MEETING NO. 2008-05: 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 p.m. by Mayor Bruce Botelho.

I. FLAG SALUTE was led by Mayor Bruce Botelho.

II. ROLL CALL

Assembly Present: Jonathan Anderson, Bruce Botelho, Jeff Bush, Sara Chambers, Bob Doll, Johan Dybdahl, Merrill Sanford, David Stone, Randy Wanamaker.

Assembly Absent: None.

Staff Present: Rod Swope, City Manager; John Hartle, City Attorney; Laurie Sica, Municipal Clerk; Roger Healy, Engineering Director; Rorie Watt, City Engineer; Marc Matsil, Parks and Recreation Director; John Stone, Port Director.

III. SPECIAL ORDER OF BUSINESS – None.

IV. APPROVAL OF MINUTES

A. February 11, 2008 – Regular Assembly Meeting 2008-03

Hearing no objection, the minutes of the February 11, 2008, Regular Assembly Meeting 2008-03 were approved.

B. February 13, 2008 – Special Assembly Meeting 2008-04

Hearing no objection, the minutes of the February 13, 2008 Special Assembly Meeting 2008-04 were approved.

V. MANAGER’S REQUEST FOR AGENDA CHANGES

Mr. Swope requested the Assembly substitute Ordinance 2007-21(AF)(b) in the red folder with the version in the packet and asked to remove Resolution 2437 regarding Project Labor Agreements (PLA’s) to the city attorney for further legal review and re-presentation to the Public Works and Facilities Committee. Hearing no objection, it was so ordered.

VI. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS.

Maurice Wangberg, West Juneau, expressed concerns about Capital Transit’s bus routes on snow days. The snow alerts were given early in the morning and then the routes were not changed throughout the day even when the streets cleared. The sidewalks are atrocious and his wife is handicapped and they have to take a cab on these days rather than navigate the icy, snowy streets. He said Cordova Street was particularly difficult to walk on due to the hill and the ice. He spoke about being threatened at the bus stops and people smoking in the shelters, the seats in the shelters were wet on rainy days. He asked that the supervisor be directed to go out at Noon and at 4pm to determine if the routes would be safe to change from a snow day to a regular day.
Robert Garrison, Downtown Juneau, said Calhoun Ave. was a distressed street and the hill there had been a solid sheet of ice ever since the first snowfall and the only way to walk there was in the middle of the street. During the freeze and thaw, there is a terrible spot that gets very icy across from the museum. He spoke about lack of snow removal on the sidewalks. On Willoughby and Egan, the piling of snow blocks the sidewalk and creates a visual obstruction for drivers and pedestrians alike. The city whines about a capital move, but does not keep the walkways clear between Main and Willoughby, and our guests and locals alike can’t navigate around town. There is a solid sheet of ice in front of the bus stop at the main street parking lot.

VII. 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 Wanamaker, to adopt the consent agenda, as amended by the manager with the removal of Resolution 2437.

1. Ordinances for Introduction

a. Ordinance 2008-06

An Ordinance Amending the Commercial Passenger Vehicle Code.

Administrative Report: Attached. The manager recommended Ordinance 2008-06 be introduced and set for public hearing at the next regular Assembly meeting.

b. Ordinance 2008-07

An Ordinance Amending the Marine Passenger Fee Code Regarding The Passenger Fee Proceeds Committee.

Administrative Report: Attached. The manager recommended Ordinance 2008-07 be introduced and set for public hearing at the next regular Assembly meeting.

c. Ordinance 2007-21(AQ)

An Ordinance Appropriating To The Manager The Sum Of $700,000 As Funding To Support Several Capital Improvement Projects At Eaglecrest Ski Area, Funding Provided By The Rasmuson Foundation.

Administrative Report: Attached. The manager recommended Ordinance 2007-21(AQ) be introduced and set for public hearing at the next regular Assembly meeting.

d. Ordinance 2007-21(AT)

An Ordinance Appropriating To The Manager The Sum Of $2,550 As Funding For The Purchase Of Artworks For The Juneau-Douglas City Museum, Funding Provided By Museums Alaska, Incorporated.

Administrative Report: Attached. The manager recommended Ordinance 2007-21(AT) be introduced and set for public hearing at the next regular Assembly meeting.
2. Resolutions

a. Resolution 2437 – removed from the consent agenda and referred to the City Attorney.

A Resolution Establishing The Policy Of The City And Borough That All Municipal Contracts For Construction Projects Exceeding $4,000,000 Shall Include A Project Labor Agreement.

