the City and Borough Capital Improvement Program for Fiscal Years 2012 Through 2017, and Establishing the Capital Improvement Project Priorities for Fiscal Year 2012.**

Administrative Report: Attached. The manager recommended the Assembly adoption of Resolution 2571(b). Mayor Botelho said there are two related issues, the overall CIP, which includes money related to Marine Passenger Fees in terms of projects. As a consequence, he recommended the Assembly suspend the rules once the motion is before the Assembly, to move by exception, that is, to focus only on those projects for which there are questions or disagreement.

Public Comment:

Reed Stoops spoke on behalf of Franklin Dock Enterprises on the Marine Passenger Fee CIP projects and distributed a memo to the Assembly. Mr. Stoops referred to Mayor Botelho’s memorandum on the history of Port Development Fees and Marine Passenger Fee. The evolution of Port Dues between 1989 and the present were outlined in the Mayor’s memo, but it did not reflect some of the early discussions regarding the Steamship/Marine Wharf project and funding sources. There was concern that the project was to construct a staging area for the public docks, and the private docks had their own staging areas and it did not seem appropriate to collect from the ships docking at the private docks to pay for that project. The Port Dues were used for this project, and when the resolution was renewed, the dues were increased at the public and private docks each time, and the last resolution did not have a specific project, but just referred to the “Waterfront Plan.”
Mr. Stoops said he provided the Assembly with a memorandum in December 2010 which had more legal cases cited than in Mayor Botelho’s memo, some of which reach a contrary conclusion, and he encouraged the Assembly to re-read his memo.

Mr. Stoops said the Franklin Dock is open to public access, including the staging area to the point of the security tent on the approach dock. There is an adjacent public parking lot at the Miner’s Cove area and the public can use the staging area parking lot to pick up or drop off a passenger. The restrooms, waiting area, and phone booths are public. He assumed the public would not have access to the floats when ships were in port, same as the proposed city floating docks.

Mr. Stoops said several of the projects for which the Franklin Dock had requested Marine Passenger Fees are not covered in their agreement with the cruise companies, and passenger fees are an appropriate means to pay for the passenger amenities, similar to what is done on municipally-owned facilities. CBJ granted funds to the AJ Dock in the previous year’s CIP for maintenance items.

Mr. Stoops said he wanted to clarify that Franklin Dock Enterprises has not proposed a navigational hazard study, but has considered a study on adding a floating dock to the fixed Franklin Dock. The city owns the tidelands where a floating dock would be constructed and Franklin Dock would never propose that it be built with Marine Passenger Fees, at least for the Franklin Dock’s benefit. If the project was feasible it would need to be done in some kind of partnership with the city, a leaseback to the city or sold to the city, there were many options. He was willing to look at this project as a benefit to the entire harbor.

Mr. Stoops said legal constraints of Marine Passenger Fees and Port Dues include fees being based on a fair approximation of the use of the facilities and they are to be used solely to pay for the cost of service to the vessel or watercraft. There has been $17 million collected from ships at the private docks and a small fraction of that expended at either of the private docks. Given that future revenues will be spent on one public project, there needs to be some balance.

Mr. Dybdahl asked about Mr. Stoops’ statement that a floating dock at the Franklin Dock would eliminate a hazard to navigation. Mr. Stoops said that a previous navigation study indicated that in high winds, depending on which ships are docked at the new city floating dock, it is likely that a tug assist would be required at the Franklin Dock. It will be useable, but not ideal. He said if you look at the waterfront as a whole, regardless of who owns the facilities, the optimum facilities would be four floating docks, and this would eliminate the hazard to navigation. Their tariff could never justify doing this project on their own. They are open to doing this through a manner that meets the public benefit test, and this is just an idea at this point.

