

# THE CITY AND BOROUGH OF JUNEAU, ALASKA

MAY 6, 2002

**MEETING NO. 2002-11:** 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 Sally Smith.

I. **FLAG SALUTE** was led by Mayor Smith.

II. **ROLL CALL**

Assembly Present: Don Etheridge, Marc Wheeler, Mayor Sally Smith, Dale Anderson, Frankie Pillifant, Randy Wanamaker, Jeannie Johnson, Jim Powell (arrived 7:25 p.m.) and Ken Koelsch

Assembly Absent: None

A quorum was present.

Staff Present: Beth McEwen, Deputy Municipal Clerk; Dave Palmer, City Manager; Donna Pierce, Deputy City Manager; John Corso, City Attorney; John Stone, Engineering Director; Craig Duncan, Finance Director; Kim Kieffer, Parks and Rec. Director; Joe Graham, Port Director; Joe Buck, Public Works Director; Al Heese, Airport Manager

III. **SPECIAL ORDER OF BUSINESS**

Mayor Smith noted that National Nurses Week was proclaimed for May 6<sup>th</sup> – 12<sup>th</sup>, and National Woman's Health Week was proclaimed for May 12<sup>th</sup> – 18<sup>th</sup>. Bike to Work Day would be Friday the 17<sup>th</sup>. She added that she did proclamations on behalf of the Assembly for both Mr. Personnet and Mr. Mueller on their retirement, and they were each presented with a Juneau Portrait II book.

IV. **APPROVAL OF MINUTES**

a. **04/15/02 - Regular Meeting No. 2002-09**

b. **04/29/02 – Special Meeting No. 2002-10**

*MOTION - by Koelsch, to approve the minutes of Regular Meeting No. 2002-09, held April 15, 2002, and he asked unanimous consent. Hearing no objection, the minutes were approved.*

*MOTION - by Koelsch, to approve the minutes of Special Meeting No. 2002-10, held April 29, 2002, and he asked unanimous consent.*

Mr. Wheeler noted a correction on page 11. A motion and roll call vote indicated the motion carried and should indicate the motion failed 4-5.

Hearing no objection, the minutes were approved as amended.

V. **MANAGER'S REQUEST FOR AGENDA CHANGES**

Mr. Palmer noted that Ordinance 2002-15 would be removed from the agenda at the request of the Finance Department so they could separate the two different bond issues.

VI. **PUBLIC PARTICIPATION ON NON-AGENDA ITEMS**

Joe Sonneman, 324 Willoughby. He referred to previous testimony he had given about Chicago. He had maps of Chicago, and Juneau's harbor, and he noted that the green area was the waterfront park. This was accomplished in 1910 over great opposition, but ever since has been viewed as one of Chicago's real hallmarks and something of which people are very proud. It's a benefit to the people and a matter of civic pride. He thought Juneau would do well to follow the Chicago model and extend the park toward the bridge area and the area just south of the library. That land use to be Sealaska land, but he has been told that it is now in private ownership and the city could acquire it by condemnation. He spoke in favor of limited cruise ship tourism and said the 300% increase in the last 12 years had distracted the Assembly from this sort of planning. Unless they adopt a limited view of cruise ship tourism, they will miss opportunities like this that may then be gone forever. Another opportunity, which is influenced by unlimited cruise ship tourism, is transit centers. The Assembly would soon be hearing a presentation on those. He said in his travels, transit centers seem to be of two types: 1) the inter-modal type (from one mode of transportation to another), and 2) multiple route type. The federal DOT seems to be building these types of transit centers throughout the country. The plan that the Assembly will be presented with is going to actually take away the one inter-modal transit center that we have, which is at the old ferry terminal where the bus turns around. The plan is going to move it somewhere else and he thought the intended benefit reason for that is so that it will create more space for the cruise ship buses. He again requested that a transit center be designed to accommodate double-decker buses for the future.

*MOTION – by Koelsch, to suspend the rules and let the three people who had signed up to testify on Resolution 2150 which is included under Unfinished Business, be allowed to do so, and he asked unanimous consent. Hearing no objection, it was so ordered.*

Chip Thoma, Box 21884, Juneau. He spoke in support of the present tonnage fee on cruise ships as it allows the CBJ alone to design and pay for its docks, improvements and land acquisition along the downtown waterfront, without the new arrangement being proposed with the cruise lines. The tonnage tax has worked well and repaid the bond approved to construct the present dock. He hoped they would pass the resolution, but said if they choose the project agreement arrangement with the cruise lines, based on a new separate passenger fee levied for capital projects, please make the \$1 or \$2 fee permanent, as ports like Skagway, Seattle, Vancouver, and Seward have. The \$1.4M that will be collected from a \$2 capital head tax can pay for projects, service the bonds, do the improvements and be money for land acquisition, all of which are important for an independent municipality.

Jesse Walters, 1005 Second Street, Douglas. He asked if the North West CruiseShip Association (NWCA) included all the vessels that were previously paying port fees under the net tonnage fee that was in place until January 1<sup>st</sup>. Mayor Smith said that was the case. He asked if there was any reason that the Assembly would not want to have in-place a tonnage fee to be imposed upon these ships to be held in advance or to be credited against any partnership agreements as set out in the resolution. Mayor Smith said those were items that they would debate. He suggested that in the Assembly's discussions, they consider imposing a tonnage fee and having that continually imposed, even though they have their project agreement. He thought there was no reason not to have it in place to be used perhaps as a bargaining tool or as a credit against any project agreements this Assembly may wish to get into with the NWCA. Without it they have nothing. Should there be no project agreement, there will be no tonnage fee, no income, and no money to be used to the benefit that the city may direct for the port and port related projects. If they do get a project agreement, they can have a credit or in the interim, not collect a fee. That would place the city in a much better position with respect to the NWCA and any potential agreement that they may eventually be able to work out with them.

VII. **CONSENT AGENDA**

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

**B. Assembly Action**

*MOTION* – by Etheridge, to adopt the Consent Agenda, and he asked unanimous consent. Hearing no objection the consent agenda was adopted.

**1. Ordinances for Introduction**

a. Ordinance No. 2002-19

AN ORDINANCE CREATING LOCAL IMPROVEMENT DISTRICT NO. 90 OF THE CITY AND BOROUGH; FINDING THAT SUCH LOCAL IMPROVEMENT DISTRICT IS IN THE PUBLIC INTEREST; SETTING THE BOUNDARIES OF SUCH LOCAL IMPROVEMENT DISTRICT; PROVIDING FOR THE IMPROVEMENTS TO BE ACQUIRED, CONSTRUCTED AND INSTALLED CONSISTING OF ROAD AND UTILITY CONSTRUCTION EXTENDING SALMON CREEK LANE.

Administrative Report: Attached. The Manager recommended this ordinance be introduced and set for public hearing at the June 17, 2002 regular meeting.

b. Ordinance No. 2001-20 (AV)

AN ORDINANCE APPROPRIATING TO THE MANAGER THE SUM OF \$1,603,000 FOR RECONSTRUCTION OF THE SOUTH FRANKLIN STREET SEWER MAIN. SUCH FUNDS PROVIDED BY A LOAN FROM THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

Administrative Report: Attached. The Manager recommended this ordinance be introduced and set for public hearing at the next regular meeting.

c. Ordinance 2001-20 (AX)

AN ORDINANCE APPROPRIATING TO THE MANAGER THE SUM OF \$777,000 FOR PHASE I OF THE LENA POINT SUBDIVISION. SUCH FUNDS PROVIDED BY THE LAND FUND UNRESERVED FUND BALANCE.

Administrative Report: Attached. The Manager recommended this ordinance be introduced and set for public hearing at the next regular meeting.

d. Ordinance No. 2001-20 (AY)

AN ORDINANCE APPROPRIATING TO THE MANAGER THE SUM OF \$60,000 AS PARTIAL FUNDING FOR TREADWELL ARENA EQUIPMENT SUCH AS AN ICE RESURFACER, SCOREBOARD, SOUND SYSTEM AND/OR DASHER BOARDS. SUCH FUNDS PROVIDED BY AN ANONYMOUS DONATION.

Administrative Report: Attached. The Manager recommended this ordinance be introduced and set for public hearing at the next regular meeting.

e. Ordinance 2001-20 (AZ)

AN ORDINANCE APPROPRIATING TO THE MANAGER THE SUM OF \$2,425,779 FOR THE FOLLOWING CAPITAL PROJECTS: REHABILITATE ACCESS ROAD, TERMINAL EXPANSION FEASIBILITY STUDY/DESIGN I, PARALLEL TAXIWAY RECONSTRUCTION, SNOW REMOVAL EQUIPMENT BUILDING, RUNWAY SAFETY AREA II – MITIGATION AND CONSTRUCTION, AND NORTHWEST QUADRANT DEVELOPMENT. SUCH FUNDS PROVIDED BY THE PASSENGER FACILITY CHARGES.

Administrative Report: Attached. The Manager recommended this ordinance be introduced and set for public hearing at the next regular meeting.

