MEETING NO. 2012-34: 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 Merrill Sanford.

I. ROLL CALL

Assembly Present: Mary Becker, Karen Crane, Johan Dybdahl, Loren Jones, Jesse Kiehl, Jerry Nankervis, Merrill Sanford, Carlton Smith, and Randy Wanamaker.

Assembly Absent: None.

Staff Present: Kim Kiefer, City Manager; Rob Steedle, Deputy City Manager; Jane Sebens, Deputy City Attorney; Laurie Sica, Municipal Clerk; Beth McEwen, Deputy Clerk; Bob Bartholomew, Finance Director; Rorie Watt, Engineering Director; Hal Hart, Community Development Director; Mila Cosgrove, HRRM Director; Brent Fischer, Parks and Recreation Director; Myia Whistler, Recreation Superintendent; Jane Lindsey, Museum Director; George Schaaf, Parks and Landscape Superintendent; and Terry Hinkley, Landscape Supervisor.

II. SPECIAL ORDER OF BUSINESS

A. Proclamation Honoring Robert “Bob” J. Thibodeau

Mayor Sanford read and presented a proclamation in memory of and honoring Robert “Bob” J. Thibodeau for his service to the community in many ways, including as a member of the Juneau Commission on Aging. Mrs. Aurila Thibodeau, and their son Robert and daughter Theresa, were present to receive the proclamation from Mayor Sanford.

B. Proclamation – Gastineau Fire

Mayor Sanford read a proclamation honoring those who provided assistance during the recent fire at the Gastineau Apartments, acknowledging a wonderful and caring community.

C. Terry Hinkley – Parks and Recreation Landscape Supervisor

Parks and Recreation Director Brent Fischer honored Terry Hinkley upon his retirement. Mr. Hinkley began his career at CBJ in 1984 as a groundskeeper assistant and became Landscape Supervisor. He was instrumental in providing beautiful surroundings in the community and tending to the care of the Evergreen Cemetery’s grounds and the families who came to visit.

MOTION, by Wanamaker, to suspend the rules to speak on a special item. Hearing no objection, it was so ordered.

Mr. Wanamaker said he was wearing a green and white ribbon that was made by Riverbend Elementary school teacher Karen Doxey, in honor of the school colors of the Sandy Hook Elementary School, to show support for the families and the community of Newtown, CT. Mr.
Wanamaker distributed the ribbons to Assemblymembers and staff and asked that they wear the ribbons for a day to show support.

Mr. Jones said there would be a vigil held on Wednesday, December 19, at the Northern Lights Church in the evening.

III. APPROVAL OF MINUTES

A. November 26, 2012 - Regular Assembly Meeting 2012-31

Hearing no objection, the minutes of the November 26, 2012 Special Assembly Meeting 2012-31 were approved.

B. December 05, 2012 – Special Assembly Meeting 2012-32

Hearing no objection, the minutes of the December 5, 2012 Special Assembly Meeting 2012-32 were approved.

IV. MANAGER’S REQUEST FOR AGENDA CHANGES

Ms. Kiefer said that Ordinance 2012 – 47 had been referred to this meeting for Public Hearing but was pulled from the agenda and moved to public hearing on January 7 in order to provide adequate public notice of a sale of foreclosed property.

V. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS.

Mike Peterson asked to speak about gun control. He read from the second amendment to the constitution, “…a well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed…” He said he had talked with several people about whether it was possible to have a meaningful conversation on a national and local level about gun control and was given all variety of answers. He said that everyone could agree that the shooting at the Sandy Hook Elementary School was bad and that would be a place to start a dialogue. He thought there could be a meaningful discussion about gun control in Juneau and an attempt was necessary on behalf of the memory of those killed last Friday. For something to occur on a national level – the change had to start at the local level. He volunteered his service to the Assembly, and asked the Assembly to consider initiating meetings or creating a task force or somehow join what appeared to be a nationwide swell to initiate a meaningful dialogue about gun control.

