MEETING NO. 2012-17: 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 (telephonic), Jesse Kiehl, Carlton Smith, David Stone, and Randy Wanamaker (telephonic).

Assembly Absent: None.

Staff Present: Kim Kiefer, City Manager; John Hartle, City Attorney; Rob Steedle, Deputy City Manager; Laurie Sica, Municipal Clerk; Greg Chaney, Acting Community Development Director; Rorie Watt, Engineering Director; Rich Etheridge, Fire Chief; Mila Cosgrove, HRRM Director; Bonnie Chaney, Budget Analyst; Mary Norcross, Controller; Matt Lillard, Eaglecrest Ski Area Manager; Brian Davies, Director of Snow Safety, Eaglecrest; John Vowell, Interim CEO, Bartlett Regional Hospital; Mark Whitman, Mendenhall Library Supervisor.

II. SPECIAL ORDER OF BUSINESS – None.

III. APPROVAL OF MINUTES

A. June 4, 2012 – Regular Assembly Meeting 2012-15

Hearing no objection, the minutes of the June 4, 2012 Regular Assembly Meeting 2012-15 were approved.

B. June 11, 2012 – Special Assembly Meeting 2012-16

Hearing no objection, the minutes of the June 11, 2012 Special Assembly Meeting 2012-16 were approved.

IV. MANAGER’S REQUEST FOR AGENDA CHANGES

Ms. Kiefer requested the Assembly remove Resolution 2620, adopting a Municipal Drinking Water Supply Plan. The revised water plan was not available to the public for review until mid-afternoon last Friday. This resolution would be rescheduled to a meeting in September.

Ms. Kiefer requested that the Assembly substitute Ordinance 2012-20(A) in the red folder for Ordinance 2011-11(AQ) to reflect fiscal year 2013.
V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS.

Mike Peterson, said he owned and operated Peterson Crane Rental from 1978 – 1986 and Douglas Café from 1991 – 1995. During those periods of self-employment, he said he was a good steward of collection and remittance of CBJ sales tax. He referred to a case reported in the newspaper of a local business owner’s plea agreement of guilty to five misdemeanors of failure to file and remit sales tax returns for the period of 2010 and 2011, and the tax amount owed and agreed upon was $191,800. This amount was to be paid back over a ten-year period at $1919 a month and the business owner must remain current with sales tax returns. He said there were 33 original misdemeanors of failure to remit and pay sales tax from Sept. 2006 – June 2011. CBJ wanted $223,000 and the plea bargain agreed to $192,000, so this person was forgiven $31,000 for not paying their sales tax. The CBJ codes said the unpaid sales taxes should be assessed at a 12% per annum and the plea bargain agreed upon was 3.75% over a ten-year period. He said this situation illustrated why more businesses may choose not to pay sales tax due. He asked how this situation happened and what would happen if this person left the community. He suggested that CBJ consider issuing an annual business license similar to Skagway, which was only $10 per year but it was a tool for enforcement of payment of sales tax and other money owed CBJ, such as utility bills. If unpaid, there is no business license. He also suggested implementing a percentage scale for unpaid sales taxes for increasingly more punitive damages. This was not to vilify the business, but given that there was a new manager, new finance director, and soon to be new mayor, it could be timely to review the procedures and due process.

Albert Judson spoke about the proposed Capital Transit route changes in the valley and said that the public notice so far had been inadequate. The people that would be directly impacted had not been notified. He said he was proactive and took the notices to the libraries and posted some on bulletin boards. He believed in the city’s causes and the effort to advertise the route change was inadequate. The date and times of the meetings about the schedule should be changed to a better date and time. Even if the proposed changes were good, he would still be against it because there were no maps or pictures about the proposed changes. Most Capital Transit riders were low income, they might not have computers, and it was hard to keep up with everything. Adding another bus to the fleet could be a way to reduce the impacts of the change.

Mike Williams spoke about the recent incident at Auke Lake in which a young woman died in an accident and he was concerned about regulations and safety. His daughter witnessed the accident. A friend of his who lived on Auke Lake for many years observed that it had taken this long for a serious accident to occur and made the following suggestions for safety to be improved on Auke Lake. Clear, legal authority for regulation of the lake should be established. Motorized and non-motorized areas and hours of operation have been developed, but not enforced. Size, speed, and horsepower of motorized vessels should be limited. Within the motorized area, there should be defined directions of travel and floatplanes should be prohibited on the lake. The rules of the road on waterways are that the person towing as the right-of-way.