- f. Ordinance 2001-20 (BA)  
AN ORDINANCE APPROPRIATING TO THE MANAGER THE SUM OF \$2.8 MILLION AS PARTIAL FUNDING FOR THE JUNEAU DOUGLAS HIGH SCHOOL RENOVATION PROJECT. SUCH FUNDS, \$2.5 MILLION PROVIDED BY BUDGET RESERVE, AND \$300,000 PROVIDED BY THE INTEREST EARNED ON THE 2002 GO BONDS.

Administrative Report: Attached. The Manager recommended this ordinance be introduced and set for public hearing at the next regular meeting.

**2. Bid Award**

- a. Bid 02-129, Type 1, Class 2 Ambulances

Administrative Report: Attached. The Manager recommended award of this project to Taylor Made Ambulances, in the amount bid, for a total award of \$179,704.00.

- b. Bid 02-255, Hydraulic wheeled excavator

Administrative Report: Attached. The Manager recommended award of this project to Construction Machinery, in the amount bid, for a total award of \$182,694.00.

**VIII. ORDINANCES FOR PUBLIC HEARING**

**A. Ordinance No. 2002-15**

**AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA, PROVIDING FOR THE ISSUANCE AND SALE OF GENERAL OBLIGATION REFUNDING BONDS OF THE CITY AND BOROUGH IN THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$6,000,000 FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY AND BOROUGH; FIXING THE FORM, MANNER OF EXECUTION, TERMS, INCLUDING REDEMPTION TERMS, MAXIMUM MATURITIES AND COVENANTS OF THE GENERAL OBLIGATION REFUNDING BONDS TO BE ISSUED; AUTHORIZING THE APPOINTMENT OF A REGISTRAR AND PAYING AGENT FOR SUCH BONDS; AUTHORIZING THE APPOINTMENT OF A REGISTRAR AND PAYING AGENT FOR SUCH BONDS; AUTHORIZING THE APPOINTMENT OF AN ESCROW AGENT; AUTHORIZING OFFICIALS OF THE CITY TO PREPARE AND APPROVE A PRELIMINARY OFFICIAL STATEMENT AND AN UNDERTAKING TO PROVIDE ONGOING DISCLOSURE AND PROVIDING FOR THE METHOD OF SALE OF SUCH BONDS.**

Administrative Report: This ordinance was removed from the agenda by the Manager.

**B. Ordinance No. 2002-16**

**AN ORDINANCE AMENDING THE TRAFFIC CODE RELATING TO ROLLER SKATES AND SIMILAR DEVICES.**

Administrative Report: Attached. The Manager recommended a motion be made to adopt this ordinance, but that the motion be defeated.

Public Participation: None

Assembly Action:

MOTION – by Pillifant, that Ordinance 2002-16 be removed and sent back to the Public Works and Facility Committee for more work.

Ms. Pillifant said it had become clear that there was some confusion about what was happening and she thought it would behoove the Assembly to have it back in PW&F.

Hearing no objection, Ordinance 2002-16 was referred back to the PW&F Committee.

**C. Ordinance 2001-20 (AQ)**

**AN ORDINANCE APPROPRIATING TO THE MANAGER THE SUM OF \$100,000 FOR PLANNING AND PRELIMINARY DESIGN OF THE CRUISE SHIP WHARF RECONFIGURATION. SUCH FUNDS PROVIDED BY THE PORT FUND UNRESERVED FUND BALANCE.**

Administrative Report: Attached. The Manager recommended this ordinance be adopted.

Public Participation:

Joe Sonneman, 324 Willoughby. Spoke in support of limited cruise ship tourism. He thought this was a step into the unlimited side of cruise ship tourism. As previously stated, he has one share each of two of the cruise ship companies and get a different perspective on what's happening in the cruise ship industry. Market analysts report that because of competition between the different cruise lines, each of the cruise lines is building more ships to outdo the other line. The consequence is a great excess number of ships, or over capacity. This is a problem of the industry, not Juneau's. Taking steps like this is going along with what the industry is trying to do to solve its problem of too much competition and too much capacity. There does not seem to be an end to it. In 1997 Juneau had the first 2,000-passenger ship and he thought they were up to 2,800-passenger ships now. That is unlimited cruise ship tourism and he heartily recommended the Assembly decline this request.

Assembly Action:

MOTION – by Etheridge, to adopt Ordinance 2001-20 (AQ), and he asked unanimous consent. Hearing no objection, Ordinance 2001-20 (AQ) was adopted.

**D. Ordinance 2001-20 (AT)**

**AN ORDINANCE APPROPRIATING TO THE MANAGER THE SUM OF \$5,000 FOR CONTINUATION OF RECORDING GAUGING DATA FROM DUCK CREEK, JORDAN CREEK AND THE MENDENHALL RIVER. SUCH FUNDS PROVIDED BY THE U.S. FISH AND WILDLIFE SERVICE.**

Administrative Report: Attached. The Manager recommended the ordinance be adopted.

Public Participation: None

Assembly Action:

*MOTION – by Pillifant, to adopt 2001-20 (AT), and she asked for unanimous consent. Hearing no objection, it was so ordered.*

**E. Ordinance 2001-20 (AU)**

**AN ORDINANCE APPROPRIATING TO THE MANAGER THE SUM OF \$150,000 FOR DESIGN OF THE STEAMSHIP WHARF/MARINE PARK IMPROVEMENTS. SUCH FUNDS PROVIDED BY THE PORT FUND UNRESERVED FUND BALANCE.**

Administrative Report: Attached. The Manager recommended this ordinance be adopted. Mr. Stone came forward to report that this appropriation would be used to complete the conceptual design work and start the permitting civil and structural engineering for the Phase I improvements as approved by the Assembly at its April 8<sup>th</sup> meeting. They estimate the total cost for the design of Phase I at \$485,000, therefore they will need an additional appropriation beyond tonight's appropriation, if approved, to complete that work. The timing of that would probably need to occur in June in order for them to stay on the schedule they have outlined. The schedules call for them to complete the site plan by May 10<sup>th</sup>, and then by June 4<sup>th</sup> to finalize the 30% design documents, by July 3<sup>rd</sup> to finalize the 60% design documents, by July 26<sup>th</sup> to finalize the 95% design documents, to start the bids on August 2<sup>nd</sup>, open the bids on August 30<sup>th</sup>, award the bid on September 9<sup>th</sup> and issue a Notice to Proceed for Construction on September 20<sup>th</sup>. They hope to have the Phase I construction complete by May 1, 2003. It is an aggressive schedule that they will have to pursue with due diligence. The project team is currently working with the project designer to complete the Phase I site plan, which is substantially similar to what the Assembly has seen before. The only thing they are giving direction on is making sure that the memos that were included in the motion at the April 8<sup>th</sup> meeting are incorporated into the design. The significant aspects of that is making sure restrooms are included in that Phase I improvement in the bottom of the Parking Garage. They are also making sure that the elevated timber decking area that is in the SW corner can accommodate the Gateway to Juneau concept. He said the motion noted that they should deal with the appropriate committee and he asked which committee that would be. In the interest of keeping meetings to a minimum, he recommended initially working with the PW&F and then, based upon how the design proceeds, if they need to have broader Assembly participation in certain phases of the project design, they could expand it to the joint PPC & PW&F, or to the COW.

Ms. Pillifant referred to the additional \$300,000 that would be needed and she asked when that would need to occur. Mr. Stone said June, in order for them to stay on schedule. If that appropriation took place during the normal budget cycle, by June 15<sup>th</sup>, that would be fine. Ms. Pillifant clarified that the money for this planning project would go to cover Phase I and she asked if Phase II would be covered with this money. Mr. Stone said they could do a limited amount of Phase II, maybe the planning part of Phase II, but he was not sure they could actually do the design documents themselves. He thought he had incorporated some work with the PRAC on the Phase II estimate for the design cost. Ms. Pillifant asked how much more would be needed to complete the Phase II that has been talked about. Mr. Stone said he would have to talk with the consultant for an estimate. They don't really know what Phase II is so it would be difficult to estimate how much it would cost. He could possibly get a range of what those costs would be based upon what has been discussed up to this point.

Ms. Pillifant said she was concerned that when they talked about this and approved going forward, some members may have had a different idea about what was going forward. In her mind, she was approving the full conceptual idea, which included Phase I and Phase II. She was disappointed that only Phase I was included in this ordinance.

Mr. Koelsch said he too was of the opinion that they were not in Phase I and Phase II, but that they were in one project. If they have added the transformer, the gateway and the bathrooms, he asked what else would there be. Mr. Stone thought there had been discussion that Phase II would include a redesign of Marine Park itself, may even include moving or changing where the performance shelter is. He felt Phase II referred to everything on the north side and redoing that area. The work they did in 1999, the cost estimate was in the order of a million and a half dollars.

Ms. Pierce added that there were two Phase II items that were sent to committee for further work. One was the Ice Rink, which in the motion was the recreational opportunity, which has yet to be defined. Also the passenger shelter that is in the main part of the deck area. In addition to that, the PRAC has had some discussion about what further redesign or reconstruction of Marine Park would occur and that discussion has been pretty wide-ranging; they have not reached any conclusions. She thought the Parks and Rec. Dept. would like to spend more time with the PRAC and with the public to really understand the best design for that. If the Assembly proceeds with the waterfront plan, some of that planning work could be done as part of that plan was well. The ordinance tonight is driven by the time frame for Phase I. She felt that Phase II, at least the Marine Park piece, was not on the same time frame as Phase I. It is important to understand what the Assembly's commitment is for the entire project. This particular ordinance was designed to keep the schedule that Mr. Stone described and get them to a bid award in August.

