MEETING NO. 2011-21: 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: Mary Becker, Bruce Botelho, Karen Crane, Ruth Danner, Johan Dybdahl, Peter Freer, Malcolm Menzies, Merrill Sanford, and David Stone.

Assembly Absent: None.

Staff Present: Rod Swope, City Manager; John Hartle, City Attorney; Beth McEwen, Deputy Clerk; Police Chief Greg Browning; Officer Tracy Murphy; Rorie Watt, Engineering Director; Dale Pernula, Community Development Director; Beth McKibben, Senior Planner; Kirk Duncan, Public Works Director; Bonnie Chaney, Budget Analyst; Catherine Fritz, Airport Architect; Carl Uchytil, Port Director; Gary Gillette Port Engineer

II. SPECIAL ORDER OF BUSINESS

A. Employee Recognition

Chief Browning said that the downtown area is one of the biggest assets for the community and presents one of the biggest challenges. He and Mr. Swope determined that a dedicated downtown officer should be tried, and Officer Tracy Murphy has risen to the occasion and has done an exemplary job. Chief Browning presented Officer Murphy with a letter and certificate of appreciation for his dedicated and thorough work, stating his performance has been outstanding.

B. Mental Illness Awareness Proclamation

Mayor Botelho proclaimed October 2 – 8, 2011 as Mental Illness Awareness Week in Juneau and presented the proclamation to Katy Chapman, Executive Director and Doug Rickey, Board President, of NAMHI, Juneau.

III. APPROVAL OF MINUTES

A. August 22, 2011 – Regular Assembly Meeting 2011-19 – Revised Minutes

Hearing no objection, the minutes of the August 22, 2011 Regular Meeting 2011-19, were approved as revised.

B. August 29, 2011 – Special Assembly Meeting 2011-20

Hearing no objection, the minutes of the August 29, 2011 Special Meeting 2011-20, were approved.

IV. MANAGER’S REQUEST FOR AGENDA CHANGES – None.
V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

*Dennis Young,* President of the ILWU – U.S. Longshore Jurisdiction, Local 2017 said there have been issues with cruise ships using their foreign workers to perform U.S. longshore functions in the ports throughout Southeast Alaska. He spoke to the Assembly in 2008 and asked for support in the form of a letter to Alaska’s Congressional Delegation to get enforcement of current laws regarding foreign-flagged vessels. This past summer, there was some acknowledgement that the foreign ships have not filed proper forms. In the past months these ships have gone from using foreign workers to using musicians and photographers that are U.S. Citizens to do this work. This is still not appropriate and they have not received permission from the Department of Labor to use crew members to perform longshore duties. He asked the Assembly to view this as a continuing manipulation of the federal law and to adopt a city ordinance to require all foreign-flagged commercial vessels to hire a contracted stevedore company and hire local U.S. longshore workers from Juneau, the ILWU, at city facilities.

Mayor Botelho asked Mr. Young if he had any model ordinances to review. Mr. Young said that in most U.S. Ports there are “Terminal Operator Agreements.” He was not aware of any municipal ordinances but would do the research.

Mayor Botelho asked Mr. Young if the Assembly was not inclined to do an ordinance, would a resolution in support of their efforts be in order. Mr. Young said a city ordinance would help secure the work in the community and it could help set an example for the rest of Southeast Alaska.

Ms. Becker asked if there were any liability issues regarding the work done by crew members vs. the longshoremen, or any required qualifications to do such work on city docks. Mr. Swope said he could not answer that.

Mayor Botelho thanked Mr. Young for his testimony.

*Dixie Hood* asked the Assembly to support the Committee of the Whole’s motion to maintain the Commercial Fishermen’s Memorial in its present location. Her son-in-law, Mark Livingston, was a commercial fisherman and it is the only place where his name is available to his family. She appreciated the Mayor’s comments about not leaving it up in the air for two years while decisions are made about Marine Park or the new dock construction. Having the issue settled at this point is important.

Bruce Tenney said he is a commercial fisherman and had two brothers who were lost at sea and their names are engraved on the Fishermen’s Memorial. He values it on a personal level, believes it is a suitable area, and he is in favor of keeping it as a sacred space in its present location.

VI. CONSENT AGENDA

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

A member of the public requested that Resolution 2586 be removed from the consent agenda.
B. Assembly Requests for Consent Agenda Changes

Ms. Crane asked to have Resolution 2586 removed from the Consent Agenda as well.

C. Assembly Action

*MOTION*, by Ms. Crane to adopt the consent agenda with the removal of Resolution 2586. Hearing no objection, it was so ordered.