Mr. Doll said the private docks are a “for profit” organization. He asked for the logic to justify the use of public funds for private benefit of the owners of the docks. Mr. Stoops said the fees are different from property taxes or sales taxes, which would clearly be inappropriate to be used for private circumstances. The passenger fees have specific federal and state constraints attached to them. The city cannot use them for any purpose, but is restricted to specific purposes. Those uses clearly apply at a private dock as well as at a public dock. Regarding the projects they have mentioned, they have to comply with the specified purpose. The covered shelter on the dock is a specific benefit to the passenger and if one of the cruise companies built it, we would not get a higher tariff, so it is not a benefit to our company, but that is why
he identified it as one of the projects that would qualify for use of the passenger fees. Dock resurfacing is a matter of passenger safety. If we do it we have to continue to charge fees high enough to do so, but it becomes difficult because the city takes those fees to do similar work. In the past few years, the Assembly has approved funds for the AJ dock and there were no objections. Use of the fees for maintenance reduces dock fees to make the port attractive overall.

Mr. Anderson asked about the cost of docking at the private docks vs. the public docks. Mr. Stoops said he did not know the charges at the AJ dock, and the Princess dock charges are a private contract, but he could say that his dock fee was more than the city’s and the AJ dock was even higher. The city has not adopted a policy of paying for a dock with revenue bonds and having those revenue bonds paid for by dock fees. Instead, it is taking Marine Passenger Fees and paying for the dock and because of this, it is not charging anywhere close to what the market value would be. The city has the power to do this and it may be in the public interest, but it creates a problem. When you need a new dock, in the past we could build it and charge enough to pay for the debt because the city was charging more for its dock. It makes it hard to build the next dock unless it is going to be a city facility.

Mayor Botelho asked if this would be a situation in which the use of an actual tonnage fee that is market based would have the effect of equalizing. Mr. Stoops said that would be a more economically rational system, and he thought the city at one time had proposed doing that. If the city operated more like the private sector, it would build a dock and pay for revenue bonds just like the private entities borrow money and repay it with fees from the ships. If you wanted to attract more ships, you would not be charging so much in taxes because you would be recouping your funds in that way and he felt that was a preferable system.

Drew Green, Port Manager for Cruise Line Agencies of Alaska, an Alaskan company that assists the cruise lines with Alaskan port services, including dock space, gangways, tugs, etc. The cruise lines look to them for the costs and we advise about port tariff changes. He wants to be able to ensure to their customers that the costs are not excessive, are reasonable, and appropriately used. He thought it was better to spread the costs over a longer period of time. He noted the laws regarding taxing tonnage had to be fair and equitable, used to pay the cost of service to the vessel and enhance the safety and efficiency of commerce and did not impose more than a small burden. For private docks operating in good faith, how did this burden affect their facility – was it more than a small burden or was it undue? Did it enhance or reduce interstate commerce? He appreciated the work of Mayor Botelho and the city attorneys to explain this. Of the annual $12 million estimated collection of state and community fees there are arguably infrastructure projects near the private docks for which the funds could be used.

Mr. Dybdahl asked if he heard from his clients about their impressions of the community as a whole. Mr. Green said they are hearing more positive comments over time as there have been improvements. There were some issues with the older piers, but now there are better docks, roads and overall improvements, but the costs have grown exponentially. The taste for the cruise lines in Alaska has been a little rough recently, and we need to be aware.

Chip Thoma, President of Responsible Cruising in Alaska, said over the past four years he has researched the booking, prices of tickets, the taxes, fees, and other charges that are charged by the cruise lines that come to Alaska. In the last two years, the price of tickets has risen 35%. That is a minimum average of $400 per ticket for every passenger who comes to Alaska. Part
of that ticket, distinguished separately, is taxes and fees. Taxes amount to only the taxes charged by the municipalities and the state and that amounts to $40. There is another $40 that goes to fees, and those go to the private docks. That is something that is never discussed, the extra $40 million that goes to the private docks for docking and services at those docks. That is $80 million a year that comes in taxes and fees. And there is a third category called gratuities at $80 per passenger, which goes supposedly to each steward in a cabin. But the reality is, there is enough money there to pay the entire compliment of people who work on the ships. There is so much money that is not being disclosed to the Assembly.