VIII. PUBLIC HEARING

A. Ordinance 2008-03

An Ordinance Creating Local Improvement District No. 98 Consisting Of Installation Of A Sanitary Sewer System In The Industrial Boulevard Area.


Public Comment:

Jim Sidney, Glacier Highway, thanked the subcommittee for working through the issues on this ordinance and said this will improve the situation for all future LID’s.

Assembly Action:

MOTION, by Sanford, to adopt Ordinance 2008-03. Hearing no objection, it was so ordered.

B. Ordinance 2008-04

An Ordinance Amending the Land Use Code, Table of Dimensional Standards, Regarding Maximum Lot Coverage in the MU Zoning District.


Public Comment: None.

Assembly Action:

MOTION, by Anderson, to adopt Ordinance 2008-04. Hearing no objection, it was so ordered.

C. Ordinance 2008-05

An Ordinance Renaming, Amending, And Extending The Smoking In Public Places Code.


Public Comment:

Jim Pound, Glacier Highway, said his interest was rights. He said the ordinance was unconstitutional and overstepped the right to privacy afforded to citizens. There was no fiscal note for this ordinance. Private businesses will be affected by this ordinance and are selling a legal product. This is a violation of eminent domain and a taking. The CBJ budget includes money for an organization that is lobbying the Assembly on this ordinance, and this will be investigated.

Bryan Turner, Mendenhall Valley, worked for the federal government and military and said he is a member of all fraternal organizations in town and an officer in two. The Eagles have not taken business from bars and their numbers have not increased during the last month. Only the members are attending. To get into the lodge, a person has to be recommended by a member and has to be voted in by the membership. They are very private clubs. This ordinance is an infringement on their rights.
Dave Behrends, Glacier Highway, of the Moose Lodge, spoke personally. The lodge is a non-profit organization. Their liquor sales declined 22% over the past month, and they attributed this to the city’s smoking ban. We had to let one employee go. He is a non-smoker, but there needs to be a place provided for smokers. The Moose Lodge had been non-smoking since January 3, and private clubs should have the same time that was allowed to the bars to change their practices. The clubs donate a lot of money to the community and this will affect their ability to make donations.

Jim Reid, Mendenhall Valley, said he is a member of the VFW, Moose Lodge and Eagles Aerie. There is a difference between private and public, and at the clubs, it is not a public concern what is done at the private clubs, the actions in the clubs do not hurt the public, and the actions are a membership issue. He listed all the programs that the clubs donate to, and this ordinance has affected revenues at the clubs and bars, which will affect donations.

Larry Paul, Mendenhall Valley, said he is the President of the Eagles, but was representing himself. He said NCADD had presented misleading and non-scientific studies regarding the dangers of second hand smoke. He distributed a packet of information to the Assembly and cited an Occupational Safety and Health Administration (OSHA) study done in 1996, which showed that in an enclosed space it would take over 200,000 cigarettes smoked to reach the toxicity levels of some of the harmful chemicals cited in second hand smoke. In the real world with windows, doors and smoke-eaters, this threshold is impossible to achieve. This is a political issue rather than a scientific issue.

Mayor Botelho asked about the membership at the Eagles. He said they have initiated only two new members in the past two months and there were more that would be initiated at a meeting the next evening. A person has to apply for membership, a background check is conducted, the membership votes on whether or not to grant membership, and the new member is required to pay a $40 membership fee.

S. Jeanne Wilder, Mendenhall Valley, works for Moose Lodge, and said that the National Council on Alcohol and Drug Dependence (NCADD) received a grant to advocate for tobacco prevention and cessation programs and to push the ordinances. Smoking cessation drugs are making lots of money. Smoking does not have a quarter of the danger that has been claimed. Why are the big pharmaceutical companies pushing non-smoking ordinances? So they can sell their products.

Joan Cahill, Downtown Juneau, Juneau Clean Air member, thanked the Assembly for revisiting the less clean aspects of the ordinance. They foresaw these issues, and are glad that this is back for review. This is a public health ordinance. The intent is to address smokers and non-smokers, employers and employees.

Jackie Wagner, Downtown Juneau, Americorps Vista member, said her position is working with Teens against Tobacco at the high school. She related a story about a young child she worked with who was upset that her non-smoking father worked in a bar-restaurant where smoking was allowed. The girl visited her father often at work and had been exposed to second hand smoke, and was concerned for her father’s health as well. She supported the changes to the ordinance.