1. Ordinances for Introduction

a. Ordinance 2011-24

*An Ordinance Amending The Official Zoning Map Of The City And Borough To Change The Zoning Of U.S. Survey 1042, Tract B; Wildmeadow Park, Tracts 1, 2, 3, 8, 9, 10, And 11; U.S. Survey 1041, Tract A; And U.S. Survey 1041, Tract B; Located Near Wildmeadow Lane And Glacier Highway, Currently Zoned D-1 (T) D5 To D-1.*

Administrative Report: Attached. The manager recommended Ordinance 2011-24 be introduced and set for public hearing at the next regular meeting.

b. Ordinance 2010-11(BB)

*An Ordinance Appropriating To The Manager The Sum Of $2,834,051 To Fund The City And Borough Of Juneau's Fiscal Year 2011 Public Employee Retirement System Contribution; Funding Provided By The Alaska Department Of Administration.*

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

c. Ordinance 2011-11(P)

*An Ordinance Appropriating To The Manager The Sum Of $80,000 As Partial Funding For The Affordable Housing Coordinator Position, Grant Funding Provided By The Alaska Housing And Finance Corporation Community Homeless Coordination Grant Program.*

Administrative Report: Attached. The manager recommended Ordinance 2011-11(P) be introduced and set for public hearing at the next regular meeting.

d. Ordinance 2011-11(Q)

*An Ordinance Appropriating To The Manager The Sum Of $166,922 As Additional Funding For The Juneau International Airport Runway Safety Area Capital Improvement Project, Grant Funding Provided By The State of Alaska Department of Transportation.*

Administrative Report: Attached. The manager recommended Ordinance 2011-11(Q) be introduced and set for public hearing at the next regular meeting.

e. Ordinance 2011-11(R)

*An Ordinance Appropriating To The Manager The Sum Of $26,254 As Additional Funding For The Crisis Intervention Specialist, Grant Funding Provided By The U.S. Department of Justice, Office of Justice Programs.*
2. Resolutions

a. Resolution 2587

A Resolution Authorizing The Filing Of An Annexation Petition Before The Local Boundary Commission Regarding Lands Recommended For Annexation Into The City And Borough By The CBJ Annexation Study Commission.

Administrative Report: Attached. The manager recommended adoption of Resolution 2587.

3. Transfer

a. Transfer T-929

Transferring $30,000 From Eaglecrest Mountain Operations/Lifts Capital Improvement Project (CIP) To Casey Shattuck III, IV, and V CIP.

Administrative Report: Attached. The manager recommended approval of Transfer T-929.

4. Bid Award

a. Bid E12-036

Juneau International Airport (JNU) Terminal Main Entry

Administrative Report: Attached. The manager recommended award of this project to McGraw Custom Construction, in the total amount bid, for an award of $1,014,000.

Removed from the Consent Agenda:

Resolution 2586

A Resolution Relating To The Tongass Futures Roundtable, And Repealing Resolution 2408(b).

Administrative Report: Attached. The manager made no recommendation.

Mayor Botelho recused himself due to a conflict of interest. Deputy Mayor Merrill Sanford presided.

Public Comment:

Norman Cohen said he is employed by the Nature Conservancy of Alaska and is the Southeast Alaska Program Director. In that capacity, he serves as staff to the Tongass Futures Roundtable (TFR) administrative committee. He expressed opposition to Resolution 2586 as presented. He said that Resolution 2408(b) adopted in 2007 expressed support for the TFR. It did not express support for any particular action or initiative of the Roundtable, but just stated that it is a positive entity and process for dialogue among diverse groups of stakeholders in Southeast Alaska to discuss important policy issues regarding Southeast Alaska’s economic, cultural, and ecological values. The dialogue has proved to be positive over the years. It has
increased understanding and communication between divergent points of view in the region. It has allowed for a timber supply to flow to the timber industry, but the Roundtable is about more than timber. It has given a voice to residents, tribes, and communities leading to new business investments in Southeast. Resolution 2586 repeals 2408(b) without explanation of why the TFR is not a valuable entity. Resolution 2586 does state that the Assembly would consider initiatives by the Roundtable on a case-by-case basis and he supported that portion of the resolution, but opposed Section 2, which withdraws support for the resolution.

Ms. Danner asked if it was true that a 100% vote was required for the TFR to pass any measure. Mr. Cohen said TFR uses the consensus vote framework. There have been several actions over the years upon which the TFR has achieved consensus. The dialogue and moving discussion forward has provided the most important benefit from the TFR. The support for the inventory of young growth timber has been a goal TFR has stressed to the Forest Service and they are now doing this, which will be an important part of the industry in the future. The wood biomass boiler at Sealaska is another example of the result of discussions that took place at the TFR. The discussions, as much as the actions, have been the benefit over the years.