Glenn Haight said his comments were addressed to the Assembly on behalf of his family, including his wife Sunny, and his children Seth, Jocelyn, Savannah, Alison and Steven. On June 23, their daughter, Savannah Casey, was critically injured in a jet ski accident on Auke Lake, being pulled on an inner tube behind the jet ski, which was estimated to be thrown around a curve at approximately 60 mph or faster when it collided and Savannah’s head made full impact with another jet ski. She never regained consciousness, was medevac’d to Harborview Hospital in Seattle, and on June 25 she was declared legally brain dead. Although June 23 was a busy day at the lake, JPD’s report indicated there were only three motorized vehicles on the lake. One was a motorboat that stated it was off to the side. This was not a mixed-use accident, it was a motorized vehicle on motorized vehicle accident. The State of Alaska District Attorney acknowledged that the driver towing Savannah was doing so
negligently, he found neither drivers of the jet skis criminally negligent of homicide. As a parent, he said that careless behavior cannot be controlled, but it was up to responsible adults to create a safe environment. Auke Lake invited careless behavior simply because open access to fun, fast watercraft was allowed in a relatively small area with very few restrictions and no enforcement. He had lived in Juneau his entire life and knew how few hot days there were. With management of the lake as it was, it seemed a foregone conclusion that someone would be seriously hurt or killed and it was their child, but could have been another child. Without a change in the rules, the uses and enforcement, it would likely happen again. He spoke with CBJ’s Parks and Recreation Department and understood that a process was underway to review the rules governing the lake. They appreciated P&R’s responsiveness to resolve the matter, especially the work of Brent Fischer. They did not believe that the city’s efforts in the matter were commensurate with the situation. Within days of Savannah’s death, people were back on the lake, with jet skis and towropes, again without enforcement. They found it horrifying that no changes were made while an active police investigation was underway. He did not know the best remedy, but said funds should be dedicated to address a safe course of action or enforcement. This situation required deliberate review and expertise. His family was not interested in a hasty resolution and unless the Assembly took the situation seriously, more could die.

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 Becker, to adopt the consent agenda. Hearing no objection, it was so ordered.

1. Ordinances for Introduction

   a. Ordinance 2012-20(AA)

   An Ordinance Appropriating To The Manager The Sum Of $1,320.11 As Funding For A Mobility Manager, Grant Funding Provided By The Alaska Department of Transportation and Public Facilities.

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

   b. Ordinance 2012-20(AB)

   An Ordinance Appropriating To The Manager The Sum of $225,000 As Funding For A Rate Study For The Wastewater and Water Utilities, Funding Provided By The Wastewater and Water Utilities’ Fund Balances.

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

2. Transfer

Assembly Meeting No. 2012-34

3

December 17, 2012
a. Transfer Request T-938  
**Transferring $200,000 from CIP W75-037 Last Chance Basin Hydro-Geo Investigation to new CIP Back Loop Road – Auke Bay Waterline Replacement**

**Administrative Report:** Attached. The manager recommended Transfer T-938 be approved.

b. Transfer Request T-939  
**Transferring $175,000 from the ongoing Capital Transit Bus Shelters Capital Improvement Project (CIP) to create a new CIP for Public Works Capital Transit – Transit Plan.**

**Administrative Report:** Attached. The manager recommended Transfer T-938 be approved.

3. Liquor Licenses

a. Liquor License 2013/2014 Renewals

**Restaurant/Eating Place Licenses:**
- License # 4731 - DJ LLC d/b/a Asiana Gardens, Location: 9116 Mendenhall Mall Road
- License #2185 – Canton House, LLC d/b/a Canton House, Location: 8585 Old Dairy Road
- License #816 – El Sombrero Inc. d/b/a El Sombrero Mexican & American Food, Location: 157 S. Franklin Street
- License #4493 – Kwang LLC d/b/a Little Tokyo, Location: 140 Seward Street

**Beverage Dispensary License:**
- License # 447 - Statewide Services Inc. d/b/a Glacier Restaurant & Catering, Location: 1873 Shell Simmons Drive

**Package Store License:**
- License # 849 – Oke Hui Rodman d/b/a Percy’s Liquor Store, Location: 214 Front Street

**Liquor License Location Transfer**
- Package Store License #828 Jack D. Tripp d/b/a Tripp’s Viking Liquor
- Transfer from Location: 151 S. Franklin Street, Juneau
- Transfer to Location: 218 Front Street, Juneau

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

**VII. PUBLIC HEARING**

A. Ordinance 2012-20(X)

**An Ordinance Appropriating to the Manager the Sum Of $138,500 As Funding for the State Homeland Security Program, Grant Funding Provided by the State of Alaska Department of Military and Veterans Affairs.**

**Administrative Report:** Attached. The manager recommended Ordinance 2012-20(X) be adopted.

**Public Comment:** None.
Assembly Action:

*MOTION, by Dybdahl, to adopt Ordinance 2012-20(X).* Hearing no objection, it was so ordered.