Mr. Williams spoke about Dock Project 16b. He had been a commercial fisherman and had a vessel tonnage license. He currently operates a commercial dive company. Based on his extensive, local experience in the waters of the state, he said that some people refer to a “current” in the Taku Smokeries area. He has done underwater surveys since 2001 for Taku Smokeries of the fish tailing waste pile. From November 2011 to December 2011, he and his
partner dove 20 times in the area, on different days and a variety of times, and they never experienced a current on the surface or at depths from 70 – 155 feet. This was a difficult survey to perform. There was better visibility on an outgoing tide. Regarding safety of boats maneuvering in the area, and the difficulty of older boats to move in the area, he suggested the boats should be upgraded if they have such a difficulty. He said the current configuration of 16b was said to cause issues for those boats, however, those boats did not claim that there were issues maneuvering in local harbors which had the same or more restricted areas within which to move. If those boats could get into Aurora or Harris Harbors, there would be no problem maneuvering in the 16b area.

VI. CONSENT AGENDA

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

B. Assembly Requests for Consent Agenda Changes – None.

C. Assembly Action

_MOTION_, by Stone, to adopt the consent agenda as amended by changing the title of Ordinance 2011-11(AQ) to Ordinance 2012-20(A) and removing Resolution 2620. Hearing no objection, the consent agenda was adopted.

1. Ordinances for Introduction

a. Ordinance 2012-25
_An Ordinance Authorizing The Manager To Execute A Lease Of A Fraction Of U.S. Survey 381, Containing 36,122 Square Feet, And A Portion Of Lot 4, U.S. Survey 381, Containing 12,000 Square Feet, Located At The Intersection Of Hurlock Avenue And Mendenhall Loop Road, To Juneau Youth Services, Inc., For The Construction And Operation Of An Emergency Shelter For Youth._

   Administrative Report: Attached. The manager recommended Ordinance 2012-25 be introduced and set for public hearing at the next regular meeting.

b. Ordinance 2011-11(AQ) (renumbered Ordinance 2012-20(A))
_An Ordinance Appropriating To The Manager The Sum Of $23,466,667 As Additional Funding For The Juneau International Airport Runway Safety Area Capital Improvement Project, Funding Provided By The Federal Aviation Administration, Alaska Department Of Transportation, And The Juneau International Airport._

   Administrative Report: Attached. The manager recommended Ordinance 2012-20(A) be introduced and set for public hearing at the next regular meeting.

2. Resolutions

a. Resolution 2618
_A Resolution Adopting Revisions to the Personnel Rules._
b. Resolution 2619

A Resolution Reaffirming The City And Borough Assembly District Boundaries Based On The 2010 Census Data.

Administrative Report: Attached. The manager recommended Resolution 2619 be adopted.

c. Resolution 2620 – removed from the agenda and no action was taken.

A Resolution Adopting A Municipal Drinking Water Supply Plan.

3. Bid Award

a. Bid Award 12-256

Diesel Generator

Administrative Report: Attached. The manager recommended award of this project to Cobra Power Systems, in the total amount bid, for an award of $239,000.

4. Liquor Licenses

a. Liquor License - Transfer

FROM: 64 Thunderbird LLC d/b/a 64 Thunderbird LLC, location: No Premises.

TO: 64 Thunderbird LLC d/b/a The Thunderbird, location: 9109 Mendenhall Mall Road, Suite #4B.

Administrative Report: Attached. The manager recommended the Assembly waive its right to protest the above liquor license action.

VII. PUBLIC HEARING

A. Ordinance 2012-26

An Ordinance Amending The Official Zoning Map Of The City And Borough To Remove The Restriction On Berners Avenue Access To And From Professional Plaza.