Mr. Dybdahl asked if Mr. Cohen could express the relevance of CBJ support under Resolution 2408(b). Mr. Cohen said it was serious if the capital city sends a message that it is not that interested in the dialogue taking place at the TFR of those who are interested in trying to solve problems. It is an indication to other communities and stakeholders if the Assembly takes away its support of the entity. It is not a particular action of the entity, but the entity itself. If the entity decides it does not want to meet anymore, that is one thing, but this is a dedicated group of problem solvers, and this is a statement of Juneau’s support or non-support.

Mr. Menzies asked if other communities had withdrawn support of the TFR. Mr. Cohen said none of the members of the TFR is representing formally their city, borough, or company. There were two named seats but neither was from a community. There are officials from three cities who have dropped off the TFR, including Coffman Cove, Wrangell, and Petersburg.

Rick Harris, Executive Vice President, Sealaska Corporation, supported the comments of Mr. Cohen. He is a member of TFR, along with Jalene Arusio, who is an alternate and executive within Sealaska. Rosita Worl, Executive Director of the Heritage Institute and Vice Chair of Sealaska Corporation, and Byron Mallot are also members. Sealaska has made a substantial commitment to the overarching goals of TFR. The first goal is to improve communication, and for this goal we believe the TFR has been successful. It has given a voice to rural communities. In May, the TFR met in Hydaburg and it asked if the TFR should continue. The response of those in attendance was an overwhelming yes. Most of the people present were from rural areas. Sealaska has taken away policy guidance from the TFR, and as a result has created Hahanni, LLC, and its sole enterprise is to create new economic development in Southeast Alaska. He discussed oyster farming in Kake, Yakutat, and soon in Angoon. The moniker of the TFR was “Timber and Beyond.” They understand people’s frustration for not finding a solution to timber, but this has been a 30-40 year fight, and for this group to try to come to a complete conclusion and consensus on timber has been difficult. Substantial progress has been made. By succeeding with “bridge timber,” some of the timber operators have been allowed to succeed. He asked the Assembly not to pass this resolution. He explained the reasons for the consensus model so that interest groups did not carry decisions. One person can veto a measure, but must also explain to the group their reasons. This has created an organization where people can talk and not worry about being run over by the committee.
**Assembly Action:**

*MOTION, by Crane, to adopt Resolution 2586.*

Ms. Crane said the original resolution of CBJ’s support for the TFR does not commit the Assembly to anything other than conversation. She said there is value in talk and learning what all of the sides of an issue have to say. It is important that the city is at the table and that we do participate, not only for the residents of Juneau but also for the residents of Southeast.

Ms. Becker asked the reasons for not participating in the TFR.

Mr. Sanford said it boils down to the fact that CBJ has been involved with the TFR for 5-6 years through participation by the Mayor. There have been lots of good discussion and dialogue, but we have not achieved three of the five original reasons CBJ joined because they have not been able to achieve consensus on those items. There are other avenues for progress on those issues besides the TFR, including the State of Alaska’s Timber Task Force. One of the original resolution goals was to manage timber lands to provide a steady, reliable, and predictable supply of timber to the industry. The industry is down to a half of a sawmill and five or six “mom and pop” sawmills in Southeast Alaska. There has been a continued decline of the industry and the supply issue of timber is not being addressed, both in second growth and in old growth. There should be enough supply in the Tongass National Forest to supply two – four sawmills in Southeast Alaska and we have done nothing but hurt the economy of our small towns by not having an integrated resource available for them. TFR is not working on that and it said that was one of their primary goals. “Transition from old growth to second growth” is being worked on, but by many, including Southeast Conference. It will be a minimum of 30 years, perhaps 40-50 years, before there is enough second growth available to provide a viable industry. The 600,000 acres of inventory is now down to 275,000 acres because of all the takeaways into wilderness, parks, or the roadless rule. TFR has not been able to convince the Forest Service to support an integrated manufacturing industry. Next year, Sealaska is going to lose Columbia Helicopters as a contractor because there is no wood to haul out of the woods. The only true sawmill we have left on Prince of Wales Island will not have its supply. He did not want the Assembly to provide carte blanche support for actions of the TFR. Over ten individuals or cities have withdrawn their support and it is not as versatile as it used to be.

Ms. Becker asked if Juneau would have a seat at the table with the state organization.

Mr. Sanford said Juneau does not have a seat at the TFR, even though the Mayor chairs that committee as an individual, not as a representative of the city. Mayor Botelho is not appointed by the Assembly to participate. He does so as an individual because he believes it is a good idea.

Ms. Becker asked if the goals in the original resolution for support of TFR are being done by the State Timber Task Force. Mr. Sanford said yes.