Rowena Reeves, Mendenhall Valley, spoke in support of amending the ordinance; she worked as a smoking cessation counselor. Her clients are all ages, and she works with patients with many illnesses due to tobacco and second hand smoke. She took a survey at ANB Hall nine months after the ordinance was effective one evening during a bingo night. The survey respondents comprised of 39% who were current smokers, 33% former smokers, 22% non-smokers, and 6% non-respondent. Of those surveyed, 81% supported the ordinance and preferred the smoke-free atmosphere. The bingo revenue had increased since the smoking ban went into effect.

Larry Knecht, Lemon Creek, spoke about Donna’s Private Club. The club was built several years ago at considerable expense and was located in a completely separate room from the restaurant. It had its own entrance and is not a restaurant. It is well ventilated and the smoke does not affect the restaurant in
any way. It is a private club that requires membership to anyone over 19 and there is no alcoholic beverages served. Members make their own coffee. Waitpersons are not required to go into the club room. It appears that this will now be closed, due to complaints by bar owners. The amendments should allow for such places for smokers like Donna’s Private Club.

Mr. Anderson asked about waitpersons. Mr. Knecht said if a member wants food, they go into the restaurant and carry it out of the restaurant to the club. Some waitpersons are members, but they are not required to go in the club to work. It was constructed at the time the ordinance went into effect originally to accommodate smokers.

Gail Niemi, Mendenhall Valley, owner of the Sandbar, said that an older gentleman told her that the do-gooders were getting their way, and she asked if this is about the do-gooders or the employees. There should be a difference between clubs which have employees and clubs that don’t, that sell alcohol and those that don’t. Our industry has been devastated; we need to provide the smokers some accommodation. A patio does not affect employees.

Sandi Krook, Lemon Creek, is a bartender and has seen a lot of regulation on the liquor industry, which has impacted their business in a negative manner. The customers are now outside on sidewalks in the cold and trash, getting solicited and panhandled, and for some of our customers this is their only social outlet. She feels she can’t take care of her customers and friends the way she has in the past. Revenues are down in the business and she is looking for new work.

Gene Miller, West Juneau, supported the amendment to the ordinance and asked for unanimous consent. It was not a moral issue. We are not out to deprive smokers, but it was a public health issue and Americans should be free from the harmful behaviors of others.

Steve Hamilton, West Juneau, supported Gene Miller’s comments, it was a public health issue, and as with all changes in society it takes time and sacrifice. People who are talking about losses and percentages, it is only been since January and this should even out. He hoped the situation was just a phase.

Wendy Hamilton, Tobacco Program Coordinator, NCADD, thanked the Assembly for the willingness to clean up the loop holes in the ordinance. Exceptions provide chaos for enforcement of a good ordinance, which was adopted in 2001, and amended in 2004 and 2007, all to expand clean indoor air. It is a public health issue. She said the American Heart Association, American Lung Association, the Environmental Protection Agency, the World Health Organization and Center for Disease Control all attest to the dangers of second hand smoke and it was indisputable that second hand smoke kills. She said this is similar to sanitation and building codes that regulate businesses. There is economic impact but it evens out over time. Ireland, England, Scotland, France, Italy, and Greece have gone completely smoke free in their bars. There was change and they have rebounded. One month of sales receipts is not a good indication.

Ms. Chambers asked for statistics from countries mentioned regarding the reduction of receipts and how they rebounded economically, including bar closures, jobs lost, and other economic impacts. Ms. Hamilton said she had voluminous information on the topic and would provide that to the Assembly. She also said heart attacks had dropped in countries that had a full ban. The way to see that happen here is with an ordinance that does not provide exemptions for smoking.

Jack Tripp, Downtown Juneau, said he had to let four employees go. He spent $12,000 to build a smoke shop, it is self service without an employee, now this ordinance proposes eliminating that exemption. Why are we always bending over backwards for them, and taking from us – we pay 3% more sales tax. We are not allowed to be open the same hours that are allowed by state law. People go out for an average of six drinks, but if they are smoking out on the sidewalk, maybe they only drink four, but we have the same hours. The people who don’t want smoking don’t have to pay our bills. We are told we can have smoking rooms, we invest in this, now they are taken away. All the ventilations are paid for,
now what are they ventilating – air? He asked the Assembly to leave the ordinance the way it was and stop changing the rules. It was their turn for consideration. There are only 30,000 people in Juneau and perhaps only 2000 were drinking at the bars.