Public Comment:

Nathan Young said he lived on Berners Avenue and objected to the ordinance. This was a residential area and had a high volume of traffic, as one of the primary entrances to a large residential area with access to the airport’s Emergency Vehicle Access Road (EVAR) and to the Mendenhall Waste Water Treatment Plant (MWWTP). The Engineering Department acknowledges this traffic and posted speeds from 35 – 45 mph. He said his family accepted this when they bought their house, but they are not accepting of additional traffic. He spoke with the Fire Chief, who told him there were no current code violations in the area based on the current traffic configurations.
Janet Thrower said she lived on Berners Avenue, and testified on this issue in 1994. She distributed a copy of a map of the area, discussed the traffic routes, and pointed out stop signs and stoplights. This change would affect many families on Berners Avenue, Radcliffe Road, Muir and Eagle Streets, impacted by cut-through traffic and previously by Professional Plaza traffic. The current ordinance under consideration stated that Professional Plaza desired a secondary access to their property. They stated that most of the traffic would use Berners Avenue to access Glacier Highway, 200 feet south of their current access. There were times during the day in which access to Glacier Highway involved a wait, but this was true of cars from Berners Avenue as well as those from Professional Plaza. Routing traffic onto Berners Avenue would not change the situation on Glacier Highway for those cars turning right. Most of the day there was no waiting time to get on to Glacier Highway. Turning left on Glacier Highway at busy times was the issue, and could be avoided by turning right and using the neighborhood streets. The problem was that an access to Professional Plaza from Berners Avenue acted as a magnet, which pulled a steady stream of commercial traffic through the neighborhood. People would begin to think of the neighborhood as the way to get to Professional Plaza. In the early 1990s, Professional Plaza paved a Berners Avenue access. It drew attention to itself and was not open long because it was so well used. The Engineering Department concluded this access promoted safety and public convenience. She said it was not safer for the neighborhood, even with narrower streets and sidewalks. The rebuilt project will also include truck traffic. Professional Plaza promotes the Berners access as a safety measure in case of emergencies. There have not been emergencies there, which she has observed in her 22 years in the neighborhood, and if this were true, every cul-de-sac would be required to have a second access. All the conditions that existed in 1994 still exist. Section 3 of Ordinance 85-02 was meant to protect the integrity of the residential neighborhood and she asked the Assembly to uphold the buffer between residential and commercial uses in this area.

Ms. Danner said that when it was before PWFC, the proposal was for 12-foot lanes. Ms. Thrower said the project had since been narrowed to ten-foot lanes, and even during the construction, the workers were amazed at the speed at which people traveled through the area. Ms. Danner asked about a stop sign added to the area. Ms. Thrower said that had happened.

Mr. Smith asked Ms. Thrower how she defined commercial traffic. She said any traffic directly related to business at Professional Plaza – such as those having business appointments at Professional Plaza. She was not talking about commercial trucks.

Mr. Kiehl asked if her concern was less about people leaving Professional Plaza and using Berners Avenue to access Glacier Highway than about people at Professional Plaza using the access to go through the neighborhood to head out the road. She said that was true. When the driveway was open before there was steady traffic. She does not know how traffic exiting Professional Plaza could be restricted to only left turns or how that would help the goals of Professional Plaza.

Assembly Action:

MOTION, by Wanamaker, to adopt Ordinance 2012-26.

He asked for unanimous consent. Staff had reviewed this issue thoroughly in committee and addressed the issues.
Mr. Kiehl asked Ms. Kiefer to explain the history of this situation and how the Assembly had arrived at this position. Ms. Kiefer asked Mr. Watt to review his research.

Mr. Watt said he did not know all of the history, but the issue arose during the road construction in the area. The engineers saw the half driveway that had been constructed in Professional Plaza and felt it made sense to connect the driveway to the truck route, so connected it in the early plans. It was later discovered that the Professional Plaza permits prohibited that connection and we suggested that the Planning Commission review the issue as part of the review of the road project. It was later realized there was an ordinance, in addition, that prohibited the access. The Public Works and Facility Committee (PWFC) discussed the matter and drafted this Ordinance 2012-26.

Ms. Becker asked about the safety issue regarding visibility in exiting Professional Plaza. Mr. Watt said, for a sizable complex and in any commercial subdivision of that type, they would recommend a second access for police, fire, maintenance, utility, and repair. Having one access could be problematic. They recognized that Berners Avenue was a well-used road and for that reason, the reconstruction included two sidewalks. The PWFC pursued additional traffic calming measures, which narrowed the lanes and placed an additional four-way stop. The sidewalks protect pedestrians and the other measures reduced the attraction of using the access for cut-through traffic. The improvements on Glacier Highway had also helped traffic in the area. Professional Plaza testified that it took more time to exit the property through the neighborhood and it was not a desirable route.