Mr. Stone asked if the State of Alaska had withdrawn its participation in the TFR, as well as the Southeast Conference. Mr. Sanford said yes, and they have moved forward with the new Timber Task Force.
Mr. Freer said he understood the frustration, but did not see how passing Resolution 2586 would restore the industry that is in decline. The value of the TFR is it is a place for a diverse group of stakeholder interests to talk. This resolution could be perceived as a lack of interest on the part of CBJ in the TFR and he was not sure this was the right message to send. As leaders in the region, we need to lead all the interests, including timber, fisheries, and other industries and activities. The TFR may be the forum to facilitate diversification as well as to support timber. He opposed Resolution 2586.

Mr. Dybdahl said he stumbled into a TFR meeting in Hoonah several years ago at the ANB hall, and to look and see all the timber people and members of the conservation groups all in the same room at the time was inconceivable at the time. Prior to this vindictives were thrown and nothing was being accomplished. Timber in Southeast Alaska will never go back to what it was. It will be something different. There are many other stakeholders now in the Tongass and he does not see anything wrong with the original resolution as the TFR provides a forum for discussion. If talk does not occur, positions are unclear, and nothing will move. He opposed Resolution 2586.

Ms. Danner said she came from a logging family and harvesting timber is a crop, which can be harvested responsibly on a renewable basis. She appreciated Mr. Harris’ comments, the involvement of the native communities in this effort, and did not want to see Juneau pull out of something that is benefiting the economy of smaller communities.

Mr. Sanford said the TFR cannot and will not achieve the goals of Resolution 2408(b). The TFR will not support a viable integrated timber resource, except for the second growth issue. There are fewer diverse voices in the TFR, as they have left the group to find ways to invigorate the timber industry. Resolution 2586 does not say we will not support the TFR. It says that in light of many issues, case-by-case support for those issues discussed by the TFR will be reviewed by the Assembly.

Ms. Danner suggested referring the Resolution to the Committee of the Whole for rewording. Mr. Sanford said he would soon no longer be a member of the Assembly to be able to participate in the discussion, which was his reason for bringing this matter forward.

Ms. Becker asked if there is a financial obligation with this Resolution. Mr. Sanford said no.

Ms. Becker asked if there would be any conflict in supporting the State Timber Task Force. Mr. Sanford said he did not believe so.

Ms. Becker asked why the Southeast Conference dropped out of the TFR. Mr. Sanford said it was felt that progress was not being made on the tough issues that the TFR was supposed to address, including the timber supply and the truth about how many board feet can be removed from the forest without destroying fisheries or other community assets.

Mr. Dybdahl said he never had any expectation that the TFR would solve any or all of those issues but thought that the discussion was valuable if any progress would be made. He does not see the need to eliminate the group or CBJ’s support of it. Juneau needs to take a position of leadership in Southeast and that can be done by being at the table fostering further discussion.
Roll Call:
Aye: Becker, Sanford, Stone, Menzies
Nay: Crane, Danner, Freer, Dybdahl
Motion failed 4 ayes, 4 nays.

VII. PUBLIC HEARING

A. Ordinance 2011-22(b)
**An Ordinance Amending The Land Use Code To Revise The Superimposed Parking District Map, From Centennial Hall To Gold Creek.**

Administrative Report: Attached. The manager recommended Ordinance 2011-22(b) be adopted.

Public Comment: None.

Assembly Action:

*MOTION*, by Dybdahl, to adopt Ordinance 2011-22(b). Hearing no objection, it was so ordered.

B. Ordinance 2011-23
**An Ordinance Amending the Official Zoning Map of the City and Borough Relating to the Zoning of U.S. Survey 381 FR, Located at the Corner of Atlin Drive and Mendenhall Loop Road, and Repealing Ordinance Serial No. 2011-18.**


Public Comment:

*Dixie Hood* spoke in opposition to the zoning change in Ordinance 2011-18 and said that it violated the Comprehensive Plan. The neighborhood is in opposition to the zone change. The property owner has no plan for the property, and can seek future variances when a plan is developed.