B. Ordinance 2012-20(Y)
An Ordinance Appropriating To The Manager The Sum Of $275,000 As Funding For The Juneau-Douglas City Museum Remodel Capital Improvement Project, Grant Funding Provided By The National Endowment for the Humanities.


Public Comment: None.

Assembly Action:

*MOTION, by Smith, to adopt Ordinance 2012-20(Y).* Hearing no objection, it was so ordered.

C. Ordinance 2012-20(Z)
An Ordinance Appropriating To The Manager The Sum Of $50,000 For The Mendenhall River Community School Renovation Capital Project, Funding Provided By The Harborview Elementary School Renovation Capital Project Unexpended Bond Interest.


Public Comment: None.

Assembly Action:

*MOTION, by Wanamaker, to adopt Ordinance 2012-20(Z).* Hearing no objection, it was so ordered.

D. Ordinance 2012-44
An Ordinance Providing For The Issuance And Sale Of General Obligation Bonds In One Or More Series To Provide Net Proceeds Not To Exceed $25,000,000; And Providing For The Form And Terms Of The Bonds And For Unlimited Tax Levies To Pay The Bonds.


Public Comment: None.

Assembly Action:

*MOTION, by Crane, to adopt Ordinance 2012-44.* Hearing no objection, it was so ordered.

VIII. **UNFINISHED BUSINESS** – None.

IX. **NEW BUSINESS**
A. Liquor License Protest

License #673 – Peterson Pacific Holdings d/b/a Louie’s Douglas Inn, Location: 915 3rd Street, Douglas

Administrative Report: Attached. The manager recommended the Assembly protest the continuation of the Beverage Dispensary License #673 for Peterson Pacific Holding Inc. d/b/a Louie’s Douglas Inn based on the outstanding delinquent taxes, penalties, and interest.

Public Comment: There was no representative from Peterson Pacific Holdings present. There was no other public comment.

Assembly Action:

Mr. Kiehl asked if this mid-cycle protest was for additional taxes owed or the same amount of taxes that were protested previously and were at issue before the administrative law judge currently. Ms. Kiefer said the protest was of the same amount and the current taxes due were up to date. Mr. Kiehl asked for an explanation of the importance of filing a second protest when one was pending. Mr. Bartholomew said if for some reason the ABC Board denied the existing appeal and allowed the license to continue, the CBJ would come back with this protest at the mid-cycle. We do not know the outcome of the ABC Board and we have been to court, there has been an award with money due and a payment plan proposed, so this is a back-up plan. Ms. Sebens said that there was still outstanding sales tax due and that would be the basis of the protest. She spoke with the ALJ Office of Administrative Hearings and said the decision was being worked on and would go back to the ABC Board with a 20-day comment period in which the licensee could comment on the proposed decision. The CBJ protest would be upheld unless it was arbitrary, capricious or unreasonable. It would then go back to the Board for a determination of non-renewal of the license. This protest was consistent with the previous decision. The judgment was for over $54,000 and was on a payment plan of $750 per month to begin in March, 2013.

Mr. Smith asked if the city had ever been in this situation before or come this far with regard to collecting on a license. Ms. Kiefer said that CBJ had pursued enforcement with this particular license holder for a number of years.

Mayor Sanford said there had been businesses that had not paid taxes that CBJ had taken through the court system, with judgments against the owners and jail time. Ms. Sebens said that the Law Department was looking at this problem and saw this as a source of revenue and would pursue as many of the cases as time allowed.

Mr. Jones asked about the value of the license if the protest was successful – was the license taken or were operations suspended, and could the license owner sell the license to pay the money owed. Ms. McEwen said that when a license was not renewed by ABC, the license “died” and it could not be sold or transferred. There were only a certain number of this type of license allowed in a community based on population, and once that license was eliminated, due to the population, there was no likelihood this license would be able to be reactivated.

MOTION, by Dybdahl, to protest the continuation of the Beverage Dispensary license #673, Peterson Pacific Holdings, Inc., DBA Louie’s Douglas Inn, based on the outstanding delinquent taxes, penalties and interest. Hearing no objections, it was so ordered.
X. **STAFF REPORTS** – None.