Lynda Foreman, Mendenhall Valley, general manager of the Travelodge, said she had complied with the no-smoking ordinance since January 2, 2005, and had lost $80,000 per year. There was not a level playing field for her, her smoking customers went to the bars where they could smoke, but her revenues have gone down another 3% this January from last January. She has seen a decline in room revenue due to the decision to go to all non-smoking rooms. She does not think there has been a level playing field. There were other operators who had the same type of business that were not complying when she was and there was no enforcement. She foresaw the continued loss of revenue.

Dana Owen, Downtown Juneau, thanked the Assembly for passing the original ordinance, it is about public health, and there will be people who do not enjoy the decisions and there will be those who appreciate them. When you vote to support public health it makes Juneau a better place, increases investment in the community and makes people want to live here and the community to thrive.

Recess 8:05 – 8:15

Dana Vogeler, Mendenhall Valley, said he is a smoker, an American and this is the land of the free. He doesn’t want his smoke to be an issue for other people. The Anchorage smoking ban went into effect last summer, and there are a number of businesses that were allowed to establish a place for smokers to go. Anchorage businesses created some indoor smoking areas, due to the harsh weather. Our temperatures are a little more moderate, but they made accommodations for smokers. People in America have a choice and we smokers want to be included in your choice.

Mary Becker, Juneau, thanked the Assembly for realizing that the ordinance needed tightening and thanked Mr. Hartle for his work. Perhaps this ordinance would end the discussion. We are talking about a small part of the ordinance to make this a level playing field to say we have a smoke free community. Much of the testimony is about the original ordinance which bans smoking in public places and is not about the proposed amendments to the ordinance.

Reecia Wilson, West Juneau, president of Tailwind Inc., Crete Inc., d/b/a Hangar, Pizzeria Roma, and Twisted Fish, said she was very involved in the original ordinance adopted in 2001 and is very familiar with this subject. She asked the Assembly to deliberate the specifics of Page 3, line 1, relating to outdoor seating, page 4, line 15, patio seating, and page 5, lines 7,8,9. This is a complicated ordinance primarily due to the complicated liquor license laws. She reiterated that the intent of the ordinance was to provide clean indoor air and asked the Assembly to focus on the original intent of the ordinance.

Matt Felix, North Douglas, said the amendment does level the playing field and makes it comprehensive, so that all indoor air is smoke free. The Surgeon General study in 2006 outlined the dangers of second hand smoke which creates a host of health problems and all laws should be comprehensive. He chaired the subcommittee on the ordinance amendment. They agreed with many members of the liquor industry that the ordinance should be comprehensive. Tax revenue has not declined, but has increased since 2004.

Ms. Chambers asked about the outdoor seating. Mr. Felix said the NCADD does not take any position on outdoor air or seating, they are only focused on clean indoor air.

Ethan Billings, owner of the Rendezvous Bar and Marlintini’s Lounge, and member of the Lynn Canal Cabaret, Hotel, Restaurant and Retailers Association attended a recent meeting came up with compromise draft ordinance that is supported by bar owners and fraternal clubs, which he distributed. We looked at several ordinances and we are seeing trends of continuing loss of revenue to our businesses. They agree with Mr. Hartle’s ordinance with the exception of smoking rooms which should be allowed. This is about a rational compromise for members of the community. Bar owners are
members of the community. This is for the short/long term economic health and survival of our businesses.

Mr. Doll asked what “outdoor” meant and Mr. Billings said an attached deck or patio on an existing business. Mr. Doll asked if an architect had offered a plan for what such an area would be like. He said it would be similar to a deck.

Kate Herring, represented the American Lung Association, and said representatives of the American Cancer Society and the American Heart Association could not attend. They all support the ordinance, and the protection of the rights of workers to work in a smoke free area. There are statistics from peer reviewed, objective studies on the economics of smoking bans and there is no direct economic effect from such bans.

Mr. Botelho asked about the Anchorage ordinance. She said the smoking rooms in Anchorage are not fully enclosed.

Kathy Swanson, Mendenhall Valley, said one didn’t need to be a sociologist to see the effects of the smoking ban. On Saturday night there were only 6 people in Henry’s. She asked how this revenue will be replaced. Our demographics are aging. Her grown children are spending 60% of their income raising a family in Juneau. How can the taxpayers support this hit to business - property tax owners can’t keep making up the deficits. Why hasn’t someone started a non-smoking bar if this has such a good impact on the economy. She thanked everyone for their time and efforts.

Neil Atkinson, G.W. Teals proprietor, said there was no such thing as a level playing field and this was a term that was coined by people not in business. All businesses have strengths and weaknesses that attract their clientele. We all follow the same rules to accommodate different clients. This has put the service industry in a catastrophic situation. Many wait staff are out of business, or seeing a reduction in tips, and are suffering. Let customers make their own choices.