*Murray Walsh* spoke on behalf of the property owner and applicant for the rezoning, RH Development. Mr. Harris was not available to attend this meeting. He said the applicant had “played the rules” of the game and not been on the opposite side of an issue with City Attorney Hartle in the past. He did not believe that Mr. Hartle’s view was definitive. Mr. Harris’ attorney, Robert Spitzfaden, had written a memo explaining how the action taken by Ordinance 2011-18 could be supported. CBJ had entertained two similar applications and approved one. He said this may not be a legal precedent, but it was surely a moral precedent. This applicant has spent thousands of dollars on this application and should not have been let in the door if the answer to the question was so clear. He asked the Assembly to not approve Ordinance 2011-23 and recognize there is no other undeveloped light commercial property in the Mendenhall Valley with the exception of Vintage Park, which gives that property the ability to set prices, and this is an opportunity to provide competition. This rezone gives RH Development more ability to do a pleasing project for the neighborhood. He understands that a code change may be required for clarity so that this type of discussion does not arise again. This has gone on for eight months, with many meetings, lots of emotion and trial, and asked the Assembly to maintain its previous action.
Bob Spitzfaden represented RH Development and said that this matter was not clearly open and shut that the previous action violated the CBJ code. There is a provision in the code that says a rezoning shall not allow uses, which violate the Land Use Maps of the Comprehensive Plan. This means that a rezoning requires looking at the maps, and in this case, the map says “MDR,” (Medium Density Residential), which has a code description, in which the key phrase is “…any commercial development should be of a scale consistent with a residential neighborhood.” It also says the residential density should be 5 – 20 units. We are not talking about single family homes, but 2 – 3 story buildings, which is a fairly dense use. Not only is it a dense use, but the MDR contemplates commercial development. The rezoning issue here asks to rezone into Light Commercial, which is consistent with the designation in the Comprehensive Plan under MDR. The key language is the commercial development is to be of a scale consistent with the residential neighborhood. In the MDR category, someone is supposed to look at whether a commercial development will be consistent with 5- 20 units per acre. This is the job of the Planning Staff and the Planning Commission. Once the commercial rezone occurs, the staff reviews a particular project to see if the scale of the project is consistent with the neighborhood. In the MDR category, the language indicates commercial rezoning is allowed, but when the Planning Commission applies it to a project, it reviews its scale within the neighborhood. Mr. Spitzfaden said that Mr. Hartle’s reaction to their argument is that if their argument were true, it could be said for every rezone. That argument ignores the language of MDR regarding the scale consistent to the neighborhood. Zoning is trying to accomplish a gradual increase in density between zones. In an MDR zone, it is in the middle of single-family housing towards a commercial use. Because of this transitional nature, the language of the Comprehensive Plan is well taken and it can be a delicate balance regarding the type of commercial use allowed. That is the job of the planning staff and Commission. He said the original action would pass muster in code.

Mayor Botelho said it is still a discretionary function of the Assembly to go from MDR to Light Commercial – what deference, if any, should the Assembly give the Planning Commission in declining to recommend that change. Mr. Spitzfaden said independent judgment should be exercised to determine whether the Planning Commission’s decision was well taken.

Linda Wild said she was the daughter of adjacent property owner Margaret Wild. She asked the Assembly to focus on the common goals of the Assembly, Mr. Harris and the neighbors, which is quality use of the property that is compatible with the neighborhood – then to determine the procedures to get there. If the result is D15-18, that just provides more dense housing, for which no one has asked. There is only about 1.6 usable acres. Her preference is that the property should remain zoned as D-10. Any more intensive development would require different intersection configurations. Mr. Harris should approach the Planning Commission when he has a concrete idea of what he wants to do with the property and review the plans for the intersection with the Alaska Department of Transportation.

Tom Waldrup said he did not live in this neighborhood and had no vested interest in this issue. His concern is that the law is followed. It seemed from reading the issue there should be no question, and the action to rezone to Light Commercial is not legal. There is no project proposed. To consider anything but D-10 seemed like an end run around the Planning Commission and the citizen’s right to have input. When the Assemblymembers take office, they swear to uphold the Constitution and laws of CBJ. Anything that undermines the community’s trust and the faith in this system is a disservice to all.
Assembly Action:

**MOTION, by Sanford, to adopt Ordinance 2011-23.**

Mr. Sanford said the Assembly had received conflicting guidance on this matter and was now told that the previous action was illegal. He would not take actions the Law Department recommends are illegal. He was sorry it had taken this long to get this determination but would vote to support Ordinance 2011-23 and repeal Ordinance 2011-18.

Mr. Dybdahl asked what would happen if the Assembly chooses not to support Ordinance 2011-23. Mr. Hartle said the repeal would not take effect, Ordinance 2011-18 would take effect on its 30-day schedule, and if challenged, the law department would defend the action. It would not be the first time the Assembly did not take his recommendation and did not enjoy hearing his arguments used against him, but the CBJ could win. Mr. Walsh and Mr. Spitzfaden make a decent argument, but he has come to an opposite conclusion, that CBJ 49.35.120, which is entitled “Restrictions on Rezonings”, contains three restrictions reported to restrict a rezone and one says, “Rezonings shall not allow uses which violate the land use maps of the comprehensive plan.” In other words, it focuses on uses. Under the Table of Permissible Uses, the possible uses of property are defined. It is the Planning Commission and Community Development Department’s interpretation of its code that this restriction did not allow uses which violate the maps. Our zoning districts are on a continuum, and the distinction between D-18 and Light Commercial are two points on the continuum, so it is not a clear call, but it is a basic tenet of statutory interpretation that every word and phrase has meaning in the law. Once the zoning designation is made, the Table of Permissible Uses determines what uses are allowed in that zoning district. The code will determine rather than the vague wording of the Comprehensive Plan. He felt the better argument was that the Light Commercial zoning designation would violate the land use code.