Mr. Powell apologized for being late and said he was out at UAS at the Master's of Public Administration commencement. He went on and reiterated that there are not two phases to this project. There is one project. If there are parts of the project that are taking more time then that is fine, but he wanted to think of this as one project. If time is needed for the public to weigh in for those aspects, that's great. But if there's something that we can do, going ahead on the other aspects of the project, then he could support this ordinance tonight.

Ms. Johnson said the title of the ordinance did not refer to Phase I or Phase II, it simply says Steamship Wharf/Marine Park improvements. So, if the intent is that it is only for the design of Phase I, then it should say that, or they should leave it as is and move forward with the design of the whole thing.

Public Participation:

Larry Spencer, 336 Highland Drive. He was asked on behalf of the Downtown Business Association to express support for this ordinance. It is imperative that the money be appropriated so that work could progress on the project. One of the reasons for some of the elements that staff probably outlined, is that there are certain elements of this project that have a long lead time in terms of permitting with the Army COE, in terms of Public Hearings with the Planning Commission to get permission to proceed with the construction project, even though the city is proposing it, and to begin to start the more detailed structural engineering. Those are the long time lead-time items that are in certain elements of this project. There are other elements that have an equally long lead-time, but it's not in permitting, it's in terms of building a public consensus about what the changes will be. Those are equally long time lead items, but they are not permitting or design. They are

public process type things. If staff could continue with the PRAC and the various committees to define that element, while the other elements, which do require detailed solutions, and permitting, could get underway. Then the project would be going forward on a two-track process. The DBA speaks very strongly for this ordinance.

Assembly Action:

MOTION – by Etheridge, of Ordinance 2001-20 (AU), for the purpose of discussion.

Mr. Etheridge said he also was of the opinion that this was one big project and he sees this as step one of getting that project rolling. There would be more needs along the way of additional funds, but he thought they needed to take this first step.

Mr. Wheeler asked if they had identified possible pots of money to take the future appropriation out of, such as the \$300,000 that would be needed in June. Mr. Palmer said the three that come to mind would be what ever is left in the Ports and Harbor Fund, the Passenger fund, and sales tax CIP.

Ms. Pierce said that once the Assembly puts in place the final funding package for these projects, which will be discussed later on the agenda, that funding then becomes available for both design and construction.

Ms. Pillifant referred to the back page, the economic impact, and asked for help identifying that. She said the Manager's report speaks to the total cost of design and permitting the improvements is estimated at \$485,000. If they are speaking to a full project, which includes Phase I and Phase II, she was concerned that the Manager's report, which is part of the record, speaks to a total cost and that the CIP list budget has some different numbers in it.

Mr. Stone said there was some confusion on the information that is shown on the fiscal notes. This project, for CBJ project accounting purposes, is actually part of the original project that they looked at back in 1998, where they went through some design work with the Docks and Harbor Board. Out of that design work they actually did a Phase I, which was maintenance repairs, so that is why it is showing \$8.31M expended to date, because there's been work done out of this CIP account in the past. That is not intended to talk to what they are going to spend in the future, or what money they currently have available there. For purposes of the project that is going forward right now, the \$150,000 would be the first installment in the design costs and then they would of course need additional funding to pay for the construction later this year, if they do proceed in that direction.

Ms. Pillifant said the Manager's Report still talks to a total cost to design and permit, even though that is not the ordinance that is in front of them, that was moved. She wondered if there was any need to deal with that also as part of this whole discussion. Mr. Palmer said no, the appropriation is \$150,000 out of the Port Unreserved Fund Balance. Ms. Pillifant said the Manager's Report refers to a total cost to design and permit the improvements when we don't know what all the improvements cost yet. She was concerned that the Manager's report may put the Assembly in a number box and she wanted to make sure they were not in that and that by going forward with the \$150,000 tonight it was everyone's intent to include the full project, and not stop when they hit \$485,000 or the additional \$300,000 Mr. Stone has talked about.

Mr. Palmer said the scope of work that is the subject of this appropriation is following up on direction from the Assembly at the last meeting, which was to do Phase I plus three additional

items. They will need additional money just to complete the design for that work, and as Phase II evolves, staff will be back with a plan to design whatever Phase II is. The project before the Assembly right now, for this appropriation, is defined by the motion of the Assembly at the last meeting, which was Phase I plus the three additions. He did not think they were boxed in at all to change and add an additional phase later on.

*AMENDMENT – by Pillifant, to amend the ordinance title to say Design of Steamship Wharf/Marine Park “Phase I and Phase II” improvements”.*

Mr. Anderson thought they went through the exercise of saying there is not a Phase I and Phase II. Ms. Pillifant agreed but said they were still talking about it so she thought, since they had been calling it that, they might as well institutionalize it in the ordinance. She noted that the amendment would also have to be made in Section 2. Mr. Anderson thought the easy way to do this was to just quit talking about it; institutionalize it in that fashion.

Mr. Koelsch liked the idea of not having Phase I and Phase II and just keeping it as design Steamship Wharf and Marine Park improvements. He looks at it as one big project as opposed to phases and to define phases at this junction is dangerous.

Mr. Powell asked why they needed to refer to it as Phase I and Phase II. Ms. Pierce referred to her memorandum and stated that all of the improvements would not be bid this August. There was work that would be done at a later time. The planning team has always viewed it as one project and that all of the elements are critical to the success of that project, but it was phased to meet the timing needs to solve the problem of getting the deck constructed by '03. It was not an attempt to say that one set of improvements has a higher priority or is more important than the other, but it was the timing of the construction.

Mr. Wheeler asked how they could design something if they hadn't decided what it was yet. They do not know what the recreation opportunity is going to be or what the stage will look like. He thought they were getting into a semantic discussion here and that they were all on the same page. They all want to see a full project, want to see it started, and want to see some other stuff done there but don't know what it is yet.

Ms. Johnson supported including Phase I and Phase II to make people more comfortable with what is being done. They will be funding in stages and they are talking about a \$5.1 or \$5.4M project that is the first phase basically, because it does not include the funding for whatever the amenities are in that other part of the park. She supports the whole project.

ROLL CALL on amendment one

Ayes: Etheridge, Johnson, Pillifant, Powell, Wanamaker, and Mayor Smith

Nays: Koelsch, Wheeler, and Anderson

Motion carries 6:3

Hearing no objection, Ordinance 2001-20 (AU) was adopted as amended.

## IX. UNFINISHED BUSINESS

A. Hamilton Street Homeowners Association (HSHA) vs. Planning Commission.

Administrative Report: Attached. As this is the quasi-judicial action of the Assembly, the Manager had no recommendation. Mr. Corso recommended that the Assembly adopt the proposed decision with the amendments suggested by Mr. Chaney.

Public Participation: None

Assembly Action:

*MOTION – by Koelsch that the Assembly accept the proposed decision with the amendments in the memo from Greg Chaney of Thursday, April 25, 2002, and he asked unanimous consent. Hearing no objection, the report was adopted with the recommended amendments.*

B. Port Capital Project Funding.

Administrative Report: Attached.

Assembly Action

*MOTION – by Johnson, to take Resolution 2150 from the table, and she asked unanimous consent. Hearing no objection, Resolution 2150 was back before the body.*

*MOTION – by Johnson, to amend Resolution 2150 by adding the Whereas clauses and substituting Section 1 from the Attorney’s memorandum dated May 6<sup>th</sup>.*

The memorandum was handed out to the Assembly and the audience. Ms. Johnson read the memorandum into the record.

Ms. Johnson said she supports the Marine Park Steamship project and it was important to her that they go forward with that project. She was trying to find a middle ground between the old port dues and project based agreements. She wanted to more fairly allocate funds without tying CBJ to unknown costs and to find a funding mechanism that all sides could buy into. The old port dues ordinance, 2150, did not work for her as it did not capture all the income that it could and it does not give any room for collaboration with the cruise industry. The project based agreement, 2152, did not work for her either as it states that \$3.6M of the Steamship Wharf/Marine Park project would be paid for by the cruise industry and CBJ would pay the rest. She could not vote to commit the citizens to unknown costs. She said they needed a solid bid figure. She has tried to find a proportional split on this project, which she thinks is fair and reasonable. After researching the costs of the stand alone Steamship Wharf plan at about \$4.3M and giving an allocation of \$300,000 for shared structural costs between the park and the wharf, she thought a split of 75% to cruise and 25% to CBJ was fair on a \$5.4M project. The cruise industry has indicated a willingness to help and citizens believe we need a comprehensive downtown waterfront plan, one that extends from the JD Bridge to the little Rock Dump. She recommends that they share the cost of this plan 50/50 between cruise industry and CBJ. Citizens are concerned that Phase II of the Steamship Wharf will not be build and she wanted to be able to assure them of the intent to construct that phase by funding \$150,000 for the planning of Phase II. The cruise industry and Docks and Harbors have told the Assembly that they need to continue moving forward with a plan to accommodate larger ships at our dock. The reason she would put all these projects together in one funding mechanism was an attempt to find a plan that more than five members of this Assembly would vote for. The industry has stated loud and clear that they want project specific funding. She said that Mr. Duncan had spent a lot of time designing a spreadsheet that would allow them to do “what if” scenarios as far as changing the fees or time, or to

remove a project from the list. She asked the Assembly to look at this method with an open mind, ask questions and do the what ifs and then decide before making amendments.