Bob Urata, Glacier Highway, supported the changes to the ordinance. As a past president of a Heart Association Western Region Affiliation, their goal is to reduce death and disability by heart attack and stroke by 25% by the year 2010. Part of this effort is to support smoke free environments through clean air ordinances in all of the states. The states of Arizona, Colorado, Washington, Oregon, Hawaii and even Montana passed no smoking laws. In Alaska, Idaho and Wyoming, they are working city by city. The year after the law passed in Helena, Montana, there was a 60% drop in heart attacks. In Pueblo, Co., after a year of the law passing there was about a 40% drop in heart attacks. He hopes to see the same in Juneau, the bottom line was saving lives. Breathing clear air saves lives.

Mayor Botelho asked for Dr. Urata’s response to the true economic losses the businesses were citing. Dr. Urata said if there was a true level playing field, businesses would have to change and adapt. He referred to the timber industry in Wrangell – the livelihood was changed for better or worse. It is hard to adapt and change, but this change was necessary for public health.

Jason Maroney, West Juneau, said the crafting of the language was the biggest issue. The error to begin with was the loopholes, and we have paid to adapt again and again. Take time to get it right this time. Legislation that is rushed through is destined to come up again. There are several of us here who have become “up and coming” business people and what we do best is running our businesses. This is what makes it difficult because every turn is a new stumbling block, and it becomes cumbersome to comply with all the rules and regulations.

Mr. Anderson asked where the customer’s dollars are going that might not be being spent. Mr. Maroney said that their challenge is to find ways to attract customers, people are malleable to a certain degree, as we are, but we are ready to throw our hands up. He is in support of concise clear language and no more changes in the future.
Joshua Adams, Capital Hotel proprietor, said this ordinance won’t work and there needs to be a viable outlet for smokers. There should be a change to allow for separate, sealed, enclosed areas for smokers. He encouraged the Assembly to find middle ground, people won’t quit smoking just because it is illegal or immoral. He sought alternatives to a comprehensive ban.

Rick Kasnik, Island Pub proprietor, had a smoking room, he had no complaints when it was in operation as it worked, but now he gets three or four complaints daily from non-smokers about people smoking in front of the building vs. in the smoking room in the building. The smoking room has negative air pressure that prevents smoke from entering the non-smoking dining room.

Todd Perdone, a cab driver, spoke about his experience on the streets moving people around from bar to home and in between. He said he sees people now going to the convenience and liquor stores to buy alcohol and there have been increases in house parties, which are not regulated by bartenders in regards to levels of consumption and creates other problems such as domestic violence. The cabs have seen decreases in revenues. He has lost 4 drivers, and the other cab companies have lost drivers as well, so that is a detriment to Juneau as a capitol when there aren’t enough drivers at the airport. The Assembly should be focusing on issues such as keeping the capitol in Juneau.

Vanessa George, Downtown Juneau, said she enjoys going to the local bars to support her community members and they are taking this very hard. She is a smoker and her right to smoke is not more important than others. Leave the outdoors open, why close off the patios. If there are bars willing to commit to be smoking bars, give customers an option. She was not trying to say the ordinance was bad, but her right to smoke was just as important as the people who supported smoke free rights.

Neil Spencer, Downtown Juneau, said we all have rights, he asked that some bars be allowed to stay smoking. No one is asking the bar owners to change their music. Closing the smoking rooms is shocking – where does a person go? It limits everything a person can do at times. Life, liberty and the pursuit of happiness is important. Find a reasonable compromise so we all have a place to go.

Elizabeth Lebert, North Douglas, supported Juneau Clean Air. She moved to Juneau a few years ago and was surprised that because of all the beautiful attributes of Juneau that smoking was still accepted in bars. She was raised in tobacco country where the RJ Reynolds company was located and smoker’s rights were everywhere, including the high school by students. She offered hope that there would be others like her that would begin going to the bars now as she had not gone before because she could not tolerate smoke.

Michael Lebert, North Douglas, said he is a health care worker who supports the ordinance and the proposed changes.

Rich Conneen, North Douglas, of Rich Conneen Architects, designed the Island Pub. Three years ago the assembly tried to legislatively solve a problem and we tried to solve it architecturally. We created/invented a non-smoking room, and it was successful. We have had a three year case study and we have to take a look at the success of this room. He supports the ordinance as his family likes to go out and they have small children, and they have never encountered a night at the Island Pub when they had to go home and shower due to second hand smoke. With the lack of the smoking room now it is not as enjoyable, as smokers congregate on the front porch.