Ms. Crane asked if Professional Plaza had applied for a modification to the Planning Commission yet. Mr. Watt said Professional Plaza could not apply unless this ordinance was adopted. The Assembly ordinance would allow them to apply for a permit modification, and the Planning Commission would need to review the application prior to construction of the driveway. Ms. Crane said the neighborhood would have an additional opportunity to review the matter in that forum. Mr. Watt said that was correct.

Ms. Becker asked for clarification about a comment Mr. Watt had made about the safety of access to and egress from Professional Plaza. Mr. Watt said that area on Glacier Highway had many driveways entering it and, generally, traffic should be funneled to intersections. Berners Avenue had a better left-turning access onto Glacier Highway than Professional Plaza’s driveway. He did not think it was a big difference, but it did have advantages.

Ms. Danner said she was sensitive to neighborhood concerns and that there were many changes to the current construction project to address those. She asked if everything that could be done, had been done. Mr. Watt said PWFC has gone beyond what he recommended to address neighborhood concerns and he thought enough had been done. This is a truck route to the MWTTP, and we do not need to do anything additional to enforce the route.

Ms. Danner asked if the place for additional mitigation would be at the Planning Commission. Mr. Watt said that if the ordinance passed, Professional Plaza would apply to modify its Conditional Use Permit and the Planning Commission could analyze the application.

Hearing no objection, Ordinance 2012-26 was adopted.
B. Ordinance 2011-11(AL)
An Ordinance Appropriating To The Manager The Sum Of $260,000 As Additional Funding For The Juneau International Airport Fiscal Year 2012 Operating Budget, Funding Provided By Airport Fund Balance.


Public Comment: None.

Assembly Action:

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

C. Ordinance 2011-11(AM)
An Ordinance Appropriating To The Manager The Sum Of $250,000 As Additional Funding For The Public Works Streets Division Fiscal Year 2012 Operating Budget, Funding Provided By The Roaded Service Area Fund Balance.


Public Comment: None.

Assembly Action:

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

D. Ordinance 2011-11(AN)
An Ordinance Appropriating To The Manager The Sum Of $600,000 As Additional Funding For The Bartlett Regional Hospital Fiscal Year 2012 Operating Budget, Funding Provided By The Bartlett Regional Hospital Fund Balance.


Public Comment: None.

Assembly Action:

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

E. Ordinance 2011-11(AO)
An Ordinance Appropriating To The Manager The Sum Of $100,000 As Additional Funding For The Public Works Fleet Maintenance Division Fiscal Year 2012 Operating Budget, Funding Provided By The Fleet Maintenance Fund Balance.

Public Comment: None.

Assembly Action:

\textit{MOTION}, by Smith, to adopt Ordinance 2011-11(AO). Hearing no objection, it was so ordered.

F. Ordinance 2011-11 (AP)
\textbf{An Ordinance Appropriating To The Manager The Sum Of $207,397 As Funding For The Capital City Fire/Rescue Staffing Adequate Fire And Emergency Response Recruitment Program, Grant Funding Provided By The United States Department Of Homeland Security, Federal Emergency Management Administration.}

\textbf{Administrative Report:} Attached. The manager recommended Ordinance 2011-11(AP) be adopted.

Public Comment: None.

Assembly Action:

\textit{MOTION}, by Kiehl, to adopt Ordinance 2011-11(AP). Hearing no objection, it was so ordered.

\textbf{VIII. UNFINISHED BUSINESS} – None.

\textbf{IX. NEW BUSINESS} – None.

\textbf{X. STAFF REPORTS} – None.

\textbf{XI. ASSEMBLY REPORTS}

A. Committee Reports

\textit{Committee of the Whole:} Chair Stone said the committee met on June 11 to discuss the West Douglas Road Extension and the Water Study. The next meeting was set for Monday, July 2.

\textit{Human Resources Committee:} Chair Danner said the committee would meet on June 27 with the full Assembly as the HRC to interview and recommend appointments to the Docks and Harbors Board, the Airport Board, and the Eaglecrest Board.