Mr. Powell said that the tonnage fee served the city well for the last seven plus years and it wasn't project specific but the taxpayer's money was responsibly spent and went toward projects and paying off the dock bond. He felt this was a good approach because it was running the line in between the tonnage fee and the head/passenger tax. The things that were dropped out of this, included number four and number five, acquisition of land for facilities and then beautification and enhancement of the facilities and he clarified that was picked up by the passenger fee. He clarified that dock depreciation was included in the memo. He spoke in support of the amendment.

Mr. Wheeler was not sure why they should lock themselves into a set 75% and 50% for the two items. He thought a little flexibility would be good for those two items. Otherwise, he was in full support.

Mr. Wanamaker asked what would happen with 2152, which the Assembly did ask staff to prepare for tonight, if they move forward with 2150, whatever it would be, with these changes in it.

Mr. Palmer said they both were not needed. He thought the Assembly asked for 2152 as an alternative. There are some components in the proposed amendment that call for some collaboration and work with the industry and he thought that part would continue as far as working on design and project development. He thought if they adopted the amendment, for the most part, 2152 would not be necessary.

Mr. Wanamaker thought that left the question hanging and said right now what he wanted to know was, this was such a different step than what they had been considering up until now. He wanted to know what the cruise ship industry folks think of it and if this was something workable before he casts his vote.

Ms. Johnson said it seemed to her that if they adopt this, it would be a counter offer to their proposal, but she could understand Mr. Wanamaker's concern.

Mr. Etheridge said it did not sound like a counter offer to him, it sounded like they were setting it in stone and that this was what it would be. The part he found disappointing was that they had started leading the cruise industry down this golden path saying they want to work together, and now they would be shutting the door on them.

Ms. Johnson said she did not see it that way at all and that was why she had Mr. Duncan build the spreadsheet, so that they could look at the numbers to see whether it was \$2.50 or something less or more than that that they would want to look at in this particular plan.

Mayor Smith asked who would like to see Mr. Duncan's report. Mr. Wanamaker and Ms. Johnson both indicated they would. Ms. Johnson said she would like to see the difference between \$2.50 and \$2.25.

Mr. Anderson appreciated Ms. Johnson's efforts but said he was disappointed that they were not going down the track. He agreed with Mr. Etheridge about credibility. They started early in December and on into January talking with the industry when the Mayor, Ms. Pierce and himself went to Seattle and sat at a table talking about collaboration, planning together and

building partnerships. Welcoming an industry to this town, that is bringing to us nearly \$100M annually. Since then, we've done some things that are diametrically opposed to what we proposed to them and got on track. He did not think this was middle ground and that it was cramming it down their throats. The numbers of 75 and 50 are arbitrary so he said at some point they would be losing credibility with the people that they have been attempting to build a relationship with. 2152 is not perfect; he had other amendments to make to that tonight to tighten it up and to include the first ships of the season. To take this change in direction is a lot of stuff for the Assembly to absorb tonight. There are so many basic changes in this compared to where they were going. He said he was not sure the proper procedure, but if they were going to work out a plan that they would send back, he felt they would have to be able to talk about both. There are things in 2150 and 2152 that are fine to him and he was not sure how to piece that together.

Mayor Smith said if it was germane to the title, they could make amendments to the amendment.

Mr. Powell said if he was industry, he would want to know two things: 1) what are you going to spend it on, if you're going to ask me to spend more money, and 2) how much. The other things he thought were secondary. He thought they had always been a very responsible community with industry as far as what they've asked them to pay. He referred to the tonnage tax and said the ordinance tells them what they are going to spend it on, mostly paying off the dock, and they did that. They also spent money on other things directly associated with the dock. As far as coming up with that ordinance every year, industry was right there with Docks and Harbor asking how the Assembly came up with that amount, and the Assembly has always gone for less than what was in the ordinance. What was in the ordinance was \$.25 and the highest he thought they ever got was \$.23. He said he could not support the statement that they were not responsible because they have been very responsible as a body and the history of this Assembly supports that. He thought they were continuing a history of being responsible with industry as they were working more with industry.

Mr. Wanamaker asked Mr. Duncan to explain the spreadsheet he had on the screen. Mr. Duncan said Ms. Johnson had asked him to come up with a schedule that would show the assumptions and the totals of working through a process. He created a schedule so they could change the amounts if so desired. They started with an estimated total project cost for the Steamship/Marine Park project at \$5.4M. The assumption was that it would be 75%/25% and at that rate, they would come up with the Steamship Wharf project as being a little over \$4M. However, assuming this runs several years, there is some debt service associated with it as well. The next one is the Steamship Dock with the debt service included in it. There was also a couple other projects that were identified, the Downtown Waterfront Plan at \$150, the Dock Extension Planning at \$400 and then the Phase II of the Steamship/Marine Park project. Under the assumption that this was for a three year period, and also under the assumption that for debt service, it would start later in the year so they would really only need to talk about borrowing money for two years because the project would not start until after the summer. The debt service for one year, less whatever the term levy would be. Under this assumption, at \$2, they would generate about \$4M of revenue with a need of \$4.2M so that is just slightly more than what we would need under the debt service. The debt service would be about \$1.4M and they would have revenue of \$1.485, slightly more than we would need, if it were a three-year period. There was one other item to consider, that being when you borrow, you need to have a little extra and so they would have to work that out. The assumption is that they would typically be charged a percentage of 25% or greater. In the first year the debt service would have to come up with a little bit more in order to justify to the underwriters

being able to sell that debt. In this case the assumption is \$280,000. That certainly could be taken from some of the extra revenue that they may generate in the first year that they don't use. This also assumes this year's passengers at 707,000 and a 5% growth rate. He gave the example that if they were to change the term of the levy, they could change it to four years instead of three and it would change all the calculations and all the assumptions on the debt service.

Ms. Johnson asked him to change it to three years. She clarified that the spreadsheet was then showing them that to collect that amount of money, the fee would have to be \$2.32 per person.

Mr. Wheeler noted that in the amendment, Subsection 5 says "such other projects as the Assembly shall select."

Mr. Koelsch asked the maker of the motion where the other 25% and the other 50% comes from. Ms. Johnson said she thought they would need to find that money and she assumed that it would come out of passenger head tax. She realized there were members on the body who were against that and that was why she had tried to raise it up so they would not have such a big contribution from head tax into this. Mr. Koelsch asked if there was some place in the amendment that states that. Ms. Johnson said there was not and maybe it needed to be said.

Mr. Wheeler did not think it would be germane to the resolution. Discussion of passenger fees would be totally different. Mr. Corso said it would not be contrary to the title, it would be a comment on it. He did not think it would be out of order, but it would not be required.

Mr. Koelsch thought something needed to be in there if they were talking about a project that they would be doing 75% of. He thought they should identify where the other 25% was coming from.

Mr. Wheeler said his understanding was that this resolution speaks to how they would spend the port fees. The other Marine Passenger Fee has already been set up with a separate ordinance and a vote of the people. They have a separate mechanism set up to decide how to spend those funds. He said if they insert the passenger fees in the port development fees, they would be tying their hands when they come to the passenger fees later.

Mr. Koelsch said he would not support something that he knew would take them 75% of the way if they didn't have a way to get to 100%. Mr. Wheeler suggested removing the 75% and Mr. Koelsch said that would work for him.

Mr. Anderson said it didn't work for him. He asked if he could speak to 2152 and Mayor Smith said as long as it was germane, there would be no problem. Mr. Anderson said in this process here, they were doing the borrowing, the bonding and paying the bills. In 2152, the cruise lines offered to do that. They offered to give us money up front. There is not much better than having money up front and not having to pay bond costs and not having to pay interest. He said that in Juneau, they give incentive to aircraft operators, small manufacturing operations, tax breaks to the fishing industry and to the charter industry, yet when the cruise ships come here, we assess them for six times what Ketchikan assess. We have the best port in Southeast Alaska with shore side tours, but six times is a huge amount of difference. Taking into consideration what we have been charging and taking into consideration that we

give every body else a tax break, not an assessment, he could understand why the cruise industry would hold us a little more accountable to say, do you really want us there or not.

Ms. Johnson felt she was being put in a box that she was against the cruise industry and that certainly was not so. She wanted them to be able to move forward with a project that the city and the cruise industry was proud of. She said she has a problem saying that only \$3.6M will come from the cruise industry and that the city would be responsible for anything over that. She was attempting to find something that would work better than that.

*AMENDMENT – by Wheeler, to strike from Section 1, Subsection c, Subsections 1 and 2, delete “75% of the” in section 1 and “50% of the” in section 2.*

Mr. Wheeler said his intent was to leave flexibility in deciding how much of the Steamship Wharf and the waterfront plan the city would pay for out of this fund.