Mr. Anderson asked how the facility works. Mr. Conneen said the mechanical plant moves air out of the room, directly to the outside, there is an air change every four minutes, it creates a negative air pressure so that air can only go in the smoking room from the bar, and it doesn’t escape into the bar. There is also a door to this unique room that is separate, however, the door could stay open all night without escape of smoke due to the mechanical system. He said this design is simple to make.

Mr. Doll asked if Mr. Conneen had a comment on exterior smoking areas that were 50% open to the exterior and Mr. Conneen said he did not.
Ms. Chambers asked if he had reviewed Mr. Billings “smoking rooms” in his ordinance. He said Jim Barrett had drafted this section and he said that this appears correct to him and he agreed with everything in the description.

James Barrett, Bergmann Hotel Proprietor, drafted Section 7 “designated smoking area” in the draft ordinance proposed by Mr. Billings as a compromise and he believed it gave a level playing field. We can’t eliminate all areas for smokers and we need to find room for compromise. He took the information from a variety of ordinances.

Assembly Action:

MOTION, by Wanamaker, to discuss Ordinance 2008-05.

Mr. Wanamaker said he was in favor of the ordinance.

Mr. Doll asked why this is before us – and he assumed it was legal issues. He said it appeared that certain businesses are disadvantaged as they have not invented ways to address the ordinance.

Mr. Bush said the ordinance was before the Assembly because some establishments were finding ways to avoid the ordinance and were not meeting the intent that non-smokers not be exposed to unwanted smoke.

Mr. Stone said he did not remember outside smoking patios being initially part of the discussion. Mr. Hartle said the existing code did not address outdoor seating areas. This came from other ordinances, and the Assembly should answer this question as a policy as to whether smoking will be allowed in such areas. It raises questions as to how the area will be configured, do workers need to enter, how would the area be joined to the main establishment. He went with the simplest answer which was to disallow such outside smoking areas.

Mr. Anderson thanked all who commented. He struggled with health and safety vs. individual rights. He appreciated Mr. Billings proposed changes. He is concerned with employees’ rights and he liked the suggestion of employees being prohibited from the smoking area. We may need to address the wording consider excluding the outdoor seating. He is more reluctant to allow business locations with 4 or fewer employees to continue to smoke.

Mr. Doll said he had not heard any complaint about the implementation of the smoking ban affecting a person’s health. He understood that private clubs are a difficult legal issue. With that we are left with the economic effect of implementation. The proprietors seem to prefer to want the ordinance the way it is and do not want change.

Ms. Chambers said she heard comments that people were forced to smell smoke coming in and out of the buildings. She has noticed this change of smokers outside on the streets sharing their smoke with non-smokers. Poverty is an issue, several people testified that people are being laid off, including wait staff in bars and taxi cab drivers. The intention was that employees could choose to work in a safe clean environment, now there are employees that may not have a choice to work at these establishments. There are issues about over-serving due to people leaving establishments to smoke and the bartenders losing track of how much alcohol has been served. She would like to explore the idea of designated smoking areas. She liked the idea of an economic impact study.

Mr. Dybdahl would like to see outdoor patios excluded from this ordinance. The indoor smoking area was reviewed while he was on the planning commission. He would like to look at this and consider all the ramifications of this possibility.
Ms. Chambers said her preference was to refer this to the Committee of the Whole, but her hesitation was that without direction to staff, the Assembly would not get anywhere without expertise.

Mr. Anderson suggested attempting a few amendments to see how the discussion went.

Mr. Dybdahl supported reference to the C.O.W.

**MOTION**, by Doll, to refer to Ordinance 2008-05 to C.O.W. Hearing no objection, it was so ordered.

Mayor Botelho said the meeting would be a worksession only without further public comment, to allow the Assembly to discuss the matter and work through the issues. He anticipated that if there were significant changes it would need to be reintroduced. In any case, there would be public notice about its placement on the Assembly’s regular agenda.

D. Ordinance 2007-21(AF)(b)

**An Ordinance Appropriating To The Manager The Sum Of $4,250,000 As Partial Funding For The North Douglas And West Mendenhall Valley Sewer Expansion Projects And The Juneau-Douglas Treatment Plant Jet Truck & Septage Receiving Facility Improvement Project, Funding Provided By The State Of Alaska Department Of Environmental Conservation.**


Public Comment: None.