Mr. Anderson asked what correlation he was making. Mr. Thoma said that underlying other public testimony is the “rough time” the cruise industry is going through, but he said there is no “rough time.” There is plenty of revenue to pay the private docks but the companies are squeezing them.

Mr. Anderson asked if Mr. Thoma had a different understanding than Mr. Stoops regarding the private docks using docking fees to pay for construction of their docks, and the public docks having access to the passenger fees to do so. Mr. Thoma said yes, the city had paid for the $3 million electrical hookup at the Franklin Dock, had done extensive roadwork to both the Franklin and AJ Docks and utilities and other development, which are keys to their proper operations. He said if the public could benefit from the improvements, that is a satisfactory use of the fees, however, if there were no public benefit, then that should not happen.

Assembly Action:

Mayor Botelho asked for a motion on Resolution 2571(b), and suggested the Assembly suspend the rules to dispose of any non-port related CIP project and discuss that, and he had asked the Manager to distribute a list of marine passenger proceed projects, capitol or otherwise and those that did not make the list, and he asked the Assemblymembers to note those which they wanted to discuss, and the Assembly would go through them and act on specific items.

Mr. Anderson asked about the revenue source and Mayor Botelho said it would only be the Marine Passenger Fee.

MOTION, by Sanford, to discuss Resolution 2571(b). Hearing no objection to suspending the rules, Mayor Botelho asked if there was any project, other than a project related to Marine Passenger Fee priorities, to discuss.

Ms. Danner asked about the changes made to Resolution 2571(b). Mr. Swope said that on page 4, the amount for the Seawalk was adjusted upward by $1,000 due to a mathematical error. The FY12 Port Development Fee priority has been added as a result of the discussion at the COW with regard to Project 16b, and the State Marine Passenger Fee priority has been added as well, for the same reason, regarding Project 16b.

The Assembly recessed from 6:30 – 6:40 p.m. to review a handout from the city manager, titled “List of Proposed Marine Passenger Fee projects” dated April 22, 2011.

Mayor Botelho reviewed the list of Capital Projects with Assemblymembers and determined that there was no objection to the list as presented, with the exception of items identified as:
23. Installation of security gates at the AJ Dock, $48,000;
25. Planning and design of two information kiosks at the AJ Dock, $32,000;
29. Corrosion control at the Franklin Dock, $60,000;
30. Retaining wall improvements at the Franklin Dock, $150,000;
33. Analysis of new floating dock to replace the existing Franklin Dock, $100,000; and
34. Provide a cover for the passenger waiting area on the main Franklin Dock, $25,000.

Mr. Doll said that items 21, 29, 30, and 33, did not meet his test of relating to passenger safety and positive experience, and they should be in the private docks long-range planning and should not be funded in the amount of $470,000.

Ms. Danner said that each project needed to be related to the health, safety, efficiency or movement of passengers and the long-term benefit of the passengers that pay the fee. She said it was appropriate for the private docks to put forward projects for the funds but the Assembly needed to provide them with guidance regarding which projects the Assembly would consider.

Ms. Becker said she had no problem with today’s passengers paying for projects, which increased the safety of passengers now and/or future passengers. The docks need to be safe.

Mayor Botelho asked for a roll call to delete the listed item 21, Cathodic protection of the AJ Dock, $160,400.
  Aye: Danner, Doll
  Nay: Anderson, Becker, Crane, Dybdahl, Sanford, Botelho
Motion failed, 2 ayes, 6 nays.

Mayor Botelho asked for a roll call to delete the listed item 23, Installation of security gates at the AJ Dock, $48,000.
  Aye: Danner, Doll
  Nay: Anderson, Becker, Crane, Dybdahl, Sanford, Botelho
Motion failed, 2 ayes, 6 nays.

Mayor Botelho asked for a roll call to delete the listed item 25. Planning and design of two information kiosks at the AJ Dock, $32,000.
  Aye: Danner, Doll
  Nay: Anderson, Becker, Crane, Dybdahl, Sanford, Botelho
Motion failed, 2 ayes, 6 nays.