Ms. Johnson spoke against the amendment and said to her this would put the city in a position of dictating to the cruise industry. It would not give them any guarantee at all that the city is going to put anything into this project. In the beginning, she thought it would be best, because everything she has read from the cruise industry says that they are willing to pay for the Comprehensive Waterfront Plan, but it seemed to her that that would send a message to folks that maybe they bought the plan so it wasn't a good plan. She put 50% in so that they would be partners.

ROLL CALL to amendment one of amendment two

Ayes: Wheeler

Nays: Wanamaker, Powell, Pillifant, Koelsch, Johnson, Etheridge, Anderson, and Mayor Smith

Motion fails 1:8

Mr. Anderson asked Mr. Duncan to calculate what \$1.75 per passenger/per day for four years would do to his spreadsheet. Mr. Duncan manipulated the numbers on the screen and they worked through a number of scenarios on the screen.

*AMENDMENT – by Anderson, to change Section 1. a., from \$2.50 to \$1.67.*

Mr. Anderson said he was assuming that what ever they come up with tonight would be what they will go back and speak to the cruise association about. He clarified Ms. Johnson's comment that they would still be in negotiations and this would be an offer to the NWCA to see their response to this.

Ms. Johnson said 2150 has a Section 2, which puts it into effect immediately upon adoption. That section was left in. She felt it was important to put a time limit on it so they didn't miss too many more ships.

Mr. Wheeler clarified that they would also need to change the final date from December 31, 2004 to 2005. Mr. Anderson agreed and said he had one other piece to the amendment. He said the amendment he had prepared for 2152 was to say “such fees shall be calculated on the basis of cruise ship passenger days in CBJ from April 30<sup>th</sup>, 2002” so that any ship that has come here this season is put into this calculation. He asked Mr. Corso for suggestions on how this could be included. Mayor Smith suggested he make this a separate amendment

from his other two. Mr. Anderson agreed and said he wanted the Assembly to know that that was his intent for 2152 and he would also have for this if it were put forward to the cruise line agency. He said they would accept that because it is a partnership thing to do.

Mr. Anderson restated his motion:

*AMENDMENT – by Anderson, to change Section 1. a., per passenger/per day fee from \$2.50 to \$1.67, and to extend the term of the levy for four years, from December 31, 2004 to December 31, 2005.*

Ms. Johnson asked Mr. Duncan if they were to go to \$1.67, would that cover all the bonding costs. Mr. Duncan said it would be real close. It may be that they did not want to go that close because there were several assumptions being made in the numbers and estimates.

Ms. Johnson did not object to lengthening the term or to lowering the fee, but she was concerned with cutting so close that they didn't have a little bit of cushion or wiggle room. She asked if Mr. Anderson would accept \$1.75.

Mr. Anderson said her objection illustrated his earlier point. Under 2152, the cruise lines accept all that risk, all of the costs. In this project here, he was not sure what was fair. He suggested looking at a couple other numbers. Mr. Duncan changed some of the figures in his spreadsheet for comparisons.

*Mr. Anderson amended his amendment from \$2.50 to \$1.73.*

Mr. Powell asked if the Steamship Wharf/Marine Park figure included contingencies. Mr. Anderson said that was also another motion that he intended to make on 2152. It would speak to bid overruns and that they would come back into negotiations if it was 10% over costs. That was a point that was in Mr. Palmer's memo that they agreed to and Mr. Anderson wanted to make it in another motion.

ROLL CALL amendment two to amendment two.

Ayes: Koelsch, Wanamaker, Anderson, Etheridge, and Johnson

Nays: Pillifant, Powell, Wheeler, and Mayor Smith

Motion carries 5:4

*AMENDMENT – by Anderson, and read by Mr. Corso, that in Section 1.a. strike the words “from the date of adoption of this resolution until” and insert the words “between April 30, 2002 and December 31, 2005” so that the first sentence reads: Every vessel carrying passengers for compensation in to the CBJ between April 30, 2002 and December 31, 2005, an not otherwise exempted by Subsection b. . .” and he asked for unanimous consent.*

Mr. Powell asked Mr. Corso if they could retroactively assess a tax. Mr. Corso said in some cases it is possible to retroactively impose a tax but this was not a tax, it was fee and he said he was not entirely confident of their ability to impose a retroactive fee. It would help a great deal if Mr. Anderson was correct in saying the cruise lines would go along willingly. Mr. Powell said partnership goes a long way, but he was concerned about the legality.

Mr. Anderson said if they were going down the track that this was a response to the cruise lines and that we're looking for a response from them, that would be the time they could

object and we would have to re-look at that. He wanted to tell them that all ships that come to our town are assessed.

Mr. Wheeler clarified they did not have a legal opinion to support this motion. Mr. Corso said he did have some reservations about the city's ability to impose a retroactive fee. He said they may not be able to accomplish it over the objections of the industry or the person's paying the fee.

Mr. Powell said that because of the lack of a legal opinion, he would not be able to support the motion. Mr. Anderson asked what they would lose. He said they would lose nothing and that all they have is something to gain. Two ships have come here that we could collect on. Mr. Powell would agree if there was an agreement to go back to the other way if there is not agreement. He did not want to lose time.

Mr. Wanamaker asked Mr. Corso if they passed this and it became effective and the cruise industry says those ships should not be part of this and they decline to pay and then it turns out that they really should not have to pay, would that affect the city's ability to collect this revenue from additional vessels that come forward and these first few would be exempt. Mr. Corso said the city code has a savings clause that provides that whatever part of an ordinance is invalid does not affect the remainder that is valid. He said he was not sure that would apply gracefully to this situation. It may be prudent to say "between April 30, 2002 or such later date as may be lawfully be imposed . . ."

Mr. Wheeler asked how much they were jeopardizing a lawsuit with this fee if they do this. Mr. Corso said his guess was that the tax could be imposed, certainly as early as tomorrow, after it becomes effective tonight. He said he could not give any guarantees about the gap between April 30<sup>th</sup> and today. If the industry wanted to resist, it would not wreck the entire fee structure by carving out the few days until today.

Ms. Pillifant asked Mr. Anderson if he had had dialog with the industry that would indicate that we could count on this. Mr. Anderson said the response from the industry was two letters to the editor that said we are in this together and you are not going to lose any revenue from this years ships. Ms. Pillifant said her question was more specific to his proposal. Mr. Anderson said yes, the industry has looked at information and questions that citizens have had about losing revenues because we failed to act last week, and have said that we're in this together and we're going to pony up.

Ms. Pillifant said she was trying to gain confidence but she was not sure where the conversation comes from or where it's been so she was not sure.

*FRIENDLY AMENDMENT - by Johnson, to add the language as proposed by Mr. Corso after "April 30<sup>th</sup> 2002", insert "or such later date as may be lawfully imposed". Mr. Anderson accepted the friendly amendment.*

Hearing no objection, amendment three to amendment two was adopted.

B R E A K  
9:00 p.m. – 9:15 p.m.

*Mr. Corso suggested the following changes to the language proposed in the third amendment to amendment two: "Between April 30<sup>th</sup>, 2002 or the earliest date there after that may*

*lawfully be imposed and December 31, 2005 . . .” There being no objection, it was so ordered.*

Mr. Corso had language for Section 1.c.1., page 4, which refers to “75% of the cost of design and construction of Phase I of the Steamship Wharf/Marine Park project, provided that if the lowest bid thereon is more than 10% in excess of the engineers estimate current at the time of the adoption of this resolution . . .” and he asked the Assembly’s direction for finishing that sentence.

Mr. Anderson referred to the wording in Mr. Palmer’s memo that the industry agreed to and he thought it would cover the situation. He read, “The bid will not be awarded without the mutual consent of the parties.” Mr. Corso suggested spelling out the North West Cruise Ship Association.

Mr. Powell said it was more than that, it was a passenger fee for anyone who comes in, not just their association. He read “every vessel carrying passengers for compensation to the city.” He did not want to limit it to the NWCA. Mr. Corso said they would still need to spell out whose consent would be required. Mr. Powell said it would apply to the vessels that fall under this agreement.

Mr. Etheridge said if they do that, they would need to figure out every vessel that is coming to town and then negotiate with each and every vessel. He thought the NWCA would be picking up the majority of the tab so if the city just met with those folks, that would take care of the majority of them. The rest of them have to follow in whether they want to or not, under the ordinance.

Mr. Powell suggested “North West Cruise Association and other affected parties.” It is already in the ordinance who this would not apply to. Ms. Johnson said she did not envision inviting those incidental users to sit down at the table to look at and confer on these projects with us. She thought it would be the NWCA that would be doing that.

AMENDMENT – by Powell to use the NWCA.

Mr. Powell asked how many ships would qualify under this that are outside the NWCA.

Don Habeger, Cruise Line Agencies of Alaska. The question was does this ordinance or resolution affect others beside the NWCA and Mr. Habeger said the answer was yes. He did not know what percentage of JCVB’s 718,000 passengers that it would be. He thought Goldbelt had five vessels that carry more than 12 passengers and have overnight accommodations. Alaska Sightseeing has four or five vessels in SE this year, and there is the Yorktown Clipper. Other incidental vessels come in typically are on an around the world cruise, they are foreign flagged and they will stop someplace in Southeast on their way to Japan, often it is Juneau. There are generally a couple of those ships per year.