Assembly Action:

**MOTION**, by Sanford, to adopt Ordinance 2007-21(AF)(b).

Ms. Chambers asked that in future ordinance titles, funding sources be clarified – in this circumstance, it appeared that the state was funding this completely, however, this was a loan that the state was funding. She had no further objection.

Hearing no objection, it was so ordered.

E. Ordinance 2007-21(AR)

**An Ordinance Transferring To The Manager The Sum Of $20,013 As Repayment Of Unspent Funds In The West Juneau Park Acquisition Capital Improvement Project, Funding Originally Provided By The Lands Fund.**


Public Comment: None.

Assembly Action:

**MOTION**, by Anderson, to adopt Ordinance 2007-21(AR). Hearing no objection, it was so ordered.

F. Ordinance 2007-21(AS)

**An Ordinance Appropriating To The Manager The Sum Of $270,413 In Federal Secure Rural Schools And Community Self-Determination Act Title III Funds, $160,000 Held As Restricted General Fund Balance And $110,413 Held As Restricted Fire Service Area Fund Balance.**


Public Comment: None.
Assembly Action:

**MOTION, by Doll, to adopt Ordinance 2007-21(AS).** Hearing no objection, it was so ordered.

**IX. UNFINISHED BUSINESS**

**X. NEW BUSINESS**

A. Liquor License

1) **Restaurant Designation Permit Application**
   Tailwind, Inc. d/b/a Hangar on the Wharf and Pizzeria Roma
   Location: #2 Marine Way, Suite 106, Juneau, AK

**MOTION, by Chambers, to adopt the Human Resources Committee's recommendations, to approve the Liquor License restaurant designation for Tailwind, Inc., d/b/a Hangar on the Wharf and Pizzeria Roma.** Hearing no objection, it was so ordered.

**XI. STAFF REPORTS**

**XII. ASSEMBLY REPORTS**

A. Committee Reports

*Finance Committee:* Liaison Stone said the Finance Committee met on February 13, 2008.

*Human Resources Committee:*

**MOTIONS, by Chambers, to approve the following committee appointments, following the review and recommendation by the HRC:**

Barbara May and Michelle Calvin-Casey to the Juneau Human Rights Commission, for terms expiring May, 2010, and Mary-Claire Tarlow-Bernstein and Lee Kadinger to the JHRC for terms expiring May 31, 2009.

Hearing no objection, the board appointments were so made.

Ms. Chambers said the HRC discussed the ordinance regarding the Passenger Fee Proceeds Committee, introduced tonight. HRC asked that the manager review the timeline for the comment period and to take specific action to notify the cruise industry and Docks and Harbors of the manager’s intent to use the proceeds, and asked that such amendment be in the next version.

The HRC is working with several local agencies regarding the topic of childcare for action items to bring forward to the body.

*Public Works and Facilities Committee:* Chair Doll said the PWFC met on February 19 and heard about project labor agreements. PWFC also discussed the impressive list of projects that are converging in a relatively short bidding period which may cause labor shortage and inflated costs, so we will monitor and try to manage them in a timely manner.

B. Liaison Reports

*Bartlett Hospital Board:* Liaison Sanford said the next meeting was at 5:15 p.m. on Tuesday, Feb 26.
**Sustainability Commission:** Liaison Doll said the subcommittee completed its work on all the Comprehensive Plan chapters and the next meeting would be at 5 p.m. on Wed., Feb 27.

**Docks and Harbors:** Liaison Dybdahl said the Docks and Harbors Board monthly meeting would be held Thursday, Feb. 28.

**Planning Commission:** Liaison Anderson said the Planning Commission met and approved a cottage housing development on the Back Loop Road. The ordinance as written does not put restrictions on how many cottage housing lots can be together. PC will meet Tuesday, Feb 26, to discuss Fish Creek Off Road Vehicle park and anticipates a long evening.

Mayor Botelho proposed a joint meeting with the Docks and Harbors Board on Wednesday, March 5, at 5 p.m., followed by a COW meeting on the smoking ordinance heard tonight. Hearing no objection, it was so ordered.

Mr. Bush said he would be out of town from February 29 through March 16.

Mr. Sanford asked to clarify the topics of discussion with the Docks and Harbors Board. Mayor Botelho said berthing issues. Mr. Dybdahl said also there was an issue regarding the need to clarify jurisdictional issues between Parks & Recreation and Docks and Harbors.

**XIII. ASSEMBLY COMMENTS AND QUESTIONS**

Mr. Wanamaker said he understood that the Off Road Vehicle proposal to establish an ORV park in North Douglas would be getting a staff recommendation to table the matter pending a decibel study.