Mayor Botelho asked for a roll call to delete the listed item 29. Corrosion control at the Franklin Dock, $60,000.
  Aye: Danner, Doll
  Nay: Anderson, Becker, Crane, Dybdahl, Sanford, Botelho
Motion failed, 2 ayes, 6 nays.

Mayor Botelho asked for a roll call to delete the listed item 30. Retaining wall improvements at the Franklin Dock, $150,000.
  Aye: Danner, Doll
  Nay: Anderson, Becker, Crane, Dybdahl, Sanford, Botelho
Motion failed, 2 ayes, 6 nays.
Mayor Botelho asked for a roll call to delete the listed item 33. Analysis of new floating dock to replace the existing Franklin Dock, $100,000.

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

Motion passed, 6 ayes, 2 nays.

Mayor Botelho asked for a roll call to delete the listed item 34. Provide a cover for the passenger waiting area on the main Franklin Dock, $25,000.

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

Motion failed, 0 ayes, 8 nays.

Mayor Botelho reviewed the list of Operations with Assemblymembers and determined that there was no objection to the list as presented, with the exception of item 10. Additional Summer Transit Bus Service, $278,000.

  Mr. Anderson said he was interested in seeing an extension of Capital Transit to the AJ Dock into town as a benefit to the visitors and downtown businesses and asked Mr. Swope what was needed to make such a decision. Mr. Swope said the Downtown Business Association (DBA) had an outside consultant study this issue, and a circulator system with 15 minutes service stopping at all dock locations and moving about town was recommended. $600,000 was estimated for purchase of the vehicle. These were hybrid buses, not all electric, which were his preference. To get this project going, funding was needed to obtain the buses. It would fit nicely with the new Transit Center for servicing the buses.

  Mr. Anderson asked if this system were instituted, would it reduce the funding needed for transit in the downtown area. Mr. Swope said no. The largest impact upon the present bus system by the tourism industry was the local buses filling with tourists wanting to go to the glacier in the summer.

  Mr. Dybdahl said there was also some discussion of a downtown walking mall area and he asked how this fit into the discussion of a downtown circulator. Mayor Botelho said the DBA has discussed this and he plans to meet with Larry Spencer soon to get more information.

  Mr. Anderson said he had asked to remove this item for discussion only, not to vote to delete it from the list.

The Assembly recessed from 7:10 – 7:15 p.m.

Mayor Botelho said that with the deletion of the analysis of new floating dock to replace the existing Franklin Dock from the Marine Passenger Fee expenditures, there was $100,000 available to another project.

  Mr. Sanford suggested adding the $100,000 of unallocated passenger fees to the Centennial Hall roof account.

  Mr. Anderson suggested adding a CIP for a downtown circulator.

  Ms. Becker suggested adding a CIP for a covered passenger waiting area on the Franklin Dock, which was estimated at $35,000.
Mr. Dybdahl suggested adding the $100,000 to the CIP for grey water connection and CBJ lift station improvements at the AJ Dock as it is a revenue generator for the CBJ and it also benefits the cruise ships schedule, which may allow more time in port.

Mayor Botelho gave each Assemblymember two votes, to be used to narrow the list down from the Centennial Hall Roof, the Circulator Bus; the Franklin Dock covered passenger area and the AJ gray water connection. Hearing no objection, the result of the tally was a decision to add $100,000 to the Capital Projects - gray water connection at the AJ Dock.

Mayor Botelho said that 2012 Marine Passenger Fee priorities reflect a total of $700,000 to the AJ Juneau Dock LLC and $500,000 to the Franklin Dock Enterprises, on page four of Resolution 2571(b).

Mayor Botelho asked for any further objection to the expenditures outlined in Resolution 2571(b). Hearing none, Resolution 2571(b) was adopted.

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

VI. EXECUTIVE SESSION – None.

VII. ADJOURNMENT – 7:25 p.m.

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