XI. **ASSEMBLY REPORTS**

A. Mayor’s Report – None.

B. Committee Reports

*Committee of the Whole*: Chair Becker said at the last meeting, City Engineer Rorie Watt provided an update on the municipal drinking water supply plan.

*Public Works and Facilities Committee*: Chair Wanamaker said that all items at the last PWFC meeting were addressed on this meeting’s agenda.

*Human Resources Committee*: Chair Kiehl said the HRC met previous to the Assembly meeting and recommended the following board appointments. Hearing no objection, the following appointments were made:

- **Douglas Advisory Board**: Linda Snow and Sylvia Harvey were reappointed to seats with terms expiring on September 30, 2015.
- **Juneau Commission on Aging**: Clifford Cole was appointed to a seat with a term expiring June 30, 2013.

Mr. Kiehl said the HRC was working with the clerk’s office to review the resolution setting forth procedures and the booklet giving guidelines to the Advisory Committees and Boards.

On Wednesday, December 19, the full Assembly would sit as the HRC to interview applicants for the Planning Commission, and the Docks and Harbors and Airport Boards. The meeting would be followed by a special Assembly Meeting to make those board appointments.

*Finance Committee*: Chair Crane said the committee met and received a tutorial on bonds at last meeting, which was very instructive. There would be a Finance Committee meeting in January and February and at one of those meetings, the committee would get information on how to address sales tax issues and problems.

*Lands and Resources Committee*: Chair Smith said the December 10 meeting was cancelled and rescheduled for January 14.

C. Liaison Reports

*Docks and Harbors Board*: Liaison Jones said the Board was addressing an issue about the use of launch ramp permits, whether they were one per trailer, one per vehicle or one per boat. The next meeting was Thursday, December 20.

*Parks and Recreation Advisory Committee*: Liaison Nankervis said the PRAC met last Tuesday and discussed development of a large group event protocol, such as “Raining Man” which had a large pallet fire that created issues for the department. The PRAC was mapping an “off road vehicle” area at Pt. Bridget for consideration. On January 8, staff would present the PRAC
with a draft Auke Lake Management Plan. On January 29, the PRAC would hold a special meeting on the Auke Lake Management Plan.

**Airport Board:** Liaison Dybdahl said the Board met on December 12 and established "no smoking" policies for the airport property. The Board also acknowledged Architect Catherine Fritz upon her retirement after 30 years at CBJ.

**School Board:** Liaison Wanamaker said the next School Board meeting was set for January 3.

**Juneau Economic Development Council:** Liaison Wanamaker said JEDC held a “mining cluster group” meeting to discuss ways to support the mining industry in the community focusing on vocational training and local hire.

**Alaska Committee:** Liaison Becker said the committee met and planned for the Annual Legislative Reception to be held on Wednesday, January 16 from 5 – 6:30 p.m. at Centennial Hall. The Annual Meeting of the Alaska Committee was set for January 19 at the Airport meeting room.

**Ad Hoc Housing Committee:** Liaison Becker said the next planning meeting was set for Friday, December 21, at 1 p.m. in City Hall Conference Room 224. The January 8 date for the proposed forum could still be flexible at this point.

D. Presiding Officer Reports – None.

**XII. ASSEMBLY COMMENTS AND QUESTIONS**

Mr. Nankervis said regarding the $54,000 sales tax owed by Peterson Pacific Holdings, Inc., this was a ten-year repayment plan and he asked how many years it took for the tax to accrue. Ms. Crane suggested the answer to the question be referred to the Finance Committee.

Mr. Kiehl announced that Rafi Costanos, a leader in the local Filipino Community, had received a prestigious award from the President of the Philippines called the Banaag Award, conferred on Filipino individuals who had significantly advanced the cause of overseas Filipino communities.

Mr. Kiehl said he had received many calls and comments from the community in light of the school shooting and he thought a dialogue on guns was good but the community needed to be realistic regarding the city’s ability to regulate firearms. The regulation of firearms was reserved to the state of Alaska. In terms of the calls for action that were coming from the community, the Assembly’s hands were tied. The community could discuss steps to make the community a better place and whether the needs of mental health were being addressed.

Mr. Wanamaker wished everyone a merry Christmas.

