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THE CITY AND BOROUGH OF JUNEAU, ALASKA

Meeting Minutes – October 15, 2010

MEETING NO. 2010-25: The Special Meeting of the City and Borough of Juneau Assembly, held in the Assembly Chambers of the Municipal Building, was called to order at Noon by Mayor Bruce Botelho.

I. ROLL CALL

Assembly Present: Jonathan Anderson, Bruce Botelho, Ruth Danner (telephonic), Bob Doll, Johan Dybdahl, Merrill Sanford, David Stone and Randy Wanamaker.

Assembly Absent: Jeff Bush.

Staff Present: Rod Swope, City Manager; Kim Kiefer, Deputy City Manager; John Hartle, City Attorney; Laurie Sica, Municipal Clerk; Beth McEwen, Deputy Clerk.

II. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None.

III. NEW BUSINESS

A. Swearing In of Newly Elected Officials

Mayor Botelho called forward the two newly elected Assemblymembers and said that it is the Assembly's intent to honor both Deputy Mayor Wanamaker and Assemblymember Bush at an upcoming meeting when both can be present.

Mr. Hartle noted that since there is no break in service for Mr. Dybdahl, that he remains sworn.

Mr. Hartle swore in Mary Becker and Karen Crane as Assemblymembers.

Mr. Wanamaker stepped down from the dias and Ms. Becker and Mr. Crane took a seat.

B. Selection of Deputy Mayor

Mayor Botelho recommended to the Assembly that Merrill Sanford be elected as Deputy Mayor.

MOTION, by Doll, to accept the Mayor's recommendation and elect Mr. Sanford as Deputy Mayor, and he asked for unanimous consent. Hearing no objection, Mr. Sanford was elected Deputy Mayor.

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C. Assembly Standing Committee Assignments

Mayor Botelho distributed a sheet with proposed assignments to Assembly Standing Committees and a variety of other boards and committees.

MOTION, by Sanford, to accept the 2010 – 2011 Assembly Committees and Liaisons Report as assigned by the Mayor. Hearing no objection, the Assemblymembers confirmed the assignments.

IV. ASSEMBLY COMMENTS AND QUESTIONS

Mr. Anderson distributed a document explaining the following motion, stating that the current code of CBJ is unconstitutional.

MOTION, by Anderson, to draft an ordinance for introduction amending CBJ Code CBJ Code 69.05.045 (a) to make it constitutional.

Mr. Anderson said that the Alaska Supreme Court in 2005 in ACLU vs. the State and Municipality of Anchorage ruled that “public employer’s spousal limitations violate the Alaska Constitution’s equal protection clause.” By this ruling it affirmed that the constitutional prohibition against same sex marriage created a situation where if public benefits were limited to “spouses” – meaning those who were married – same sex couples were denied equal protection of the law.

Mr. Anderson said prior to this ruling the City and Borough of Juneau had already established rules providing benefits for domestic partners of its employees, however, one part of CBJ law was not addressed. Under CBJ Code 69.05.045(a), spouses of senior citizens who are not yet 65 themselves are exempted from sales tax. This provision of public benefits to spouses is prohibited to same sex couples because of the Alaska Constitutional prohibition on same sex marriage. Therefore, under ACLU vs. State and the Municipality of Anchorage our current code on this matter is unconstitutional. The code needs to be changed.

Mr. Anderson said one solution would be to insert “or same sex domestic partners” into the code language. Alternatively, the Assembly could eliminate the senior spouse exemption for everyone.

Mr. Hartle said that Mr. Anderson had asked him about this prior to the meeting and he had looked into the matter. Mr. Anderson’s analysis is correct, and that part of CBJ’s code is unconstitutional under the state constitution. As mentioned there are two ways to change this and this will be a policy of the CBJ Assembly.

Mr. Doll said he recommended the manner “or same sex domestic partners,” rather than eliminating the exemption.

Hearing no objection, it was so ordered.

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Mr. Hartle said that direction should authorize some change to the language, for example, he recommended “on a form prepared by the manager.” We will need to address this in the same way we have with employees, with facts that underlay their claim.

Mr. Sanford questioned the route of the ordinance. Mayor Botelho said it can be introduced, and then referred to the Finance Committee before returning to public hearing. Mr. Hartle said it can be ready for the November 8 meeting. Hearing no objection to that, that is the route.

Mayor Botelho distributed a draft Assembly Calendar for 2011. Hearing no objection, the proposed draft calendar was accepted.

V. ADJOURNMENT – 12:10 p.m.

Signed: _____
Laurie Sica, Municipal Clerk

Signed: _____
Bruce Botelho, Mayor