Mr. Palmer said that under Section 1, Item d. is a paragraph that says “It is the intent of the Assembly that the process for making expenditures from the port development fund shall include consultation with and planning participation by representatives of cruise ship industry.” He said it was difficult in a resolution that talks about construction projects and planning and design, to have a finite definition. He suggested another sentence that says a project bid that exceeds an engineer’s estimate at the time of the bid advertisement, over 10% would trigger such consultation. That would give the Assembly’s intent to consult and then,

depending on what the project is and who the parties are, they can determine at the time. He said it was important to note that the engineer's estimate at the time that the bid is advertised is important because they get so many estimates. When the advertise the bid, then the scope of the work is pretty well defined and that's when they'll get their best estimate.

Mr. Etheridge thought it would have to go beyond the engineer's estimate as they have seen some drastic changes from the engineer's estimate. He wanted to say, "Before the bid is awarded", not just after it is estimated.

FRIENDLY AMENDMENT – by Etheridge, to substitute for the "NWCA" the words "cruise industry." Mr. Powell accepted the friendly amendment.

Mr. Anderson asked if that would then raise the need to talk with every single user. Mr. Etheridge said if they wanted to show up. Mr. Anderson spoke against the friendly amendment because they needed to be able to speak to an entity and the entity that represents probably 99% of the ships that come to Juneau, ought to be able to make that decision. Otherwise they will have to find everyone for individual negotiations.

Mr. Etheridge said that all they would have to do is announce the meeting time, date and location and indicate they would be looking for mutual consent on a certain project. If they do not show up then they are absent from the discussion and they will not take part in it.

Mr. Corso pointed out that award of a contract is by a vote of the Assembly. The language would be subject to later action by this body and is not really binding them to anything; it is just a statement of principal.

Ms. Pillifant thought Mr. Palmer spoke to what might be a more appropriate amendment in a different location. She felt more comfortable with Mr. Palmer's language so she would not support this amendment.

Mr. Anderson asked Mr. Corso if noticing the meeting and seeing who shows up would work. Mr. Corso said it would be up to the Assembly at the time of the award of the contract whether these conditions have been met. The Manager will report the size of the lowest bid, note that it is more than 10% above the engineer's estimate, describe the process by which the consent to the cruise industry was sought, and then it would be up to the Assembly to decide if that is in fact the consent of the cruise industry.

Mr. Wanamaker thought the language was incomplete. The intent is good but he thought it would need to say "without the mutual consent of the cruise industry and the CBJ" and he was worried about the affect. It appeared that he was willing to allow the cruise industry to make his vote for him. He did not believe it belonged in a resolution but in an project agreement.

Mr. Anderson agreed it would need to be the mutual consent of the cruise industry and CBJ.

FRIENDLY AMENDMENT – from Anderson, to state "without the mutual consent of the cruise industry and the City and Borough of Juneau." Mr. Powell accepted the friendly amendment.

Mr. Corso read the complete language of Section 1.c.1: "75% of the cost of design and construction to Phase I of the Steamship Wharf/Marine Park Project, provided that if the

*lowest bid thereon is more than 10% in excess of the engineer's estimate current at the time of the adoption of this resolution, the bid will not be awarded without the mutual consent of the cruise industry and the City and Borough of Juneau."*

Mr. Etheridge spoke against the amendment and said they have set a fixed price of \$1.73 per person and they have set a date certain of when this would end. The way he saw it now was that industry was only going to pay that amount of money. Anything above and beyond that, the CBJ would have to pay. He questioned why they would care if the industry did not like the price above it.

ROLL CALL on amendment four to amendment two.

Ayes: Anderson

Nays: Etheridge, Johnson, Koelsch, Pillifant, Powell, Wanamaker, Wheeler, and Mayor Smith.

Motion fails 1:8

*AMENDMENT - by Pillifant in Section 1, part d, after the one sentence, add, "Such consultation shall be triggered if a bid award over 10% of agreed project cost is reached."*

Mr. Corso asked what were agreed project costs. Ms. Pillifant asked Mr. Palmer to speak to that. Mr. Palmer suggested that they use the engineer's estimate at the time the bid is advertised, so it would be before the bidding occurs.

Mr. Corso said section 1.d. would read as follows: It is the intent of the Assembly that the process for making expenditures from the Port Development Fund shall include consultation with, and planning participation by, representatives of the cruise ship industry. Such consultation shall be triggered if the low bid exceeds 110% of the engineer's estimate at the time of the advertisement for bids."

Mr. Wanamaker asked the maker of the motion to withdraw. He said this would appear that they would only begin consulting with industry if they run into high costs. He thought they should consult with people from the beginning and the original language anticipated that.

Ms. Pillifant suggested that the word "such" be replaced with "additional".

Mr. Etheridge spoke against the motion for his previously stated objection. Mr. Anderson asked if there should not be a time when either the city or industry should say we need to re-look at this. Mr. Etheridge said there is a time - before the bid is awarded. The city can then sit down and say it is too high and we are not ready to spend that much. The industry numbers are fixed so it does not make a whole lot of difference to the industry if the bid comes in for double. The city is the one stuck for the additional cost so it should be up to the city at that point to say we don't want to spend the additional funds to do that project.

Mr. Anderson thought that was getting more like a cramming it down their throat kind of thing. They are going to pay that amount of money whether they like it or not. He did not think that sounded like collaboration.

Ms. Pillifant could understand Mr. Etheridge's point but she did not think this prevented them from engaging at any time with the industry. This just puts a mark out there if there's a necessity.

Mr. Etheridge said that was already in the intent. The city would meet with representatives of the industry anyways. They have already crammed it down their throats when they said \$1.73 up to December 31, 2005. He did not see anything where it states they would negotiate the price. It shows this is what the price is going to be for these projects.

Ms. Johnson said to her, Section 1.c.1. said 75% of the cost of design and construction of Phase I of the Steamship Wharf/Marine Park project would be paid out of that fund. She did not see where they were setting the limit on what the industry would pay.

Mr. Wheeler called the previous question.

ROLL CALL on calling the question

Ayes: Johnson, Pillifant, Powell, Wanamaker, Wheeler, and Mayor Smith

Nays: Koelsch, Etheridge, and Anderson

Motion carries 6:3

ROLL CALL on amendment five to amendment twp

Ayes: Wheeler, Wanamaker, Powell, Pillifant, Johnson, Anderson, and Mayor Smith

Nays: Koelsch, and Etheridge

Motion carries 7:2

Mr. Corso presumed that the Assembly meant if the low bid for any project but he needed that clarified. Ms. Johnson thought they meant the low bid for the Steamship Wharf/Marine Park Project.

*AMENDMENT – by Johnson, to insert in Section d.1, “low bid for the Steamship Wharf/Marine Park Project.”*

Mr. Anderson thought the resolution needed to speak to a broader picture. He thought “for any project” would answer the question better. Ms. Pillifant asked him for clarification. Mr. Anderson said if they end up with this format, he would like to think it was for other projects other than the Steamship Wharf/Marine Park Project and the waterfront plan in the future.

Mr. Powell agreed with Mr. Anderson. He said looking through the uses of this, the funds that will be raised will be for at least three or four projects. He suggested, “port development projects.” Right now there are four uses of the fund.

*FRIENDLY AMENDMENT – by Powell to put “port development projects” in place of “Steamship Wharf/Marine Park Project”. Ms. Johnson accepted the friendly amendment.*

*Ms. Johnson asked for unanimous consent. Hearing no objection, amendment six to amendment two was adopted.*

Mr. Anderson said in speaking to the intent of the maker of this omnibus resolution tonight, in Section 2, which speaks to the effective date,

*MOTION - by Anderson, that the effective date in Section 2 not be set tonight.*

He said the effective date clause could remain in there, but he suggested that tonight they not set the date certain. Mr. Corso asked him if he meant that the resolution would not have a particular effective date. Mr. Anderson said the intent of working through this tonight is to get a document that they could send to the NWCA, let them look at it, see the intent, and then get their response.

Ms. Johnson asked him if he could set a time certain. She thought it was dangerous to leave it open ended. Mr. Anderson said he would rather not set an effective date.

Mayor Smith asked Mr. Corso if they could legally do this. Mr. Corso said this was legislation passed by the Assembly which would impose a per passenger/per day fee. It has to have an effective date of a date that can be calculated with certainty, or it ought not be adopted at all.

Mr. Anderson said then he would not want to adopt this tonight. He would want to put this together and said if they extended to the industry the ability to collaborate with this body, as they have promised them they would do, he wanted them to be able to look at it. He wanted to know the true costs of this to the industry. He said they attempted, through a spreadsheet, to show what it would cost the industry without their knowledge of the costs. We do not have total information that can lead us to believe this is a fair and equitable way of charging these folks.

Mayor Smith clarified that Mr. Anderson did not withdraw his motion and she asked him to restate it.