Mr. Dybdahl said it troubled him that we go through and do review and housekeeping changes to the code and we still have issues with clarity for the applicants – where do they start. Much time and resources were wasted. Mr. Hartle understood and agreed. He thought the CDD staff report did a thorough job of making the point.

Mr. Freer said the Table of Permissible Uses (TPU) outlined the scale of commercial uses allowed in the various zoning districts. The scale is not discretionary but clearly outlined in the TPU. Rezoning to Light Commercial considerably broadens the scale.

Mr. Stone said he has read all the information provided and talked with the city attorney. He does not want to do something illegal but feels the applicant has been done a disservice.

Ms. Danner said the Comprehensive Plan Maps show the area in question to be Medium Density Residential. The TPU indicates commercial development should be consistent with the zoning designation. She has concern for the applicant and the time they have taken. The rules need to be clear and the applicant should know up front if the development is permissible during the application process. Title 49 is not clear and she would like the Planning Commission and Law Department to clarify the language. CBJ Code 49.75.130 seems to say this matter should not have come before the Assembly. All rezoning should go before the Planning Commission as a major development, then to the Assembly on appeal if denied, or for final approval if approved. There has only been one incident where a rezoning application was
denied by the Planning Commission, and in that case, there is no record that it was brought forward to the Assembly.

Mr. Menzies asked if this ordinance passed, where the applicant goes from here if they would like to seek light commercial development. Mr. Hartle said if this is adopted, he recommends that the Community Development Department not take applications for this property until the ordinance takes effect. The applicant would have to start over with an amendment to the Comprehensive Plan map, which is adopted by the Assembly by ordinance.

Mr. Pernula said changing the designation on the maps should be done before changing the zoning. The applicant could pursue a zone change to D-15 or D-18, which complies with the maps.

Roll call:
Aye: Becker, Crane, Danner, Freer, Sanford, Stone, Menzies, Botelho
Nay: Dybdahl
Motion passed, 8 ayes, 1 nay.

C. Ordinance 2011-11(M)
An Ordinance Appropriating To The Manager The Sum Of $50,000 As Funding For A Mobility Manager, Grant Funding Provided By The Alaska Department Of Transportation And Public Facilities.


Public Comment: None.

Assembly Action:

MOTION, by Freer, to adopt Ordinance 2011-11(M). Hearing no objection, it was so ordered.

D. Ordinance 2011-11(N)
An Ordinance Appropriating To The Manager The Sum Of $12,865,000 As Funding For The State Of Alaska’s Designated Legislative Grant Projects, Grant Funding Provided By Alaska Department Of Commerce, Community And Economic Development.


Public Comment: None.

Assembly Action:

MOTION, by Sanford, to adopt Ordinance 2011-11(N).

Mr. Dybdahl asked, regarding the cruise ship dock improvements, it says the project would improve safety, reduce congestion of pedestrian and vehicle traffic, he asked staff to explain how this will happen.
Mr. Swope said with construction of the new docks, it would leave the current dock available for pedestrians and move the congestion to the new dock; it will be safer for existing pedestrian traffic.

Mr. Dybdahl asked about vehicle traffic. Mr. Swope asked Gary Gillette to comment. Mr. Gillette said that an element of the overall project was to reconfigure the cruise ship terminal parking and staging area, and with the larger ships, they have increased the number of A and B zones for motor coaches and vans, and have improved the pedestrian movement in the area.

Hearing no objection, Ordinance 2011-11(N) was adopted.

E. Ordinance 2011-11(O)

**An Ordinance Appropriating To The Manager The Sum Of $116,708 As Funding For The Local Emergency Planning Committee And The Emergency Management Performance Grant, Grant Funding Provided By The State Of Alaska, Department Of Military And Veterans Affairs.**


Public Comment: None.

Assembly Action:

*MOTION, by Danner, to adopt Ordinance 2011-11(O).* Hearing no objection, it was so ordered.

VIII. UNFINISHED BUSINESS – None.

IX. NEW BUSINESS

A. City Manager – Voter Brochure

Administrative Report: Attached. The manager requested an additional $3,000 to be approved by the Assembly to fund the 2011 voter information brochure.

Public Comment: None.