\textit{Lands and Resources Committee:} Chair Becker said the committee approved a Docks and Harbors request of a 35-year tidelands lease to Doug Trucano for $2,271.65 annually. The lease is for general use and there is no intention to sublease. The next meetings were set for July 2 and 23.

\textit{Finance Committee:} Chair Crane said the next meeting was set for June 28 and the subject was deliberation regarding the 1% sales tax extension.

\textit{Public Works and Facilities Committee:} Chair Wanamaker said the next meeting was set for July 2.
B. Liaison Reports

**School Board:** Liaison Wanamaker said the School Board had a meeting in June and honored approximately 22 retiring school staff.

**Planning Commission:** Liaison Smith said the Planning Commission had made many updates to the Comprehensive Plan over the past several meetings. The process had been time consuming but productive and the work would come before the Assembly.

**Docks and Harbors Board:** Liaison Becker spoke about the ribbon cutting for the new visitor’s center on the waterfront on June 22, and the Juneau Convention and Visitors Bureau (JCVB) had occupied the building. Docks and Harbors was working with the Army Corps of Engineers to conduct an environmental assessment of the Mike Pusich Douglas Harbor and hoped to have the necessary permits by December 2012, and a renovation contract let by the fall of 2013. Docks and Harbors was developing the scope of work for Aurora Harbor to award a design contract. Docks and Harbors was developing a lease for a fuel dock at Statter Harbor, setting regulations for DeHart's patrons to move to Statter Harbor and was considering leasing some parking spaces at the Mike Pusich Douglas Harbor to Douglas Fish and Game.

**Alaska Committee:** Liaison Becker said the Alaska Committee sent out cards to 30,000 new voters in the state and has obtained prizes for incentives for people to stop by the Juneau booths at the state fairs.

**Airport Board:** Liaison Danner said the next meeting was set for July 11, 7 p.m., at the Airport.

**Local Emergency Planning Commission:** Liaison Danner said the next meeting was set for July 11, Noon, at Bartlett Regional Hospital board room.

**Hospital Board:** Liaison Stone said the next meeting was set for June 27.

XII. ASSEMBLY COMMENTS AND QUESTIONS

Mr. Kiehl asked to hear about the public notice that had been given to the public regarding potential changes on Capital Transit bus routes. Ms. Kiefer said there was a survey on the Capital Transit webpage, an ad in the Sunday paper about the changes and meeting dates, a mailer delivered to the residents in the areas of proposed changes, posters on the buses, and Mr. Duncan would talk about the issue on the radio. Mr. Kiehl said the posters on the buses would likely be the most effective method of getting the word to passengers. He asked if the posters included a map of the proposed changes and Ms. Kiefer said that they did.

Without objection, Mayor Botelho referred Mr. Peterson’s request for discussion about enforcement of sales tax to a future meeting of the Assembly Finance Committee.

Without objection, Mayor Botelho expressed the Assembly’s sympathies to the families impacted by the incident at Auke Lake and referred Mr. William’s testimony about safety at Auke Lake to the Parks and Recreation staff and Advisory Committee.

Mayor Botelho said that Gold Rush Days was a very successful event and he congratulated all those responsible for this community activity.
XIII. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None.

XIV. EXECUTIVE SESSION

A. Annexation Update

Mayor Botelho requested an executive session for an update on Annexation litigation to discuss Assembly options. Mr. Hartle said this was a typical use of the Open Meetings Act provisions to go into executive session to discuss legal advice regarding CBJ’s response to the Local Boundary Commission.

Mr. Wanamaker noted his conflict as a Gold Belt Inc. Board of Directors member and asked to step away from the meeting. Without objection, Mayor Botelho acknowledge Mr. Wanamaker’s conflict and excused him from the rest of the meeting.

*MOTION, by Stone, to discuss legal options regarding annexation in executive session.* Hearing no objection, the Assembly entered executive session at 7:58 p.m. and returned to regular session at 8:09 p.m.

Upon returning to regular session, Mayor Botelho said the Assembly received an update on the annexation petitions. No action was taken by the Assembly.

XV. ADJOURNMENT – 8:10 p.m.

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