*MOTION – restate by Anderson: to remove Section 2.*

Mr. Powell said to leave it open with no effective date and no plan during the next few days to meet with them leaves it open. He said he would like to either put in an effective date, if not tonight, maybe in two or three days, or, talk about a plan. They have done a lot of work tonight and he thought they were working in the right direction, but if he was industry, he would want to know when the effective date would be. He would suggest an effective date and then if they must consult with industry, okay.

Ms. Johnson could understand where Mr. Anderson was trying to go with this. Her personal feeling was that they need a plan in place. She voted to agree to lower the per passenger/per day fee in a collaborative effort for the cruise lines. She hoped they would understand that there are folks on this body that need to have some certainty that this is going to go in place. This was the third meeting the Assembly has spent going around and around about this. She spoke in support of the effective date of the resolution as being immediately.

Mr. Anderson said the effective date of this, if we decide to go ahead with this, has been set with the amendment made earlier. He thought it was cruel and unusual punishment to do this total remake of 2152 without any input from our partners. We can send it to them and ask for it back in two to five days, whatever you want to do, and then talk about it and set an effective date.

Mr. Wheeler said the city attorney said he was not sure we could set the effective date retroactively. Mr. Wheeler was worried that after putting this off a number of time, now they are not going to decide on an effective date and they will be allowing more ships to come into

the harbor without a mechanism to charge a fee to pay for these necessary improvements. He spoke against the amendment.

Mr. Wanamaker did not know whether he was for or against the effective date. He thought they were all trying to find some common ground to build a bridge and he wondered if they couldn't have an amendment saying this shall take effect on such and such a day, unless the Assembly and NWCA enter into a project based agreement.

Mr. Anderson asked if they were refusing to have any industry input to the process.

ROLL CALL on amendment seven to amendment two  
Ayes: Anderson, Etheridge, Koelsch, and Wanamaker  
Nays: Johnson, Pillifant, Powell, Wheeler, and Mayor Smith

Motion fails 5:4

Mr. Wheeler called the previous question, amendment two in its entirety.

ROLL CALL on calling the question  
Ayes: Wheeler, Powell, Pillifant, Johnson and Mayor Smith  
Nays: Wanamaker, Koelsch, Etheridge, and Anderson

Motion fails 5:4

Mr. Koelsch spoke in opposition to the amendment. He said they started about six months ago inviting a partner to go down a road with them. Now they were at a point instead of going down this road together, dictating, because they could. We are in a power position and we can dictate to the cruise industry what terms we want, be it a tonnage tax or so much per passenger. We are not looking to see if there's tradeoff or anything back and forth, we're saying this is what you are going to accept, period. He thought that was a mistake.

Mr. Powell spoke in favor of the main motion because it speaks to certainty. This body has the flexibility to be a partner with industry and listen to its citizens and that is what we've done. Through this motion we are acting upon the best facts that our engineers can give us. We are not asking industry to pay for the whole thing but for 75% through that one mechanism. They have worked with industry up to this point and have not excluded them. He spoke in support of the motion.

Mr. Wheeler said all though he had some problems with portions of the amendment, he was willing to vote for it to move forward tonight to have some mechanism on the books. There are necessary improvements and there have been discussions. This allows for further discussions and draws up a partnership. Ms. Johnson has don't good work here in trying to find a compromise. He said he would be voting in favor.

Mr. Etheridge spoke against the motion as he did not feel it had been explained to him clearly enough. He said he was still trying to figure out if why they have set a fee for these people of \$1.73 per head until 12/31/05. The next section says it will cover 75% of that project or 50% of the other project and he was not clear where the change would come in if the project comes in higher. He did not know where they would get more money.

Mr. Anderson said they have totally changed the concept of what they set out to do. One of the first questions was what was the intent of the maker of the motion. The maker of the motion stated that this was a negotiation process. It was a message they would send to the cruise agency saying this is where we are. That is not what is being passed tonight. This is something that sets a \$1.73 per person, for four years, and tonight it is effective. That was not what was promised to him at the beginning of the process tonight.

Ms. Johnson did not think in the very beginning that she made any agreements. She thought they had a vision of a \$2.50 fee. That fee was changed and negotiated down and it is a fluid document. She said with 2152, which was the project agreement, that resolution guaranteed that the cruise ship industry would pay \$3.6M and no more. Anything over that would be CBJ's responsibility. She started out by saying she could not support that. They may not agree on this, it is a compromise position and has brought people along that would not come along. She sees \$1.73 as a negotiated compromise and she said she still believes they are still in the position to work with industry on these projects and it is still very important to her that they go forward.

Mr. Anderson said he did not understand how they could say that this was now still a negotiated process. They have set, in stone, \$1.73. They have not asked industry a question, nor have they attempted to say how does this affect you. We have said if you like it or not, we are going to charge you \$1.73 and it is effective today. In good faith he went down the path with the understanding that they were going to be able to have industry input.

Ms. Johnson added that they asked for industry input, they said \$3.6M. Her point was that \$3.6 was not what she could vote for and so she was trying to find a different method.

Mr. Anderson said after a six-month path, the latest response was \$3.6 because that was the type of project agreement that they have been looking at. It has a format that they agreed looked like a decent format. The crew went down to negotiate and what they have come up with tonight is totally different and they have not had an opportunity to even look at this kind of a situation. He asked that they be given an opportunity to look and see what has been done and what changes have been made. They drew up a partnership and partners talk and have input and the industry has not had any input in this process so how can we say that we are partners with the tourism industry in this town. He felt it was an absolute slam to the industry and they should give them a couple days to respond.

Ms. Pillifant asked how they get out of this. Mayor Smith said unless there is something new, they need to vote.

Mr. Wanamaker said he thought long and hard about this agreement over the past few weeks and he thought about things he would like to see and change and changes he would suggest. Today he realized that the Assembly, as a body, directed management to go forth and negotiate an agreement. There was a committee of the Assembly that a few months ago recommended that we enter into a project-based agreement. Management came back and said a project-based agreement was possible and they gave us a memo and a resolution. As an assemblyman, he did not think he should be getting into negotiating this way, this is not the appropriate way to do it. It is imposing and is not giving due credit to management and their work. It erodes the Assembly's credibility as a body and erodes the credibility of management if they go forth to do anything else in our name. He thought the industry should be allowed to take a look at this before it become effective and give them an opportunity to

conclude in their negotiated agreement with management if possible and have one or the other take effect a little bit down the road.

*AMENDMENT – by Anderson, that this resolution shall become effective on May 15, 2002 with concurrence with NWCA.*

Mr. Corso pointed out that the Assembly's legislature cannot be dependent upon concurrence of a third party.

Ms. Johnson said if he wanted to have an effective date of May 15<sup>th</sup> that would be fine but nothing would change. Mr. Anderson asked if they did say May 15<sup>th</sup> and the cruise industry comes up with an objection or point that makes sense, what would be the process to make an amendment to the resolution.

Mr. Corso said a resolution can be taken up and repealed or amended at any time without public notice. The only procedural requirement would be that it be taken up at a regular meeting if one were available, or a special meeting called on 24 hours notice.

*AMENDMENT – by Anderson, to make the effective date May 15<sup>th</sup>.*

Mr. Wanamaker asked Mr. Corso if it was possible to have an effective date statement that says this resolution shall be effective on May 15, 2002 unless the CBJ and NWCA enter into an agreement prior to that date. Mr. Corso said only the Assembly can prevent the taking of effect of an assembly resolution. It would not be possible for the Assembly to delegate the ability to void its legislation to staff and a member of the industry or something like that. The assembly proposes and the assembly disposes so the assembly has to deal with the law.

Mr. Wheeler asked how long they would have to keep postponing this decision. He thought they should make it effective tonight. If they want to reconsider that vote in the future they can do so, there's a process for that. They could even adopt a new resolution in the future if there's need to. He was uncomfortable prolonging the decision and having more boats come to Juneau without a process in effect without any clear indication from the city attorney that we can retroactively assess these fees. He spoke against the motion.

Mr. Powell called the question.

ROLL CALL on calling the question

Ayes: Pillifant, Johnson, Anderson, Wanamaker, Wheeler, Powell, and Mayor Smith

Nays: Koelsch, and Etheridge

Motion carries 7:2

ROLL CALL on amendment eight to amendment two

Ayes: Wanamaker, Powell, Johnson, Etheridge, Anderson, and Mayor Smith

Nays: Pillifant, Koelsch, and Wheeler

Motion carries 6:3

ROLL CALL on the main motion to adopt amendment two

Ayes: Wheeler, Wanamaker, Johnson, Pillifant, Powell, and Mayor Smith

Nays: Anderson, Etheridge, and Koelsch

Motion carries 6:3

Resolution 2150, as amended was adopted.

X. **NEW BUSINESS**

A. *Liquor License*

1. *Transfer of Ownership, Location, and Name Change.*

Administrative Report: Mr. Etheridge reported that the Human Resources Committee discussed the transfer of ownership location and name change from Armadillo TexMex Café at 431 Franklin Street to Seong S. Kim d/b/a Seong's Sushi Bar and Chinese Takeout located at 740 W. 9<sup>th</sup> Street.

Assembly Action

MOTION – by Etheridge, that the Assembly waive its right to protest the transfer. Hearing no objection, it was so ordered.