**MOTION,** by Wanamaker, that the Assembly direct the city attorney to prepare an ordinance to regulate off-road vehicles. The ordinance should include the following areas: Noise, trespass, damage to sensitive habitats, safe operation factors such as age of riders and riding under the influence, equipment including mufflers, spark arresters, lights and brakes, registration and ready means of vehicle identification, penalties and enforcement – including a means of enforcement by private citizens, and a way to distinguish between off-highway vehicle types.

Mr. Wanamaker said this should be referred to the Lands Committee and possibly the Planning Commission for their review and recommendations. The need for the ordinance is to help ensure the rights of riders to be able to use the park area that we are proposing to provide. This ordinance will be insurance to the neighbors and the riders that riding will be done properly.

Mr. Sanford asked Mr. Wanamaker if this would preclude the forward movement of establishing the ORV park under review. Mr. Wanamaker said they should go hand in hand, but he understood from staff that the park would be tabled due to inadequate noise studies.

Mr. Sanford said he disagreed with stalling the ORV park at this time as there were rules in the park proposal for riders. He also objected to establishing rules city wide for use at a small area.

Mr. Dybdahl said he did not support this as he saw a lot of use of the vehicles for snowplowing this winter.

Mr. Anderson said it was important to lay out the rules of what was allowed or not, but he did not want to put the present plan put on hold. The noise ordinance from CDD has been moving along, and this is an issue for consideration at the Planning Commission level as well. He was not sure how to proceed but would like the review, but not to hold up the fish creek park facility.
Mr. Bush said the work being done on the park area is taking most of the concerns of this motion into
consideration, and we have identified this area as the place ORV’s will be allowed. Opening it up to an
areawide ordinance could turn into a large discussion and he did not understand what could be handled
through this process that the park process could not handle.

Mr. Sanford said he saw the need for an areawide ATV rules and regulations, as there are a lot of issues
– we have seen people use them for moving and plowing snow – so there are probably some issues
regarding road and highway use, but he doesn’t see this in addressing the park issues.

Mr. Wanamaker supported the park as well, and since the ORV park issue was likely to be tabled, the
scope deserved to be considered and serious study was needed to address issues.

Mr. Anderson asked for clarification of the motion – did it address the fish creek process.

Mayor Botelho suggested that this be referred to the COW for more discussion to give more direction to
the city attorney.

Mr. Swope said that there are many issues before the staff, and wanted to know if this was a priority
issue. It would be a difficult, divisive process and would forestall work on other projects.

Mr. Anderson suggested waiting to see the noise ordinance that is forthcoming, to see where that takes
this.

*MOTION, to table to the time when the noise ordinance is acted on by the Assembly.* Hearing no objection, it
was so ordered.

Mr. Stone said he knows the street crews work hard, and requested that during Session the areas to and
around Centennial Hall be kept snow free.

Regarding the concern about snow days on the busses, Mr. Swope said that the bus drivers do observe
the streets and do change their routes during the day if needed.

Mr. Dybdahl said he appreciated people who come forward with proposed solutions and did not just
come to complain. He thanked people for coming forward with ideas about the smoking issue.

Mr. Chambers said that she felt there could be a way to move forward on the issue in a positive way.

Mr. Doll said he has been asked how the downtown parking garage fits into the larger picture.
Engineering is focused on the structure, but perhaps there could be a public presentation from
Community Development which shows how many parking places there will be, how many spaces for
ADA access, and prior to the Planning Commission review.

Mr. Sanford asked to pass on to the Finance Committee the request from Parents for Safe Graduation.
Mr. Sanford said the sidewalks on Egan Drive are the state’s responsibility, but we need to find a way
to keep those open. It makes it impassable from Main to Centennial Hall and further. Many people are
walking in the road in this area from the Goldbelt Hotel to the Capitol. We should meet with the state,
or invest in a covered walkway, or find a solution to this issue.

Mr. Swope said the state highway and city street crews go back and forth – perhaps we need to get
private contractors on the sidewalks. Mr. Swope said he walks Calhoun every day and it is regularly
plowed and the sidewalk is generally cleared.

Mr. Bush said the Lands Committee meeting on March 3 needed to be cancelled. Hearing no objection,
it was so ordered.
XIV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Jason Maroney thanked the Assemblymembers for their work and said they all deserved a raise.

XV. EXECUTIVE SESSION – None.

XVI. ADJOURNMENT – 10:15 p.m.

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