Ms. Becker said she, Mayor Sanford and Mr. Wanamaker were guests on KTOO Radio / TV for a conversation on improving graduation rates in the community.

Ms. Becker said she and Mr. Wanamaker attended the Electoral College event held by the Division of Elections and watched the three Alaska electors cast their votes.
XIII. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None.

XIV. EXECUTIVE SESSION

A. Contract Negotiations
B. Appeal USE2011-030-Cruise Ship Dock Appeal

Ms. Kiefer provided some information about the budget process prior to entering executive session. She said that the manager’s office was currently putting together the budget overview and manager’s directives for the FY14 budget, by looking at the current year FY13. Staff estimated that FY13 revenues would be $800,000 below projection based on over projection of interest income. Staff thought the $800,000 could be made up from savings in expenditures, belt tightening, and keeping open positions open. The level of snow removal was an unknown and more funds could be needed for the Streets budget if the snow was heavy. She noted that an additional appropriation could be necessary in April to make the street budget whole. For the FY14 operating budget, the Assembly moved on March 6, 2012 to balance the budget using three different avenues, including an increase of the mill rate to not above 11 mills, one time funding of not over $1 million for both FY13 and FY14, and additional operation cuts. At that time staff had already made $4.8 million in reductions. The Assembly adopted the FY13 budget and approved the FY14 budget with no increase for FY13 based on additional funding received from the State of Alaska. The mill rate did not increase for FY13. The FY14 budget was adopted with a mill rate increase of .23 mills. In addition, there would be the $800,000 in interest income not earned, so there was less money in FY14. In the approved budget, $932,000 was estimated to be left when both budgets were complete so Ms. Kiefer proposed that the $800,000 come from that, with $132,000 left to the good at the end of FY14. She said this was with the understanding that there are 24 positions that were not funded in the current operating budget, but positions that were needed. In some cases the positions had not been filled for three years, most were unfunded in FY12, and a few in FY13, and not planned to be filled in FY14. The positions include a senior planner and a code compliance specialist in CDD, an administrative position in Parks and Recreation, two equipment operators and a number of JPD staff including a sergeant, a lieutenant, officers, dispatchers, and an administrative assistant. The total salary and benefits for the positions was approximately $1.5 million. The Assembly gave direction not to fill positions. In FY14, all three unions were negotiating their contracts, and getting the contracts to get on fiscal year was a goal. A 1% increase for all CBJ employees was approximately $513,000. In addition, the Assembly directed staff to have two months of revenue in the reserve fund, which came to approximately $17 million. Five million would come from the sales tax as directed by voters in the recent election. As the revenues grow, that funding level would grow as well. The staff also needed to establish a working capital fund similar to that in Anchorage, in which 3% of the operating budget was deposited in a capital budget to fund things that could not come from the reserve account, such as revenue shortfalls, big snow years, high electrical costs, etc. This would provide an operational safety net of $3 – 5 million, which was used since 2010 from fund balance to fill the holes in the budget. She asked to get direction from the Assembly regarding labor negotiations.

**MOTION**, by Becker, to request an executive session, to discuss two items, labor negotiations and deliberations on the decision regarding the Appeal of Dock Project 16b.

Public Comment:
Mark Miller of the Juneau Empire objected to holding discussions in executive session.

Ms. Sebens said the Open Meetings Act did not apply to the Assembly when it served in its quasi-judicial capacity to deliberate, so there was no need to make it a part of the motion. Ms. Sebens also said the Open Meetings Act clearly provided for the Assembly to convene in executive session to give direction to a labor negotiator regarding pending labor negotiations, and under the state law, the immediate knowledge of labor relations could have a direct impact on the finances of the CBJ.

Hearing no objection, the Assembly recessed into executive session at 8:10 p.m., and returned to regular session at 9:51 p.m.

Mayor Sanford said the Assembly gave instructions to the staff regarding labor negotiations and deliberated on the decision regarding the cruise ship dock appeal.

Presiding Officer Dybdahl said the Assembly gave direction to the law department to finalize the decision on appeal, which would return to the Assembly on the January 7 agenda.

Mr. Dybdahl said the Assembly gave direction to the city manager with regard to labor negotiations.

XV. ADJOURNMENT – 9:52 p.m.

Signed: ____________________________
Laurie Sica, Municipal Clerk

Signed: ____________________________
Merrill Sanford, Mayor