2. *Application for Restaurant Designation Permit*

Administrative Report: Mr. Etheridge said the committee brought up the application for restaurant designation permit for Seong S. Kim d/b/a Seong Sushi Bar & Chinese Takeout.

Assembly Action

MOTION – by Etheridge, that the designation be approved. Hearing no objection, it was so ordered.

B. *Riley Request – Senior Property Tax Exemption*

Administrative Report: Attached. The manager had no recommendation.

Assembly Action

MOTION – by Wheeler, that the Assembly find that Mr. Burke Riley has shown good cause and that the late filing of his property tax exemption be accepted, and he asked unanimous consent. Hearing no objection, it was so ordered.

XI. **STAFF REPORTS**

A. *Cooperative Purchasing Regulation*

Administrative Report: Attached. No action was required unless the Assembly did not want them to go into effect.

XII. **ASSEMBLY REPORTS**

A. **Mayor's Report**

Mayor Smith reported that the Search Committee would meet May 15<sup>th</sup>. They will review a score sheet for evaluating the interim manager applications and once they have agreed on the score sheet they will distribute copies of the applications that have been received by that time. The RFP for an executive search organization has gone out. The pre-bid conference for bidders would be May 13<sup>th</sup> and the proposals are due with a postmark of May 21<sup>st</sup>.

## **B. Committee Reports**

*Human Resources Committee* – Mr. Etheridge had the following recommendations for appointment to boards and committees:

*MOTION* – by Etheridge, to confirm the appointment of Graham Smith and Cheryl Hull for a term ending July 1, 2003, to the American's with Disabilities Committee, and he asked unanimous consent. Hearing no objection, it was so ordered.

*MOTION* – by Etheridge, to confirm the appointment of Dennis Adams for a term ending September 30, 2004, to the Douglas Service Area Advisory Board, and he asked unanimous consent. Hearing no objection, it was so ordered.

*MOTION* – by Etheridge, to confirm the appointment of Keith Hermann for a term ending May 31, 2005, to the Juneau Human Rights Commission, and he asked unanimous consent. Hearing no objection, it was so ordered.

Mr. Etheridge reported that the entire Assembly would need to sit as the committee to make appointments to the enterprise boards. The dates in June that were recommended were already set for a COW and Mr. Koelsch was certain that he would need those dates, so other dates would need to be considered. The committee was also to look at the Assembly procedures and they did not get any recommendations from the committee chairs. They have set a time of May 20<sup>th</sup> to receive those recommendations and if they are not received by then, the committee will impose what they think needs to be put into the procedures.

*Planning and Policy Committee* – Mr. Anderson had nothing to report

*Public Works and Facilities Committee* – Ms. Pillifant reported that at the last PW&F meeting they had a discussion on the JDHS renovation bid and they looked at the CIP list.

*Lands and Resources Committee* – Mr. Wheeler reported that the Lands Committee did not meet tonight and they would have their next meeting on May 20<sup>th</sup> at 5:00. The agenda would include the first ordinance to appropriate the money for the Lena Point subdivision.

*Finance Committee* – Mr. Powell said the committee would be meeting on Wednesday to go over a number of issues. He noted Wednesday the 13<sup>th</sup> would be the Board of Equalization meeting and he encouraged everyone to be sure to attend that to hear assessment appeals. On the 29<sup>th</sup> of May, they would take up the additional funding requests. He hoped the state budget would be underway by then. The legislative session goes out on the 14<sup>th</sup> so they should have some answers to the bigger questions on the budget. He said they would have meetings every Wednesday until June 14<sup>th</sup>, with the exception of Wednesday June 5<sup>th</sup>. He thanked everyone who was able to attend the joint School Board and Finance Committee meeting.

*Committee of the Whole* – Mr. Koelsch said they COW would meet tomorrow night at 5:00 p.m. to receive testimony on the Tourism Plan. The meeting would continue as long as there was testimony. There would be other opportunities for testimony in May at a PPC meeting and at the Planning Commission. June 10<sup>th</sup> has been set-aside as a COW workshop, no testimony will be heard at that meeting and it will be the Assembly's opportunity to tackle the plan.

## **C. Liaison Reports**

Mr. Etheridge reported that the Harbor Board met last Thursday and there was a motion that passed a new Memorandum of Understanding for the Harbor and Assembly work committee for design and construction of projects. Those would be forwarded to the subcommittee and to the Assembly soon. They also set the new harbor rates for moorage, electricity and live-boards and that information was available for anyone who wants it. Their finance committee will be working on the docking fee structure to take in all the other considerations that need to be considered like for maintenance and depreciation of the dock and so forth.

Mr. Wheeler said the Parks and Recreation Advisory Committee would meet tomorrow night in room 224 at 6:00.

Ms. Pillifant said the Eaglecrest Board would be meeting tomorrow evening. She would not be able to attend but said she does get their packets and they are doing a good job.

Ms. Johnson said the Airport Board would meet Wednesday night at 7:00 in the Aurora room. She thought that on the 10<sup>th</sup> of May, the restrooms might be ready for public use. She thanked staff and everyone else for their hard work on getting that project going. The airport has gone ahead with the plan to relocate the Flight Standards District Office so that they will be able to better accommodate the security screening over the summer. They will need some funding help with that so she was sure they would discuss it in their budget discussions.

Mayor Smith said the Alaska Committee met last Wednesday and the Campaign Committee meets every Friday morning.

**D. Presiding Officer Reports**

Mr. Anderson said they were attempting to reschedule the hearing on May 29<sup>th</sup> on the Bauer appeal to make sure there is plenty of uninterrupted time for the Finance Committee.

Mr. Wheeler said they would be hearing the Horner appeal on June 3<sup>rd</sup>.

**XIII. ASSEMBLY COMMENTS AND QUESTIONS**

Ms. Johnson thanked Assemblymembers for being open minded. She said it was a very tough decision they made tonight and she appreciated everyone, including staff.

Mr. Etheridge thanked the volunteer fire fighters for their extrication demonstration at the high school. He said they do it every year the week before the prom.

Mr. Wheeler commented on Mr. Duncan's spreadsheet acronym for the Steamship Wharf/Marine Park Project as the SWAMP project! He then said the ATIA and the United Way would be having a charity walk this Friday and he encouraged everyone to participate.

Mr. Powell noted that this Saturday was litter clean up day and he encouraged people to get out and clean up their areas.

Mr. Wanamaker asked if the Mayor had set a period to close accepting new applications for the interim candidates. Mayor Smith said the ad said open until filled. The committee could make a decision at the next meeting, after they see what has been received.

*MOTION – by Wanamaker, to close accepting new applications for Thursday noon of this week, and he asked unanimous consent.*

Mayor Smith suggested that he give people until the committee can at least meet again which would be on the 15<sup>th</sup>. That would be the first time all of the committee would be in town and she thought it would be fair to let the candidates have until that time. *Mr. Wanamaker accepted that date.*

Mr. Wanamaker continued and said he saw the value in the amendment that they approved earlier tonight. It has some good points and some point that were not as worked out as they could have been. He hated to see the work that management and the Assembly has put in to a project based agreement go by the wayside. He hoped that management would continue discussions with the NWCA and hopefully come back with something that the Assembly might be able to accept because both parties believe it's a good deal and that its better than the amendment that was approved tonight in Resolution 2150(am).

Mr. Wanamaker gave notice of reconsideration on Resolution 2150(am).

Ms. McEwen asked if there was objection to Mr. Wanamaker's first motion for setting a date of May 15, 2002 to close acceptance of applications. Objection was noted.

Ms. Pillifant said it seemed premature, as they had no clue if they would be getting one application or 60. She was not willing to close down any opportunity to look at who wants to apply.

#### ROLL CALL

Ayes: Anderson, Etheridge, Koelsch, Wanamaker, and Mayor Smith

Nays: Johnson, Pillifant, Powell, and Wheeler

Motion carries 5:4

Mayor Smith said that if they do not have a suitable candidate, there would be nothing to prevent them from re-opening it.

Mr. Wanamaker restated his declaration of reconsideration for Resolution 2150(am).

Mayor Smith announced that Friday at noon would be the delegation meeting and it may be the last one of the session. Mr. Anderson asked that someone call to make sure the delegation would still be there on Friday.

#### XIV. **CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS**

Joe Geldhoff, West Juneau. He said Juneau was a Coast Guard community and today the Mayor and Assemblyman Anderson attended the change of command ceremony, which was extremely well attended. It was an interesting and wonderful ceremony about an important aspect of not just this community but also the whole state. He asked the Assembly to remember the Coast Guard in this community, who are often quite but a vital aspect of Juneau.

Sara H. Willson, noted that she had not been an involved citizen very much in her life, but she was very impressed with the amount of work that is done by the members of the assembly and by the staff. She became involved with this stuff about a month ago and she said she had no idea how much work everybody did.

#### XV. **EXECUTIVE SESSION** - None

XVI. **ADJOURNMENT** - There being no further business to come before the Assembly, and hearing no objection, the meeting adjourned at 10.55 p.m.

Signed: \_\_\_\_\_  
Beth McEwen, Deputy Clerk

Signed: \_\_\_\_\_  
Mayor Sally Smith