Assembly Action:

Hearing no objection, the Assembly authorized the use of an additional $3,000 to be used to fund the 2011 voter information brochure.

B. Lands Department – Approval of Property Acquisition

Administrative Report: Attached.

Public Comment: None.

Assembly Action:
MOTION by Becker, to purchase of a five-foot strip of land parallel to the South Franklin Street sidewalk located at 356 South Franklin Street, approximately 1,421 square feet in size, and commonly known as the vacant lot immediately south of the Marine Park Parking Garage, from Archipelago Properties, LLC. The purchase price is $300 a square foot and the total purchase price is estimated to be approximately $426,300, with funding from the Marine Passenger Open Space Waterfront Land Acquisition. Hearing no objection, it was so ordered.

C. Docks and Harbors Department – Approve Purchase Of 45-ton Sea-Lift From Krause Manufacturing Inc.

Administrative Report: Attached.

Public Comment:

Dennis Watson said this purchase is needed. He is concerned that this is a sole source contract, as the funding is from a TIGER grant and he would not like the Federal government to ask for the funds back if it did not agree with the purchase procedures.

Assembly Action:

MOTION by Danner, to approve the Docks and Harbors Board purchase of a 45-Ton KMI Sea-Lift from Krause Manufacturing, Inc.

Ms. Danner said this issue was thoroughly discussed by the Docks and Harbors Board and it was determined that this lift is the best alternative for the size of vessels that will use it. Mr. Hartle said he has not reviewed the issue, but said the Docks and Harbors staff worked with CBJ Purchasing and Amy Mead in the Law Department and believes they have addressed the issue of sole source satisfactorily.

In response to a request by Mr. Dybdahl, Mr. Gillette said research showed that there were only three suppliers in the U.S. for this type of lift, and two supply virtually the same piece of equipment and the third one is a much newer technology and is not comparable, therefore specifications could not be written fairly to all three. TIGER grants require purchases of goods made in America. The staff’s product review showed this equipment would address the needs of its use in the best manner. Harbor staff reviewed this purchase with the TIGER grant administration and the sole source has been granted. The Docks and Harbors department believes it is on legal ground with this purchase.

Hearing no objection, the Purchase of a 45-ton Sea-Lift from Krause Manufacturing Inc. was approved.

X. STAFF REPORTS – None.

XI. ASSEMBLY REPORTS

A. Committee Reports

Human Resources Committee:

Hearing no objection, the following board and commission appointments were made:
Americans with Disabilities Act Committee:
Allen Hulet and Marianne Mills for terms expiring August 31, 2014

Aquatic Facilities Advisory Board:
Philip Loseby to the School District Representative Seat for a term expiring June 28, 2013

Douglas Advisory Board:
Joyce Vick for a term expiring September 30, 2014

Juneau Commission on Sustainability:
Darrell Wetherall for a term expiring June 30, 2012

Local Emergency Planning Committee:
Nominate to SERC Bradley Kiefer for the open seat #8a

Sister Cities Committee:
Adrien Lopez for the remainder of the current term plus the full term expiring January 1, 2015

Social Services Advisory Committee:
Nathan “Nate” Vallier for a term expiring September 30, 2014

Youth Advisory Board:
John White and Joyce Vick for terms expiring August 31, 2014

Chair Danner said the next HRC meeting regularly schedule for October 17 would be moved to October 24, 2011.

Lands Committee:
Chair Becker said the next meeting would be held on October 10, 2011.

B. Liaison Reports

Juneau Commission on Sustainability:
Liaison Crane said there would be a public meeting on October 5, 2011 from 5:30 – 7:30 p.m. at the Valley Public Library to comment on the Climate Action Plan. The plan is available online and she encouraged the public to attend.
Planning Commission:

Liaison Menzies said he attended a Committee of the Whole meeting. It was a very constructive meeting held between the CDD staff and Planning Commission, and also attended by Ms. Danner. The Planning Commission would like to work more closely with the Assembly on Assembly goals for the year, would like to do more planning and less reacting, and would like to see issues in the CIP at the beginning.

School Board:

Liaison Becker said at last School Board meeting it was announced that the Learn to Swim program for all 4th graders would begin the following week.

Alaska Committee:

Liaison Becker said the University of Alaska Board of Regents will be meeting in Juneau and Assembly members have been invited. The Alaska Committee Board Retreat will be in November and one of the main issues to discuss is Coast Guard housing. Alaska Committee members attended both the Palmer and Tanana Fairs. The Legislative Reception is a concern – JCVB does not feel they can handle as much work as they have been asked to do in the past.

Juneau Chamber of Commerce:

Liaison Becker said that NOAA presented information on the halibut catch sharing plan, which is a plan to share the fisheries between commercial, charter, and sport fishing sectors.

Local Emergency Planning Commission:

Liaison Danner said she attended the LEPC sponsored National Sheriffs Association training session with 75 community and agency members to learn how to prepare, respond to, and mitigate disasters in the community. There will be a Preparedness Month event at Centennial Hall on September 24-25. The next LEPC meeting would be October 10 at BRH.

Parks and Recreation Committee:

Liaison Freer said the PRAC met on September 6 and it will be assembling a prioritized list of projects to be reviewed over the next few months. The PRAC will present a list of Capital Improvement Projects to the Finance Committee for consideration of sales tax funding. The next meeting of the PRAC would be October 4.

Eaglecrest Ski Area Board:

Liaison Freer attended an open house event at Eaglecrest and spoke with Jim Calvin and Jan Paul who presented the Eaglecrest Long Range Plan.

Bartlett Regional Hospital Board:

Liaison Stone said BRH has decided to negotiate with Quorum for potential new contract terms to administrate the hospital.
Airport Board:

Liaison Sanford said the board would be moving forward with the bid for the new section of the airport terminal. The dirt is still being moved around the area and that segment of the runway safety area should be completed in February 2012.

Southeast Conference:

Liaison Sanford said that he had taken on several committee memberships and chairs with the Southeast Conference. The SEC has become more cohesive and the Southeastern communities have gathered strength in the group. They appreciate Juneau’s efforts to assist Southeast Conference. There were 248 attendees at the conference. People are interested in the economic progress of the Southeast communities.

XII. ASSEMBLY COMMENTS AND QUESTIONS

Ms. Becker said the Juneau Homeless Coalition would be having a discussion on housing for homeless chronic inebriates. She referred to a letter from a Juneau downtown business outlining a number of issues stemming from this population, and she appreciated that Officer Murphy was recognized. He is only one person and it sounds like this problem is extensive. She encouraged the Assembly to attend this meeting.

Ms. Danner said the Juneau Homeless Coalition meeting would be held on September 22 at 11:30 a.m. at the Tlingit Haida Regional Housing Authority (THRHA) Conference Room, 5446 Jenkins Drive. At the direction of the Mayor, she met with Southeast Regional Resource Center (SERRC) staff to discuss the issues they face relating to chronic inebriates. Many are afraid for their personal safety at night. The JHC meeting will discuss several issues with data on the problem, current community resources, and a “wet housing” proposal (housing that does not require sobriety – a model currently in use in Seattle.)

Ms. Danner asked to forward the issue regarding the Longshore Union’s concerns about non-union workers on local docks to the Human Resources Committee. Hearing no objection, it was so ordered.

Mr. Stone said the Southeast Conference meetings were excellent and appreciated Mr. Sanford’s assistance to the SEC organization.

Mr. Sanford said that Ordinance 2011-24 regarding zoning could affect a large tract of land owned by a Juneau family, which had not commented on the proposal, and issues may arise – it would be good to address potential issues up front.

XIII. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Rick Harris notified the Assembly of a Rural Energy Conference in Juneau on September 27 – 29, 2011 and encouraged participation. The Southeast Integrated Resource Energy Plan is an effort to develop a comprehensive energy plan for all of Southeast Alaska and he encouraged the Assembly to pay attention to its development.
XIV. EXECUTIVE SESSION

A. Seawalk Negotiations
B. Status of Union Contract Negotiations
C. Solid Waste Recycling
D. Attorney Evaluation

Mayor Botelho said that each topic listed was appropriate for an executive session. Mr. Hartle said all four topics were within the requirements of the Open Meetings Act for executive session, subjects that tend to prejudice the reputation and character of any person or matters the immediate knowledge of which could clearly have an adverse affect on the finances of the public entity, giving direction to a contract negotiator, and personnel matters.

Public Comment: None.

Assembly Action:

MOTION, by Sanford, to enter executive session for the reasons listed by Mr. Hartle on the topics listed above. Hearing no objection, it was so ordered.

The Assembly recessed into executive session at 9:30 p.m. and returned to open session at 10:39 p.m. Mayor Botelho said the Assembly received a report on union contract negotiations and gave instructions to the manager. The Assembly heard a report on Seawalk negotiations and solid waste recycling and concluded the evaluation of City Attorney John Hartle.

Mayor Botelho said that Mr. Hartle would be receiving a narrative evaluation but had the Assembly’s firm vote of confidence and looks forwards to another year of service. The Assembly authorized a 4% merit increase for Mr. Hartle.

XV. ADJOURNMENT – 10:41 p.m.

Signed: ____________________________ Signed: _________________________________

Laurie Sica, Municipal Clerk               Bruce Botelho, Mayor